



MINUTES

Township of Clinton Mayor and Council
February 14, 2024
7:00 p.m.

1370 Route 31 North, Annandale, New Jersey 08801

The Mayor read the following statement on record at 7:00 pm: "Adequate notice of this meeting has been provided in accordance with the requirements of the Open Public Meetings Act. On February 12, 2024, a copy of this agenda was sent to the Hunterdon County Democrat, posted on the bulletin board in the Municipal Building and made available to the public on the Township's website."

SALUTE TO THE FLAG

ROLL CALL

Councilman Glaser	Present
Councilman Kochanowski	Present
Councilwoman Switlyk	Absent
Council President Strauss	Present
Mayor Mullay	Present

COMMENTS FROM THE PUBLIC FOR ITEMS LISTED ON THE AGENDA ONLY– Comments should be limited to three (3) minutes.

There were no comments from the public.

APPROVAL OR CORRECTIONS OF MINUTES

The Council voted as a whole, and Mayor Mullay asked the Acting Clerk to write any abstains in after for members who were not present during the meetings.

1. Regular Session meeting minutes from March 22, 2023.

Councilman Glaser motioned to approve the Regular Session meeting minutes from March 22, 2023; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Council President Strauss abstained; Councilwoman Switlyk absent).

2. Regular Session meeting minutes from April 5, 2023.

Councilman Glaser motioned to approve the Regular Session meeting minutes from April 5, 2023; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

3. Regular Session meeting minutes from April 26, 2023.

Councilman Glaser motioned to approve the Regular Session meeting minutes from April 26, 2023; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

4. Regular Session meeting minutes from October 11, 2023.

Councilman Glaser motioned to approve the Regular Session meeting minutes from October 11, 2023; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

5. Regular Session meeting minutes from November 8, 2023.

Councilman Glaser motioned to approve the Regular Session meeting minutes from November 8, 2023; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

6. Regular Session meeting minutes from December 6, 2023.

Councilman Glaser motioned to approve the Regular Session meeting minutes from December 6, 2023; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

7. Regular Session meeting minutes from December 20, 2023.

Councilman Glaser motioned to approve the Regular Session meeting minutes from December 20, 2023; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

8. Regular Session meeting minutes from January 10, 2024.

Councilman Glaser motioned to approve the Regular Session meeting minutes from January 10, 2024; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Mayor Mullay abstained; Councilwoman Switlyk absent).

The Council convened as the Board of Health at 7:01 pm.

BOARD OF HEALTH

Block 66, Lot 9: Kurt Hoffman presented the request to the Council and explained the current septic system layout and the reason for the request for this property. Mr. Hoffman stated that a UV Light will be installed.

1. Approving a Septic System Waiver Request for a property located at Block 66, Lot 9, in the Township of Clinton.

Councilman Glaser motioned to approve the septic system waiver; Councilman Kochanowski seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

The Council reconvened as the Township Council at 7:05 pm.

CONSENT AGENDA

The items listed below are considered to be routine by the Mayor and Council and will be enacted by a single motion. There will be no separate discussion of these items unless requested by the Mayor, a Council Member, or member of the public, in which event the item will be removed from the Consent Agenda and voted on separately.

Council President Strauss motioned to approve the Consent Agenda; Councilman Kochanowski seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

1. Approval of bills/vouchers.

TOTALS:

Current	\$1,618,559.70
Trusts	\$7,024.28
Escrow	\$24,009.65
Grants	\$6,264.59
Recreation	\$1,968.75
Capital	\$15,190.78
Dog License	\$1,023.00

Open Space	\$4,618.75
GRAND TOTAL:	\$1,678,659.50
BREAKDOWN OF CURRENT:	
N. Hunterdon Voorhees Regional HS	\$1,000,000.00
Total Operations:	\$6,18,559.70

2. Resolution 2024-51 – Resolution of the Mayor and Council of the Township of Clinton supporting the 2024 February Distracted Driving Enforcement from February 4, 2024, through February 17, 2024, in the Township of Clinton.

