

TOWNSHIP OF CLINTON  
REGULAR COUNCIL MEETING  
August 10, 2016

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**CALL TO ORDER:**

Council President Mullay called the meeting to order at 7:02 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 McTiernan	Present
Councilman D'Alleinne	Present
Council President Mullay	Present
Mayor Higgins	Present
Victoria Britton, Esq.	Present
Marvin Joss, Administrator	Present
Carla Conner, Township Clerk	Present

**APPROVAL OF MINUTES:**

Executive Session                      May 25, 2016

Mayor Higgins introduced the matter.

MOTION was made by Councilman McTiernan to approve the above referenced minutes. Seconded by Councilman D'Alleinne. There being no further discussion a voice vote was called. Motion carried.

**ROLL CALL:**

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Council President Mullay	Yes
Mayor Higgins	Yes

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Executive Session

April 13, 2016

Mayor Higgins introduced the matter.

MOTION was made by Council President Mullay to approve the above referenced minutes. Seconded by Councilman McTiernan. There being no further discussion a voice vote was called. Motion carried.

ROLL CALL:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Council President Mullay	Yes
Mayor Higgins	Abstain

**BOARD OF HEALTH:**

Mayor Higgins convened the Council meeting as the Board of Health meeting to approve the following applications.

Block 29 Lot 35 – 19 Sky View Garden Road – David Fantina of Fantina Engineering explained the waiver request: the proposed septic system will be located outside of the building envelope. The Hunterdon County Board of Health approved the waiver.

MOTION was offered by Council President Mullay to approve the waiver. Seconded by Councilwoman Switlyk. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Council President Mullay	Yes
Mayor Higgins	Yes

Block 9 Lot 16 – 163 Cokesbury Road – Wayne Ingram of Engineering & Land Planning Associates, Inc. explained the waiver request: the proposed septic systems will be located outside of the building envelope. The Hunterdon County Board of Health approved the waiver.

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MOTION was offered by Mayor Higgins to approve the waiver. Seconded by Councilwoman Switlyk. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Council President Mullay	Yes
Mayor Higgins	Yes

Block 79 Lot 4 – 14 Hillside Drive – John Kearney of J. H. Kearney, Consulting Engineers explained the waiver request: the proposed septic systems will be located outside of the building envelope. The Hunterdon County Board of Health approved the waiver.

MOTION was offered by Councilman McTiernan to approve the waiver. Seconded by Councilman D'Alleinne. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Council President Mullay	Yes
Mayor Higgins	Yes

Block 30 Lot 7 – 26 Valley Crest Road – Stephen Parker of Parker Engineering & Surveying explained the waiver request: the proposed septic systems will be located outside of the building envelope. The Hunterdon County Board of Health approved the waiver.

MOTION was offered by Councilman D'Alleinne to approve the waiver. Seconded by Councilman President Mullay. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Council President Mullay	Yes
Mayor Higgins	Yes

Mayor Higgins adjourned as the Board of Health and reconvened as the Mayor & Council.

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**CONSENT:**

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

MOTION was made by Council President Mullay to approve the consent agenda. Seconded by Councilwoman Switlyk. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

Consent #1

Resolution 78-16 – Overpayment of real estate taxes – Block 79.02 Lot 8.0611

**WHEREAS**, on properties located within the Township of Clinton, an overpayment of real estate taxes has been made; and

**WHEREAS**, applications have been made to the Tax Collector for refunds of said overpayments, totaling \$500.00; and

**WHEREAS**, the attached listing is a detail of the requested refunds.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Clinton that the Tax Collector is hereby authorized to refund such taxes to the parties in the amounts specified on the listing below.

VENDOR	BLOCK	LOT	LOCATION	Quarter	AMOUNT
Robert Pinto	79.02	8.0611	67 Westchester Terrace	2016/2	500.00
12 Carhart Court					
Pittstown, NJ 08867					
<b>TOTAL REFUND</b>					<b>\$500.00</b>

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Consent #2

Resolution 79-16 – Release of Escrows

**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
\$408.85	13/24.05	10 Chalfonte Dr.	Lisa Keslowe	Escrow
\$268.32	50/25.01	25 Center St.	Bill Hendershot	Escrow
\$2,000.00	50/25.01	25 Center St.	Bill Hendershot	Perf.Guarantee
\$200.00	80/13	35 Regional Rd	Jennifer&Matthew McDevitt	Escrow
\$ 54.80	29/4	1465 S Hwy 31	United Methodist Church	Escrow
\$1,000.99	3/9.03	19 Ramsey Rd	Jacqueline Cocchiola	Perf.Guarantee
\$1,582.25	19/4	8 Pleasant View Rd	Terry Hudnett	Escrow

Consent #3

Resolution 80-16 – Premium Refund - Block 79.01 Lot 3.0601

**WHEREAS**, liens on properties located in the Township of Clinton have been redeemed;  
and

**WHEREAS**, Tax Collector, Patricia Centofanti requests Mayor and Council approve the premium refunds required.

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

1. Checks shall be issued for the properties listed below, such checks representing premium refunds on tax liens.

Block	Lot	Certificate	Vendor	Premium
79.01	3.0601	2015-009	US BANK CUST FOR PC5 STERLING NATNL	900.00
			50 SOUTH 16 <sup>TH</sup> ST SUITE 2050	
			PHILADELPHIA, PA 19102	



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Karen Smith from Clinton read a statement asking the Council not to move the elections to back to April. Ms. Smith stated the Clinton Township school district budgets from 2007/2008 to 2016/2017 there is an increase of roughly \$1.7 million dollars the compound annual growth rate of the budget is only 0.78% the rate of inflation is 1.81% the budget increase has not kept up with the rate of inflation. Ms. Smith stated reasons why the cost per pupil has increased despite a decline in enrollment. Ms. Smith stated 78% of the school budget is for salary and benefits.

Dawn Apgar from Clinton stated she urges the Council to keep the school board elections in November.

Deb Nolan from Lebanon stated the Council needs to look at the whole picture and keep the school elections in November.

Bucky Buchanan and Chief Frank Setnicky from Clinton First Aid & Rescue Squad gave a quarterly update. Mr. Buchanan stated the Squads call volume has increased 7% over last year. Mr. Buchanan stated the top three expenses for the Squad is service delivery, debt services on the building and equipment and maintenance on the vehicles. Mr. Buchanan stated Clinton Township has had 85 accidents which 58 were on the highways in the first half of 2016. Mr. Buchanan stated the First Aid Squad received 34 applicants for new volunteers with 27 applicants started the training or riding with the squad. Mr. Buchanan stated 12 are Clinton Township residents. Mr. Buchanan stated the first aid squad has partnered with Hunterdon County Polytech to begin training classes at their squad building beginning in January. Mr. Buchanan stated the First Aid Squad will be celebrating their 50<sup>th</sup> Anniversary in conjunction with Clinton Fire Department's 125 Anniversary parade on May 20, 2017.

Nick Corcodilos from Lebanon stated he would like the Council to return the right to vote on the school budget to taxpayers. Mr. Corcodilos gave a history of the Township Council's relationship with the school board during past elections. Councilwoman Switlyk questioned Mr. Corcodilos why he is accusing the Council of playing politics and that the Council is spinning a story and passing the buck. Mr. Corcodilos questioned if the Council had power to change the elections and pass a resolution tonight. Mayor Higgins stated if the Governor signs the bill on his desk which provides for a two-year moratorium on any school district or municipality moving a school election back to April, any resolution the Council would pass to move the election would have no effect.

Bill Glaser of Annandale stated he is offended that the ability as a taxpayer was taken away to vote on the school budget. Mr. Glaser stated he appreciates the openness of the Council and does not appreciate the approach the school board has taken in recent years.

Kevin Maloy from Annandale thanked the Council for their due consideration for this forum. Mr. Maloy stated the public does not vote on state tax bills individually or Township's budget individually. Mr. Maloy questioned a past comment regarding school board members not caring. Mr. Malloy stated he can make a strong case that past or present members are not apathetic. Mr. Malloy stated elections related to budgets are held when we elect our officials. and if individuals have differences with the current school budget, Mr. Malloy encourages these individuals to vote at the polls and elect the board officials that they think will best represent their interests.

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Megan Verderamo from Lebanon stated the school board has done a great job with the budget and would like to keep the school elections in November.

Jim Pauze from Lebanon stated he would like to see the Township save money and not move the school election back to April.

John Barrett a new resident questioned if there is a cost if the Township moves the election back to April. Mayor Higgins stated it would be approximately \$30,000 - \$35,000 for the election. Mr. Barrett questioned who paid the cost for the election. Mayor Higgins stated the school board pays for it. Mr. Barrett stated technically the taxpayers pay for the election.

**OLD BUSINESS: North /Voorhees High School District Bond Issue**

Council President Malloy recused himself from this discussion.

Mayor Higgins stated the voters turned down a \$7.3 million bond referendum the Regional High School district placed on the ballot at the last general election now there is a new bond referendum of \$9.7 million for this coming general election. Mayor Higgins questioned why the turf field at Voorhees High School was removed from the referendum rejected by voters and now is a line item increasing the capital outlay from \$1 million to \$4 million per year even though the general operating costs have decreased. Councilwoman Switlyk stated she is upset that the Voorhees turf field was put in the regular budget and not in the referendum. Councilman McTiernan stated if the voters voted against the referendum last year and now the items are in the budget, that is just wrong. Councilwoman Switlyk questioned if the items will be in the budget this year or next year. Sandra Seidorf, President of the NHHS/Voorhees School Board stated the items on the budget are on a "wish list". Ms. Seidorf stated a portion of the referendum will receive 30 percent state funding reducing taxpayers share.

Council President Malloy returned to the meeting.