RESOLUTION

2024 – 51

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON SUPPORTING DISTRACTED DRIVING ENFORCEMENT FROM FEBRUARY 4, 2024, THROUGH FEBRUARY 17, 2024, IN THE TOWNSHIP OF CLINTON

WHEREAS approximately one-third of all fatal traffic crashes in the United States involve impaired drivers; and

WHEREAS impaired driving crashes killed 11,654 people in the United States in 2020; and

WHEREAS impaired driving crashes cost the United States almost \$44 Billion a year; and

WHEREAS, during the past five years New Jersey’s roadways experienced 33,798 crashes and 662 fatalities involving impaired drivers; and

WHEREAS an enforcement crackdown is planned to combat impaired driving; and

WHEREAS, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the February 2024 Distracted Driving Enforcement; and

WHEREAS the project will involve increased impaired driving enforcement from February 4, 2024, through February 17, 2024; and

WHEREAS an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways;

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

1. The Township supports the 2024 February Distracted Driving Enforcement from February 4, 2024, through February 17, 2024, and pledges to increase awareness of the dangers of drinking and driving.
2. This resolution shall take effect immediately.

3. Resolution 2024-52 – Resolution of the Mayor and Council of the Township of Clinton authorizing the release of funds turned over from the Clinton Township Police Department.

RESOLUTION

2024 – 52

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON AUTHORIZING THE RELEASE OF FUNDS TURNED OVER FROM THE CLINTON TOWNSHIP POLICE DEPARTMENT

WHEREAS, the Clinton Township Police Department seized \$251.00 from Juan Montoya-Pavas during a Narcotic Distribution investigation on October 20, 2020; and

WHEREAS, on September 28, 2023, the Hunterdon County Prosecutor's Office concluded their investigation and authorized the release of the aforementioned funds; and

WHEREAS, on October 11, 2023, the funds were turned over to the Clinton Township Treasurer and the funds were deposited into a General Trust reserve account;

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

1. The Chief Financial Officer is hereby authorized and directed to refund the following from the General Trust Account:

Persons	Amount
Juan Montoya-Pavas	\$251.00

2. This resolution shall take effect immediately.

4. Resolution 2024-53 – Resolution of the Mayor and Council of the Township of Clinton approving additional appropriations for the 2024 Temporary Budget.

RESOLUTION

2024 – 53

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON APPROVING ADDITIONAL APPROPRIATIONS FOR THE 2024 TEMPORARY BUDGET

WHEREAS, various 2023 bills have been presented for payment this year, which bills represent obligation of the prior fiscal year; and,

WHEREAS, N.J.S. 40A:4-59 provides that all unexpended balances carried forward after the close of the fiscal year are available until lapsed at the close of the succeeding year to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allows transfers to be made from unexpended balances to those which are expected to be insufficient during the first three months of the succeeding year;

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

1. The following additional appropriations for the 2024 temporary budget are hereby authorized:

<u>Department</u>	<u>Type</u>	<u>Amount</u>
FROM Clerk	01-203-20-120-201	\$480.00

Finance	01-203-20-130-212	\$3,000.00
	TO	
Animal Control	01-203-27-340-201	\$480.00
Legal Services	01-203-20-155-220	\$3,000.00

2. This resolution shall take effect immediately.

REPORTS FROM MAYOR AND COUNCIL MEMBERS

Councilman Glaser commented on the Planning Board meeting that was held on February 5th regarding routine matters and Public Hearings on the replacement of transformers at NY Life and revised landscaping at Chabad. The next Planning Board meeting is scheduled for March 4th; there will not be a meeting on February 19th due to Presidents Day Holiday. The Highlands is accepting comments on the two proposed amendments to the Regional Master Plan. The Sewage Authority held their Re-Organization meeting and rate hearing on February 8th; user rates did not change, and the connection fee decreased a small amount. There are meetings scheduled with the Finance Committee for the 2024 Budget.

Councilman Kochanowski did not have a report.

Council President Strauss reported that the Historical Preservation Commission did not meet on February 7th due to lack of quorum and is scheduled to meet on March 6th. Public Safety reports were received, and the Council will receive them later tonight or tomorrow. Training and deployment of Narcan will be done within the next few weeks.