**School Election discussion:**

Mayor Higgins stated he heard from many of the voters that want their vote back and he would vote to bring the April school elections back. Mayor Higgins stated if the Council decided to go with this decision the ballot question would have to be sent to the County Clerk by August 19 and would cost the township \$3,500 to have the question on the ballot. Mayor Higgins stated if the Governor does not sign the two-year moratorium the Council has until January to pass a resolution to bring back the school election in April. Mayor Higgins stated he would wait to see what the Governor does before taking any action. Councilwoman Switlyk stated the Governor gave Clinton Township school district \$250,000 in tax relief in July 2011 to give back to the taxpayers. Councilwoman Switlyk stated the school district choose not to give the tax relief back to the taxpayers. Councilwoman Switlyk stated after hearing what the school board did to the taxpayers she would vote to have the school elections return. Councilman McTiernan stated the input he has had from the taxpayers is frequent and often wanting their vote back. Councilman McTiernan stated that the few voters who

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say they do not want to give the vote back attend the Council meetings to voice their opinions. Councilman McTiernan stated the concern he has is the lack of financial knowledge and lack of responsibility the school board has after seeing this first hand at the last school board meeting the Council attended. Councilman McTiernan stated that to have the school board Superintendent and President claim they have a fiscal problem and the only way they can resolve the problem is to sue the Township is unconscionable. Councilman McTiernan stated that, if he could vote today, he would vote for the school election to return to April. Councilman McTiernan stated the Council voting tonight would be misleading to the taxpayers with the pending legislation so close to being signed by the Governor. Councilman D'Allienne stated he has had number of conversations with taxpayers and they are asking why can they no longer vote on the school budgets. Councilman D'Alleinne stated the taxpayers he spoke to do not have an opinion either way on the budget but don't like that they no longer have the opportunity to vote on the budget. Councilman D'Alleinne stated he agreed with the rest of the Council with regards to voting on a resolution now since it might be overturned by the State. Council President Mullay stated given the state of legislation that's pending no action on the part of Council is preferable.

**Traffic Study – Blossom Hill Road discussion**

Cathy Marcelli, Township Engineer gave a presentation on the findings of the traffic study of Blossom Hill Road and Rt. 22 that was conducted on April 27. Ms. Marcelli stated turning movement counts were conducted from 7:00 am to 9:00 pm and showed heavy volumes through the intersection. Ms. Marcelli stated the peak hours were between 7:00 am - 8:00 am and 4:30 pm – 5:30 pm with peak volumes of 2,179 vehicles per hour in the morning and 2,241 in the evening. Ms. Marcelli gave a summary of the accidents at the intersection. Ms. Marcelli recommended a list of safety improvement measures for the intersection including creating left-turn lanes in both directions.

Deb Nolan questioned if there was any discussion to put a traffic light down Rt. 22 West to help with the flow of traffic before reaching Blossom Hill Road. Ms. Marcelli stated the State will not put any more traffic lights on Rt. 22.

Nick Corcodilos suggested that Mayor Higgins call the DOT Commissioner and neighboring towns to get them involved.

**NEW BUSINESS: Proposed Ordinance Amendments from Clarke Caton Hintz**

Mayor Higgins explained changes contained in a new ordinance that will be adopted at the next meeting.

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**REPORTS:**

Mayor Higgins:

Mayor Higgins reported he has concerns with an article written in the HC News by editor, Christian DeNunzio that is full of false information. Mayor Higgins stated the Planning Board met and went over the plans for the Exxon expansion. Mayor Higgins reported there were a lot of concerns from the public. Mayor Higgins reported the next Planning Board meeting for Exxon to finish their presentation will be September 19.

Councilman Switlyk:

Councilwoman Switlyk reported the Clinton Township School Board meeting will be on August 22. Councilwoman Switlyk reported one seat is still vacant for the NHHS/Voorhess school board for Clinton Township. Councilwoman Switlyk reported on the seats available in the other sending districts.

Councilman McTiernan:

Councilman McTiernan reported the 12<sup>th</sup> annual golf outing for the Recreation Department will take place September 19. Councilman McTiernan reported the Cable Committee met with Robert Clifton, Senior Director of Government Affairs and Robert Howald, VP of Network Architecture.

Councilman D'Alleinne:

Councilman D'Alleinne reported the Environmental Commission will be going out in September to install more signs at Windy Acres.

Council President Mullay:

Council President Mullay reported the replacement signs for the district of Annandale and the Springhouse have been put up and that he received an email from Chief Emery regarding a fire hose shortage for their tender truck. Council President Mullay reported the Sewerage Authority is in arbitration with the Town of Clinton. Council President Mullay reported the Food Cure, LLC has closed on the old PNC Bank on Beaver Avenue. Councilman President Mullay reported there were no bids on the old municipal building RFP but that the Township will be having a discussion with a developer who is interested.

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Administrator Joss:

Administrator Joss reported that he is working on a capitol ordinance and there will be a discussion at the next meeting.

Lt. Higgins:

Lt. Higgins gave a brief summary of the report for the month of July.

Fire Chief Bob Emery:

Chief Emery reported that one of the Junior members is going through Fire Fighter 1 class through the Polytech program. Chief Emery reported the Fire Co. published their first best practices with their mutual aid partners.

**ACTION:**

**ADOPTION OF ORDINANCES/PUBLIC HEARING:**

1089-16 - AN ORDINANCE AMENDING §4-52 DIVISION OF POLICE OF THE CODE OF THE TOWNSHIP OF CLINTON IN HUNTERDON COUNTY, NEW JERSEY TO MODIFY PROVISIONS CONCERNING THE PROMOTIONAL PROCESS FOR THE POSITIONS OF SERGEANT, LIEUTENANT AND CAPTAIN AND CLARIFY TERMINOLOGY IN §4-52

Mayor Higgins introduced the matter. Administrator Joss explained the ordinance. Mayor Higgins opened the public hearing.

Mayor Higgins closed the public hearing.

MOTION was made by Mayor Higgins to adopt the ordinance. Seconded by Councilman McTiernan. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

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

**Section 1. Subsection 4-52.A. of Code Amended.** Subsection 4-52.A. of the Code of the Township of Clinton (hereinafter “Code”) is amended by the addition of a new subparagraph (3) to read as follows:

(3) In the event the position of Police Director is vacant and the appropriate authority has designated the Officer-in-Charge as provided for by the Rules and Regulations, as used in this section, Police Director shall mean the Officer-in-Charge.

**Section 2. Subsection 4-52.G.(4)(h) of Code Amended.** Subsection 4-52.G.(4)(h) of the Code is amended to read as follows [additions to text are indicated by underlining and deletions from text by ~~strikeouts~~]:

(h) Appointment. ~~Prior to the~~ The Police Director and Township Administrator’s ~~submission of shall submit~~ the name of the candidate attaining the highest final overall score to the Township Council for appointment; ~~said candidate shall undergo physical and psychological examinations at the Township’s expense by the Township’s physician(s) to inform the Township that the candidate is or is not fit for duty.~~ Provided an appointment is to be made by the Council, said candidate shall be appointed by the Mayor, with the advice and consent of the Council. ~~Any appointment shall be conditioned upon a successful background check by the Hunterdon County Prosecutor’s office and confirmation that the candidate is not, at the time of promotion, subject to a pending disciplinary investigation. If the candidate is under investigation at the time of the proposed promotion, said promotion may, at the discretion of the Township Council, be stayed for a period not to exceed 180 days until such time as disciplinary process has been concluded without a finding of wrongdoing on the candidate’s part. If the investigation has not been concluded within 180 days or it is concluded with a finding of wrongdoing, the promotional process may be deemed null and void by the Township Council, or, in their sole discretion, the Mayor with the advice and consent of the Council, may appoint the second ranked candidate.~~

**Section 3. Subsection 4-52.G.(5)(g) of Code Amended.** Subsection 4-52.G.(5)(g) of the Code is amended to read as follows [additions to text are indicated by underlining and deletions from text by ~~strikeouts~~]:

(g) Appointment. ~~Prior to the~~ The Police Director and Township Administrator’s ~~submission of shall submit~~ the name of the candidate attaining the highest final overall score to the Township Council for appointment; ~~said candidate shall undergo physical and psychological examinations at the Township’s expense by the Township’s physician(s) to inform the Township that the candidate is or is not fit for duty.~~ Provided an appointment is to be made by the Council, said candidate shall be appointed by the Mayor, with the advice and consent of the Council. ~~Any appointment shall be conditioned upon a successful background check by the Hunterdon County Prosecutor’s office and confirmation that the candidate is not, at the time of promotion, subject to a pending disciplinary investigation. If the candidate is under investigation at the time of the proposed promotion, said promotion may, at the discretion of the Township Council, be stayed for a period not to exceed 180 days until such time as disciplinary process has been concluded without a finding of~~

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~~wrongdoing on the candidate's part. If the investigation has not been concluded within 180 days or it is concluded with a finding of wrongdoing, the promotional process may be deemed null and void by the Township Council, or, in their sole discretion, the Mayor with the advice and consent of the Council, may appoint the second ranked candidate.~~

**Section 4. Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

**Section 5. Severability.** If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be valid and enforceable.

**Section 5. Effective Date.** This ordinance shall take effect upon its passage, publication, and in accordance with N.J.S.A. 40:69A-181.

1090-16 – AN ORDINANCE AMENDING § 4-71 OPEN SPACE COMMITTEE AND OPEN SPACE TRUST FUND OF THE CODE OF THE TOWNSHIP OF CLINTON, IN HUNTERDON COUNTY, NEW JERSEY TO, AMONG OTHER THINGS, MODIFY THE COMPOSITION OF THE OPEN SPACE COMMITTEE, ITS MEMBERS TERMS & APPOINTMENT OF ITS OFFICERS, TO CLARIFY ITS ADVISORY FUNCTIONS, AND TO ADDRESS PROVISIONS REGARDING THE SALE OF PROPERTY

Mayor Higgins introduced the matter and explained the ordinance. Mayor Higgins opened the public hearing.

Mayor Higgins closed the public hearing.

MOTION was made by Council President Mullay to adopt the ordinance. Seconded by Mayor Higgins. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

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

**Section 1. § 4-71 of Code Amended.** §4-1 of the Code of the Township of Clinton is amended in its entirety to read as follows (additions to text are indicated by underlining and deletions from text by ~~strikeouts~~):

**§ 4-71. Open Space Advisory Committee and Open Space Trust Fund.**

A. Findings. The voters of the Township of Clinton approved a referendum which recommended the creation of an Open Space Trust Fund for the acquisition and preservation of open space within the Township; and an Open Space Advisory Committee would be of substantial help to the Township to carry out the intents and purposes of an Open Space Trust Fund.