Mayor Mullay shared that there is a vacancy being filled in the Municipal Building and other personnel matters are in the process of being addressed. The Mayor announced upcoming events with the Recreation Department and Township. There is also an increase for summer camp this year.

ORDINANCES

1. ORDINANCE #1192-2024 – An Ordinance of the Township of Clinton in Hunterdon County, New Jersey, Amending Section 3 of Ordinance #1141-2020 and Reauthorizing the Conveyance of the “Fox-Seals” Property (Block, 53, Proposed Lot 3.01) to Annandale Village, LLC (Introduction).

Mayor Mullay motioned to introduce Ordinance 1192-2024 with the Public Hearing scheduled for February 28, 2024; Councilman Kochanowski seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTIONS

Resolution 2024-54 was tabled.

1. Resolution 2024-54 – Resolution of the Mayor and Council of the Township of Clinton appointing an additional Municipal Prosecutor for the Township of Clinton during calendar year 2024. **(TABLED)**
2. Resolution 2024-55 – Resolution of the Mayor and Council of the Township of Clinton rejecting submittal from the Well Group for Competitive Contract – CC#24-01, Payroll Processing Services as non-compliant.

Councilman Glaser motioned to approve Resolution 2024-55; Councilman Kochanowski seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 55

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON REJECTING SUBMITTAL FROM THE WELL GROUP FOR COMPETITIVE CONTRACT – CC#24-01, PAYROLL PROCESSING SERVICES AS NON-COMPLIANT

WHEREAS the Township of Clinton (Township) publicly advertised and received competitive contract submittals in a fair and open manner (N.J.S.A. 19:44A-20.5) for CC #24-01 for Payroll Processing Services on January 18, 2024; and

WHEREAS the Township received a submittal by The Well Group containing a lack of complete ownership information as demanded by N.J.S.A 52:25-24.2; and

WHEREAS the New Jersey Local Public Contracts Law at N.J.S.A. 40A:11-23.2c, makes the lack of providing a valid statement of ownership, a fatal defect, and a mandatory rejection of bids; and

WHEREAS the New Jersey Local Public Contracts Law at N.J.S.A. 40a:11-4.4 (d) specifically makes competitive contract proposals subject to the Ownership Disclosure requirement at N.J.S.A 52:25-24.2.

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

1. The competitive contract proposal submitted by The Well Group LLC, 2812 Hilliard Drive, Wesley Chapel, Florida, 33543 in response to CC#24-01 is hereby rejected under N.J.S.A. 40A:11-23.2c for failure to provide the ownership disclosure required pursuant to N.J.S.A. 52:25-24.2.
2. This resolution shall take effect immediately.

3. Resolution 2024-56 – Resolution of the Mayor and Council of the Township of Clinton authorizing the sale of 4 Old Jericho Road (Block 63, Lot 9.03) to the highest bidder among the abutting property owners.

Councilman Glaser motioned to approve Resolution 2024-56; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 56

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON AUTHORIZING THE SALE OF 4 OLD JERICHO ROAD (BLOCK 63, LOT 9.03) TO THE HIGHEST BIDDER AMONG THE ABUTTING PROPERTY OWNERS

WHEREAS, the Township of Clinton (“Township”) is the fee owner of the parcel listed on Exhibit A hereto (“Property”); and

WHEREAS, the Property is less than the minimum size for development and is unimproved; and

WHEREAS, the Property is not needed for public use; and

WHEREAS, on October 25, 2023, the Mayor and Council directed the property be sold to the highest bidder at public auction pursuant to the Local Lands and Buildings Law (“LLBL”), N.J.S.A. 40A:12-13 *et seq.* (see Resolution #195-2023); and

WHEREAS, the LLBL at N.J.S.A. 40A:12-13.2 states that “[n]otwithstanding any provision of law to the contrary, whenever any municipality intends to sell real property which is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvements thereon, it shall accord the owner or owners of any real property contiguous to such real property the right to prior refusal to purchase such land.”; and

WHEREAS, prior to the Property being auctioned, the Township Administrator sent letters to each of the abutting property owners informing them of the Township’s intent to sell the Property to the highest bidder at public auction and offering them the opportunity to purchase the Property for not less than the estimated fair market value of the Property (\$6500.00) and subject to all other terms and conditions set forth in Resolution #195-2023; and