B. Establishment. There is hereby established an Open Space Advisory Committee which shall consist of ~~nine~~ six regular members and two alternate members whose terms and ~~powers~~ duties are hereinafter set forth.

C. Membership.

(1) The Open Space Advisory Committee shall be appointed by the Mayor with approval of the rest of the Township Council and shall be comprised of the following persons:

- (a) One member of the Township Council of the Township of Clinton;
- (b) One Class II or Class IV member of the Planning Board of the Township of Clinton;
- (c) One member of the Environmental Commission of the Township of Clinton; and
- (d) ~~One member of the Board of Health of the Township of Clinton;~~
- (e) ~~One member of the Recreation Advisory Committee of the Township of Clinton;~~
- (f) ~~One member of the Historic Commission of the Township of Clinton;~~ and Three citizens of the Township of Clinton.

(2) Alternate members. Two citizens of the Township of Clinton to be identified as Alternate No. 1 and Alternate No. 2 shall also be appointed by the Mayor with approval from the rest of the Council. Alternate members may participate in discussions but may not vote except in the absence or disqualification of a member.

D. Terms of office; remuneration.

(1) The term for ~~all the Township Council, Planning Board and Environmental Commission Committee Members~~ members of the Committee under the categories in Subsection C(1), (3), (4), (5) and (6) shall be ~~for~~ one year;

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(2) The term for all the three citizen members of the Committee Members under the categories in Subsection C(2) and (7) shall be for two years, and their terms shall be staggered such that two citizen members are appointed in one year, and the following year one citizen member is appointed;

(3) The term of Alternate No. 1 for alternate members shall be for one year; the term of Alternate No. 2 members shall be for two years, and their terms shall be staggered;

(4) A vacancy occurring other than by expiration of the term shall be filled for the unexpired term only;

(5) Members shall serve without remuneration.

E. Duties Powers and functions of the Open Space Advisory Committee.

(1) The Open Space Advisory Committee shall prepare an initial compile and maintain a list of eligible open space properties in the Township.

(2) The Open Space Advisory Committee shall submit to the Mayor and Township Council annually or on a more frequent basis, a prioritized list of properties which it recommends that the Township acquire and/or properties for which it recommends that permanent easements or development rights be acquired. The Mayor and Township Council shall review the list as submitted and make a determination as to which property acquisitions, easements or development rights should be funded, and appropriate the necessary funds accordingly.

(3) The Open Space Advisory Committee shall periodically review its initial the list of potential open space properties, adding or deleting properties as necessary appropriate.

(4) The Open Space Advisory Committee shall have the authority to may receive inquiries from landowners seeking information about the Open Space Trust Fund open space and farmland preservation programs in the Township and shall also have authority to may solicit information from owners of properties that might be potential candidates for acquisition or other easements under the Open Space Trust Fund.

(5) When requested by the Township Council, The the Open Space Advisory Committee shall have the responsibility of drafting draft a property management plan providing for the development and maintenance for of ean open space parcels under its jurisdiction, and if approved by the Township Council, to see that it is implemented assist in the implementation of the approved property management plan. The Committee shall also submit An an annual status report for each parcel will be provided subject to a property management plan to the Township Council as well as a summary of the year's activities regarding open space acquisition.

F. Public meetings. The Open Space Committee shall hold public meetings, which public meetings shall be held in accordance with the Open Public Meetings Act, and the Committee shall give appropriate notification of these meetings. G. Officers. The Mayor, with approval of the rest of the Council, Open Space Committee shall appoint select from among it's the the members a

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~~Chairman~~ Chairperson to preside over the Committee's meetings, and the Committee shall select a ~~Vice-Chairman~~ Vice Chairperson from its members to serve as the presiding officer in the absence of the ~~Chairman~~ Chairperson. The Committee shall also select a Secretary whose function shall be to maintain minutes of the Committee's meetings and records of the proceedings of the Committee.

~~G. H. Initial organization meeting. The Open Space Committee shall hold its initial meeting shortly after this section takes effect.~~ I. Funding for open space acquisition and maintenance.

(1) There is hereby established a reserve in the general capital fund which shall be known and designated as the "Open Space Trust Fund." A special bank account shall be opened and maintained for this purpose. Funds from the Open Space Trust Fund may, as directed by the ~~Mayor~~ and Township Council, be utilized for the following purposes:

- (a) The acquisition of lands for recreation and conservation purposes;
- (b) The acquisition of farmland for farmland preservation purposes;
- (c) Payment of debt service on indebtedness issued or incurred by the Township for any of the purposes set forth in Subsection ~~I~~G(1)(a) and (b) above; and
- (d) The maintenance of lands acquired with monies from the Open Space Trust Fund for passive recreation and conservation purposes and/or lands that are subject to passive recreation and conservation easements or deed restrictions, provided that not more than 12.5% of the annual open space tax levy, as set forth in Subsection ~~I~~G(2) below, may be set aside annually for said maintenance purposes.

(2) The Open Space Trust Fund shall be funded through the dedication to the fund of an amount of \$0.02 per \$100 of the assessed value of real property located within the Township. The Trust Fund shall also be permitted to accept donations and testamentary bequests. Any and all interest accruing on the Fund shall be placed back into the Open Space Trust Fund.

H.J. Sale of property.

(1) No property acquired with the funds from the Open Space Trust Fund shall be leased or sold, unless such action has been prescribed by law. The deed of any property acquired with funds from the Trust Fund shall contain the specific notation reflecting that the property was acquired with funds from the Open Space Trust Fund and is subject to this section.

(2) The Township Council, after at least one public hearing thereon and a finding that the purposes of this section might otherwise be better served or that any land acquired by the Township pursuant to this section is required for another public use, may convey, by ordinance, through sale, exchange, transfer or other disposition, title to or a lesser interest in that land, provided that the Township shall replace any land conveyed under this section by land of at least equal fair market value and of

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reasonably equivalent usefulness, size, quality and location to the land conveyed. Any money derived from the conveyance shall be deposited in the Open Space Trust Fund.

(3) Any conveyance made pursuant to this subsection shall be in accordance with the Local Lands and Buildings Law (N.J.S.A. 40A:12-1 et seq.). In the event of conveyance by exchange, the land or improvements thereon to be transferred to the trust shall be at least equal in fair market value and of reasonably equivalent usefulness, size, quality and location to the land or improvements transferred.

~~K. Review. IN the event that no property, easement or development rights are acquired under this section for a period of five consecutive years, then the Mayor and Township Council shall review the activities of the Open Space Advisory Committee and issue a report with recommendations and conclusions concerning the Open Space Trust Fund.~~

Section 2. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

Section 3. Severability. If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be valid and enforceable.

Section 4. Effective Date. This ordinance shall take effect upon its passage, publication, and in accordance with N.J.S.A. 40:69A-181.

**INTRODUCTION OF ORDINANCES:**

1091-16 - AN ORDINANCE AMENDING AND SUPPLEMENTING §4-52 DIVISION OF  
POLICE OF THE CODE OF THE TOWNSHIP OF CLINTON IN HUNTERDON COUNTY, NEW  
JERSEY TO ESTABLISH PROVISIONS REGARDING OFF-DUTY EMPLOYMENT OF  
POLICE OFFICERS

Mayor Higgins introduced the ordinance. Administrator Joss explained the ordinance.

MOTION was made by Council President Mullay to introduce the ordinance. Seconded by Mayor Higgins. There being no further discussion the roll was called. Motion carried.

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Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

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

**Section 1. § 4-52 of Code Amended.** § 4-52 of the Code of the Township of Clinton in Hunterdon County, New Jersey is amended and supplemented by the addition thereto of a new paragraph H. Off-duty employment to read as follows:

H. Off duty employment.

**(1) Definitions.** As used in this paragraph, the following terms shall have the meanings indicated:

**CONTRACTOR** – A person, corporation, partnership, business, or other entity, including non-profit entities, employing a Clinton Township police officer to provide off-duty police-related services.

**OFF-DUTY EMPLOYMENT** – Any employment of a Clinton Township police officer for police-related services where the source of compensation to the police officer does not originate from the Township budget line item for police wages and salary.

**(2) Request for off-duty police employee; special assignments.**

(a) A contractor seeking to engage Clinton Township police officers for off-duty employment shall direct its request to the Police Director. Except in the case of an emergency, the request shall be in writing, and shall describe the specific nature of the services desired.

(b) The Police Director may assign police officers for off-duty employment based upon a determination that public health, safety and welfare would be advanced through the provision of off-duty employment. The cost for providing off-duty employment shall be the responsibility of the contractor, and all costs shall be paid as set forth in subsection (7) below.

**(3) Assignment of police officers.** The Police Department shall maintain a list of police officers who have offered to provide off-duty employment. Assignment of off-duty employment shall be made in accordance with a rotation list maintained by the Police

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Director. When a police officer is assigned off-duty employment, or declines to accept an assignment, the officer's name will be placed at the bottom of the list.

**(4) Emergencies.** Off-duty employment may be immediately terminated if the police officer performing the work is required for emergency police duty for the Township, as determined by the Police Director.

**(5) Police uniforms, equipment and vehicles.** Township police officers providing off-duty employment for contractors shall be in full police uniform while said services are being provided; however, Township police vehicles shall not be used by police officers during the performance of off-duty employment unless specifically authorized by the off-duty agreement.

**(6) Authorizing contract.** The Police Director is hereby authorized to execute contracts with contractors for the services required, which contracts shall set forth, among other things, the specific nature of the services to be performed, the location where said services will be performed, the dates and hours of service, payment arrangements, arrangements for the use of police vehicles, arrangements for insurance coverage, and any other provisions mandated by this chapter or any other applicable law or regulation.