WHEREAS, three of the four abutting property owners indicated in writing their desire to purchase the Property on said minimum terms; and

WHEREAS, the LLBL at N.J.S.A. 40A:12-13(b)(5) authorizes the private sale of undersized vacant property to the highest bidder from among the abutting property owners;

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

1. Pursuant to the Local Lands and Buildings Law at N.J.S.A. 40A:12-13(b)(5), The Township of Clinton through its Mayor, Clerk, Administrator and Attorney is hereby authorized and directed to sell or cause to be sold to the highest bidder from among the abutting property owners the property listed on Exhibit A hereto.
2. The following minimum terms and conditions shall apply to said sale:
 - a. The minimum bid for the property shall be the property’s assessed value as of the effective date of this resolution (see Exhibit A hereto).
 - b. Only the abutting property owners or their authorized representatives shall be permitted to participate in the auction.
 - c. At the close of bidding, the successful bidder shall be required to execute a sales agreement and tender a deposit of ten percent (10%) of the sales price. The sales agreement shall be in such form as has been reviewed and approved by the Township Attorney, and will be made available to the

bidders in advance of the auction. It is expressly noted that the agreement will not be subject to a three-day attorney review period.

- d. The property shall be sold to the highest bidder from among the abutting property owners, except that the Township expressly reserves the right to reject all bids if the reserve price for the property is not met or if the highest bid is not accepted. The Mayor and Council shall accept the highest bid or reject all bids no later than at its second regularly scheduled meeting following the close of the auction.
 - e. The purchaser shall be responsible for all costs and attorney's fees incurred by the Township with respect to the conveyance.
 - f. The balance of the purchase price together with applicable attorney fees and costs shall be paid at closing, which closing shall occur not later than 45 days following the acceptance of the bid by the Township.
 - g. The property shall be sold "AS IS, WHERE IS," subject to existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting said property.
 - h. No contingencies, including, but not limited to, obtaining financing to purchase said property and/or obtaining any permits, variances, or other approvals, shall be written into the sales agreement.
 - i. The sales agreement shall survive closing and shall not merge with the deed of conveyance.
 - j. In the event the Township is unable to convey clear and marketable title, insurable at regular rates by a title insurance company licensed to do business in the State of New Jersey, the Township will forthwith return to the purchaser any and all deposit moneys previously submitted by the purchaser, and neither party shall have any further rights against the other.
 - k. The acceptance of a deed by the purchaser from the Township shall extinguish any claims that said purchaser may have against the Township in connection with the quality of title conveyed.
 - l. The purchaser shall be entitled to possession immediately following closing of title.
 - m. In the event the successful bidder fails to close on the property, the bidder shall forfeit the ten percent (10%) deposit.
 - n. The Mayor and/or Township Administrator shall have the right to impose such additional conditions as shall further the purposes hereof, provided same have been reviewed and approved by the Township Attorney and provided further said conditions are made available to prospective bidders in advance of the auction.
3. The Acting Township Clerk or her designee shall cause the sale of the Property to be duly advertised in accordance with the requirements of the Local Lands and Buildings Law, N.J.S.A. 40A:12-13.
 4. The Mayor, Acting Township Administrator, Township Attorney, and all other appropriate staff and officials are hereby authorized and directed execute any and all documents and undertake any and all acts as shall be necessary and proper to

effectuate the terms hereof and to comply with all applicable provisions of the Local Lands and Buildings Law and any other applicable federal, State, county or local laws, even if not expressly referenced herein.

5. This resolution shall take effect immediately.

4. Resolution 2024-57 – Resolution of the Mayor and Council of the Township of Clinton amending resolution 2024-09 to designate additional official newspapers for purposes of public notices.

Mayor Mullay motioned to approve Resolution 2024-57; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 57

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON AMENDING RESOLUTION 2024-09 TO DESIGNATE ADDITIONAL OFFICIAL NEWSPAPERS FOR PURPOSES OF PUBLIC NOTICES

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

1. Resolution #2024-09 is hereby amended to designate the Hunterdon Review, Courier News, Hunterdon County Democrat, and Star Ledger as the official newspapers of the Township of Clinton during calendar year 2024, as required by Sec. 13 and 3d(2) of the Open Public Meetings Act, as the publications that have the greatest likelihood of informing the public within the jurisdictional boundaries of Clinton Township.
2. This resolution shall take effect immediately.