**(7) Payment requirement; escrow accounts.**

(a) Any contractor requesting the services of an off-duty law enforcement officer in the Clinton Township Police Department shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Police Director, and shall establish an escrow account with the Chief Financial Officer of the Township by depositing an amount sufficient to cover the rates of compensation and administrative fees for the total estimated hours of service. A separate dedicated by rider trust fund shall be established by the Township and all funds collected and disbursed relating to off-duty employment shall be made through said account.

(b) Prior to posting any request for services of off-duty police officers, the Police Director shall verify that the balance in the escrow account of the contractor requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Police Director shall not post a request for services from any person or entity unless all fees and compensation required in the manner described above have been deposited with the Chief Financial Officer. No police officer shall provide any such services for more hours than are specified in the request for services.

(c) In the event the funds in such an escrow account should become depleted, services by police officers for off-duty employment shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.

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(d) The contractor requesting such services shall be responsible for ensuring that sufficient funds remain in the escrow account in order to avoid any interruption of services.

(e) Salary and fee schedule. Contractors hiring Township police officers for off-duty employment shall be charged pursuant to the following schedule which includes an hourly rate of pay for the police officer, the cost for the use of a police vehicle, plus a fair and reasonable sum representing the administrative costs, overhead and out-of-pocket expenses to the Township for providing this service:

[1] Personnel: \$75 per hour per full-time police officer at any site.

[2] Vehicles: \$50 per car. This fee shall not apply to any public school sponsored event on public school property within Clinton Township.

[3] Administration fee: 20% of the total fee as outlined above. If said service is requested within eight hours of desired start time, an additional \$75 shall apply.

(f) If a contractor's escrow account shall become deficient, the contractor shall submit payment to Clinton Township within two business days of notification of deficiency. Failure of the contractor to make payment within said two days shall result in the immediate cessation of the police services being provided, and this agreement shall be deemed terminated. In the event this contract is terminated, the contractor shall forfeit all sums paid in advance and Clinton Township shall have the right to pursue any remedy at law for the collection of any amounts that may be due and owing for the services provided prior to termination.

**(8) Payment to officers.**

(a) Police officers providing off-duty employment for contractors shall be paid for said services by the Township at the rate set forth in subsection (7)(e) above.

(b) All sums due a police officer performing off-duty employment shall be paid subsequent to the submission of a voucher which is approved by the Police Director. No officer shall be paid until such time as the contractor's account with the Township has enough funds in it to at least cover the payments requested by the officer(s).

**(9) Insurance.** The contractor shall be responsible for providing all necessary insurance coverages as required by law, including but not limited to workers' compensation and general liability insurance. Coincidental with the execution of the contract referred to in subsection (6) above entitled Authorizing Contracts, the contractor shall provide the Township with appropriate insurance binders insuring that the police officer and Clinton Township are provided general liability coverage with respect to the services to be provided and that the police officer is covered by appropriate workers' compensation insurance.

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**(10) Indemnification.**

(a) To the fullest extent permitted by law, contractor shall indemnify, defend, and hold harmless the Township of Clinton, its agents and employees, from and against all claims, damages, losses, liabilities and expenses, including but not limited to attorney's fees and court costs, arising out of, resulting from or in any way relating either directly or indirectly to:

[1] The performance of the work;

[2] Any and all claims made by said police personnel for injuries and/or illnesses while performing the off-duty employment;

[3] The breach by contractor of any of the terms and conditions of the agreement;

[4] The negligent or intentional acts or omissions of the police and/or the contractor, its employees, agents, and/or subcontractors;

[5] Bodily injury, sickness and/or disease, including death at any time resulting from such bodily injury, sickness or disease, sustained by any person while in, on or about the site and surrounding areas where such injury, sickness, disease and/or death arose out of or was in any way connected with the work;

[6] Any liability based upon contractor's negligence imputed to the Township of Clinton;

[7] Damage to property of contractor, the Township of Clinton or any other person or entity arising out of, incident to, or in connection with the performance of the work;

[8] Laborers, mechanics and materialmen's liens, and all other liens and charges of every character whatsoever, arising out of work to be performed by this agreement; and/or

[9] Any other cause of action which may be brought against the Township of Clinton arising out of or in any way relating to the work and contractor's obligations hereunder.

(b) This indemnification and hold harmless agreement shall apply in all instances whether the Township of Clinton is a plaintiff or is made a direct party to the initial action or claim or is subsequently made a party to the action by third-party pleading or is made a party to a collateral action arising, in whole or in part, from any of the issues from the original cause of action or claim.

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**Section 2. Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

**Section 3. Severability.** If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be valid and enforceable.

**Section 4. Effective Date.** This ordinance shall take effect upon its passage, publication, and in accordance with N.J.S.A. 40:69A-181.

**Appointment by Mayor with Advice and Consent of the Township Council**

- Sewer Authority
  - Mike Maurer – Seat 2 – 5-year term, expires 2/1/19

MOTION was made by Mayor Higgins to approve the appointment of Mike Maurer to the Sewer Authority. Seconded by Councilwoman Switlyk. There being no further discussion a voice vote was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

**RESOLUTIONS:**

Action Item #1

Resolution #82-16 – Approving electrical upgrade contract for Fire House #2

Mayor Higgins introduced the matter.

MOTION was offered by Mayor Higgins to approve the resolution. Seconded by Councilman D'Alleinne. There being no further discussion the roll was called. Motion carried.

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Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

**WHEREAS**, with approval of a previous capital ordinance, 971-08, the Council determined that certain upgrades were needed to Fire House #2 on Route 31, and;

**WHEREAS**, the Fire Chief has determined that the Fire Department is now ready to undertake these upgrades, and;

**WHEREAS**, the Fire Chief has obtained 3 price quotes for said electrical upgrades, with the lowest quote being from Mt. Salem Electric Company in the amount of \$29,770.

**NOW THEREFORE BE IT RESOLVED**, that the Fire Chief and the Township Administrator recommend that the electrical upgrade contract be awarded to Mt. Salem for \$29,770, with the understanding that the final amount cannot exceed this amount, without further Council approval.

Action Item #2

Resolution #83-16 – Granting stipends to Summer Rec. counselors

Council President Mullay introduced the matter. Administrator Joss explained the resolution.

MOTION was offered by Council President Mullay to approve the resolution. Seconded by Councilwoman Switlyk. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

**WHEREAS**, the Recreation Advisory Committee wishes to pay a stipend to Counselors and Coordinators of the Summer Recreation Program for above average attendance; and

**WHEREAS**, the individuals named below qualify for the stated stipend.

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**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Clinton, County of Hunterdon, State of New Jersey, that the following individuals be remunerated in the amount of \$100 as they missed no days of work.

Alina Chauvette

Amanda Obiedzinski

Andrew Brett

Andrew Rooney

Ashley Teets

Brendan Spaven

Brett Lindabery

Brianna Waldmann

David Andreas

David Parfitt

Devon Williams

Elizabeth Tracey

Emily Radican

Faith Fuhrman

Frank Fondell

Grace Ciszewski

Haley Danson

Hannah Baker

Heather Manning

Ivan Spann

Jack Rooney

Jacob Gladdis

Julia MacIsaac

Juliette Shisler

Katherine Cimei

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Kathleen Radican

Kira Siebentritt

Kristin Poroski

Lauren Bancalari

Liam Finn

Logan McMahon

Madeleine Andreas

Maria Kish

Marie McGill

Marilena Parker

Max Spann

Michael Finer

Michael Krummenacker

Moira Frederickson

Olivia Fitzpatrick

Sam Tracey

Samuel Rosenberg

Sophia Paiz

Tyler Sicola

Victoria Stone

**VOUCHERS:**

Mayor Higgins introduced the matter.

MOTION was offered by Councilman McTiernan to approve the check control registers dated August 10, 2016 totaling \$9,528,903.32. Seconded by Councilwoman Switlyk. There being no further discussion the roll was called. Motion carried.

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Roll Call:

Councilwoman Switlyk	Yes
Councilman McTiernan	Yes
Councilman D'Alleinne	Yes
Councilman President Mullaney	Yes
Mayor Higgins	Yes

**PUBLIC COMMENT:**

Dawn Apgar from Clinton thanked the Council on what she thought was a very responsible decision on their part. Ms. Apgar thanked Council President Mullaney for stating he would like to strengthen the relationship between the Council and Board of Education.

Kevin Malloy from Annandale thanked the Council for bringing jobs into Clinton Township through the Exxon expansion. Mr. Malloy stated if the Council brought the school election back to April why does Clinton Township have a school board. Mr. Malloy stated he would like to see the Council offer the voters a referendum to vote on. Mr. Malloy stated he would like to see the Council and school board work together.

Frances Goger member of North Hunterdon High School board stated that last year there was not enough communications with the voters regarding the failed referendum. Mr. Goger explained how the district will improve their communications with the voters. Mr. Goger explained why this year's referendum is greater than last year's. Mr. Goger explained the referendum is focused on building academic related capitol improvements.

Ronel Rechen from Annandale thanked the Council for their comments regarding Exxon Mobil. Ms. Rechen stated the only concern she had with the Exxon Mobil's presentation at the planning board meeting was air quality. Mayor Higgins explained that the tanks Exxon Mobil will be constructing will be DEP regulated. Mayor Higgins stated Exxon Mobil will expand on their presentation on September 19.

**EXECUTIVE SESSION:**

Resolution #84-16

MOTION was made by Mayor Higgins to go into executive session. Seconded by Councilman D'Alleinne. 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 Mayor and Council is of the opinion that circumstances exist, and

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

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1. The Mayor and 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 litigation, litigation strategy and potential acquisition of property with public funds.
3. It is unknown precisely when, if ever, the matters discussed in this closed session may be disclosed to the public.
4. No action shall be taken in closed session.
5. Matters discussed concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation.

**RETURN FROM EXECUTIVE SESSION:**

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

**MOTION TO ADJOURN:**

MOTION was offered by Councilman D'Alleinne to adjourn at 10:56p.m. Seconded by Councilman McTiernan. There being no further discussion a voice vote was called. All ayes. Motion carried.

ATTEST:

  
Carla Conner, Township Clerk

  
John Higgins, Mayor

Adopted: October 14, 2016