5. Resolution 2024-58 – Resolution of the Mayor and Council of the Township of Clinton authorizing a goods and services agreement to Animal Control Services for calendar year 2024 for a cost not to exceed \$40,000.00.

Council President Strauss motioned to approve Resolution 2024-58; Councilman Kochanowski seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 58

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON AWARDING A GOODS AND SERVICES AGREEMENT TO ANIMAL CONTROL SERVICES FOR CALENDAR YEAR 2024 FOR A COST NOT TO EXCEED \$40,000.00

WHEREAS, the Township is in need of animal control services; and

WHEREAS, proposals were solicited from qualified vendors for the provision of said services during calendar year 2024 using the online platform Bidnet Direct; and

WHEREAS, the Township received one proposal from Animal Control Services, 2 Marshall Drive, Flemington, N.J. 08822; and

WHEREAS, the Township has determined in accord with N.J.S.A. 40:11-5 that the proposal submitted by Animal Control Services was the most advantageous price and other factors considered; and

WHEREAS the proposal (Attachment A) is acceptable to the Township for a one-year award for Animal Control Services; and

WHEREAS, subject to the approval of future budgets by the governing body of the Township of Clinton, the Chief Financial Officer certifies funding is available in the amounts as proposed.

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

1. The proposal by Animal Control Services, 2 Marshall Drive, Flemington, N.J. 08822 is acceptable to the Township and the Mayor is authorized to execute a contract reflecting a one-year award for services, at the rates and for the not-to-exceed cost set forth in said proposal.
2. The Township may extend the contract on the same terms and conditions for a second year under the auspices of N.J.S.A 40A:11-15.
3. This resolution shall take effect immediately.

Resolution 2024-59 was tabled.

6. Resolution 2024-59 – Resolution of the Mayor and Council of the Township of Clinton authorizing the award of an Automated Data Processing firm for payroll processing services through the Competitive Contracting Process. **(TABLED)**
7. Resolution 2024-60 – Resolution of the Mayor and Council of the Township of Clinton authorizing the full-time hire of Shannon Carroll as an Administrative Office Clerk.

Councilman Glaser motioned to approve Resolution 2024-60; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 62

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON AUTHORIZING THE FULL TIME HIRE OF SHANNON CARROLL AS AN ADMINISTRATIVE OFFICE CLERK

WHEREAS, there exists a need to hire a full-time Administrative Office Clerk for the Township's Construction Office; and

WHEREAS, the Construction Official conducted interviews and has recommended Ms. Carroll as the best candidate for this position;

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

1. Ms. Shannon Carroll is hereby hired as a full-time Administrative Office Clerk, beginning February 20, 2024, at an annual salary not to exceed \$42,500.00.
2. Benefits shall be granted as outlined in the Township’s policies and ordinances.

8. Resolution 2024-61 – Resolution of the Mayor and Council of the Township of Clinton authorizing the Township Tax Collector to apply the appropriate credits to the 2024 and 2025 tax payments for the Hunterdon Medical Center.

Councilman Kochanowski motioned to approve Resolution 2024-61; Councilman Glaser seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 61

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON AUTHORIZING THE TOWNSHIP TAX COLLECTOR TO APPLY THE APPROPRIATE CREDITS TO THE 2024 AND 2025 TAX PAYMENTS FOR THE HUNTERDON MEDICAL CENTER

WHEREAS, on March 31, 2023, Farhan Ali, Esp. of McCarter English, LLP., attorney for the plaintiff, Hunterdon Medical Center, filed a civil action taxpayer complaint, Docket #5675-2023 against Clinton Township in the Tax Court of New Jersey; and,

WHEREAS, Block 70, Lot 13 (1738 Route 31), the 2023 assessed value is as follows:

Land	\$1,207,300.00
Improvements	\$5,601,300.00
Total	\$6,808,600.00

WHEREAS, based upon excess land value, Clinton Township’s Special Tax Council, Fred Semrau, of Dorsey & Semrau, has negotiated the following settlement:

Land	\$2,600,000.00
Improvements	\$0.00
Total	\$2,600,000.00

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Clinton, that the Tax Collector is hereby authorized to apply the appropriate credits to the 2024 and 2025 tax payments to reflect the above negotiated settlement.

9. Resolution 2024-62 – Resolution further amending the October 25, 2017 redevelopment agreement between the Township of Clinton and Annandale Village, LLC to extend certain deadlines set forth therein.

Mayor Mullay motioned to approve Resolution 2024-62; Council President Strauss seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 62

RESOLUTION FURTHER AMENDING THE OCTOBER 25, 2017 REDEVELOPMENT AGREEMENT BETWEEN THE TOWNSHIP OF CLINTON AND ANNANDALE VILLAGE, LLC TO EXTEND CERTAIN DEADLINES SET FORTH THEREIN

WHEREAS, on October 25, 2017, the Township of Clinton (“Township”) and Annandale Village, LLC (“Redeveloper”) entered into a redevelopment agreement (“Agreement”) for the redevelopment of the Fox Seals (aka Old Municipal Building) site in the Village of Annandale, designated on the Clinton Township tax maps as Block 53, Lot 3, and located on Washington Street and West Street (“site” or “property”); and

WHEREAS, paragraph 2.3 of the Agreement states that “Redeveloper shall have one hundred twenty (120) days from the conclusion of the Due Diligence Period to obtain all Governmental Approvals for the [redevelopment],” which deadline may be extended provided Redeveloper has been diligently pursuing its approvals; and

WHEREAS, paragraph 3.0 of the Agreement sets for the Township’s obligations with respect to the vacation of a portion of Washington Street and the conveyance of the Property to the Redeveloper, and requires that “[the] Deed conveying the Property to Redeveloper shall contain a reverter clause that if the Redeveloper fails to complete the Project on or before December 31, 2019, then upon the written declaration by the Township of such default and the failure of Redeveloper to cure such default as set forth in Section 6 of this Agreement, that portion of the Property conveyed to Redeveloper shall revert to the Township”; and

WHEREAS, on December 11, 2019 Township extended to June 1, 2020 the deadline to obtain all governmental approvals, including building permits, and extended the deadline set forth in paragraph 3.0 of the Agreement until December 31, 2021; and

WHEREAS, due to unforeseen circumstances, it is necessary to further extend the above-referenced deadlines;

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

1. The preamble to this resolution is hereby incorporated as if more fully set forth herein.
2. Redeveloper shall have until June, 2024 to obtain all governmental approvals, including building permits, to proceed with construction of the project.
3. Redeveloper shall have eighteen (18) months from the date of issuance of the first permit from the construction office to complete the redevelopment of the Property.
4. The deadline set forth in paragraph 3.0 of the Agreement shall be extended to December 31, 2025.
5. All other deadlines and milestones set forth in the Agreement shall remain unchanged.
6. The Township Attorney is hereby authorized and directed to prepare an amendment to the redevelopment agreement consistent with the terms of this resolution, and the Mayor and Clerk are hereby authorized and directed to sign said amendment on behalf of the Township.
7. This resolution shall take effect immediately.

Council President Strauss recused at 7:21 pm

10. Resolution 2024-63 – Resolution of the Mayor and Council of the Township of Clinton approving an emergency repair for the Annandale Fire Hose Company No. 1 for the exhaust manifold replacement through Fire & Safety Services (Sourcewell Contract #113021-OKC), in an amount not to exceed \$12,000.00.

Councilman Glaser motioned to approve Resolution 2024-63; Mayor Mullay seconded.

Result: Motion passed by unanimous vote (Council President Strauss recused; Councilwoman Switlyk absent).

RESOLUTION

2024 – 63

RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON APPROVING AN EMERGENCY REPAIR FOR THE ANNANDALE FIRE HOSE COMPANY NO. 1 FOR THE EXHAUST MANIFOLD REPLACEMENT THROUGH FIRE & SAFETY SERVICES (SOURCEWELL CONTRACT #113021-OKC), IN AN AMOUNT NOT TO EXCEED \$12,000.00

WHEREAS, the Annandale Fire Hose Company No. 1 needs to replace an exhaust manifold on certain equipment immediately; and

WHEREAS, the need for the new exhaust manifold could not reasonably have been foreseen; and

WHEREAS, N.J.S.A. 40A:11-6 provides that public bidding and quotes is not necessary in an emergency situation, and

WHEREAS, Fire & Safety Services was contracted to provide the repair service in an amount not to exceed \$12,000.00;

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

1. The immediate replacement of the exhaust manifold through Fire & Safety Services (Sourcewell Contract #113021-OKC), in an amount not to exceed \$12,000.00, is hereby approved.
2. This resolution shall take effect immediately.

Council President Strauss reconvened with the Council at 7:22 pm.

NEW BUSINESS

1. Resolution 2024-64 – Resolution of the Mayor and Council of the Township of Clinton consenting to the Mayor’s appointment of Dan McTiernan as Alternate #1 Member to the Clinton Township Sewerage Authority for a five-year term.

The Mayor made the amendment to the resolution to reflect the appointment as an “Alternate 1” member.

Councilman Glaser motioned to approve Resolution 2024-64 with the amendments; Mayor Mullay seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON
CONSENTING TO THE MAYOR’S REAPPOINTMENT OF DAN MCTIERNAN AS
ALTERNATE #1 MEMBER OF THE CLINTON TOWNSHIP SEWERAGE AUTHORITY
FOR A NEW FIVE-YEAR TERM**

WHEREAS, Dan McTiernan has served as the Alternate #1 member of the Clinton Township Sewerage Authority; and

WHEREAS, Mr. McTiernan’s term expired on January 31, 2024; and

WHEREAS, it is necessary to fill the vacancy created by the expiration of Mr. McTiernan’s term; and

WHEREAS, vacancies are to be filled by the Mayor with the advice and consent of the Council; and

WHEREAS, Mayor Mullay has reappointed Mr. Dan McTiernan to continue serving as the Alternate #1 member for a new five-year term;

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

1. The Council hereby consents to Mayor Mullay’s reappointment of Dan McTiernan to serve as the Alternate #1 member of the Clinton Township Sewerage Authority for a new five-year term beginning on February 1, 2024 and terminating on January 31, 2029.
2. This resolution shall take effect immediately.

2. Resolution 2024-65 – Resolution of the Mayor and Council of the Township of Clinton, County of Hunterdon, opposing Assembly Bill No. 4/ Senate Bill No. 50, which proposes to overhaul the Fair Housing Act (“FHA”) in a way that imposes unrealistic obligations with unrealistic deadlines based upon onerous standards.

Councilman Glaser motioned to approve Resolution 2024-65; Councilman Kochanowski seconded.

Result: Motion passed by unanimous vote (Councilwoman Switlyk absent).

RESOLUTION

2024 – 65

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF CLINTON,
COUNTY OF HUNTERDON, OPPOSING ASSEMBLY BILL NO. 4/SENATE BILL NO.
50, WHICH PROPOSES TO OVERHALL THE FAIR HOUSING ACT (“FHA”) IN A WAY
THAT IMPOSES UNREALISTIC OBLIGATIONS WITH UNREALISTIC DEADLINES
BASED UPON ONEROUS STANDARDS.**

Mount Laurel II

WHEREAS, in 1983, the Supreme Court decided a landmark case, commonly referred to as Mount Laurel II; and

WHEREAS, Mount Laurel II and its progeny generated substantial litigation culminating in the enactment of the New Jersey Fair Housing Act in 1985 (“FHA”); and

The Fair Housing Act of 1985

WHEREAS, the Legislature enacted the FHA to restore home rule, to bring the fair share numbers back to reality and to reduce the burdens of Mount Laurel compliance; and

WHEREAS, more specifically, the FHA sought *to restore home rule* by imposing a moratorium on the builder’s remedy and by providing an administrative process that municipalities could voluntarily pursue wherein they would be insulated from developers seeking builder’s remedies to try to compel them to capitulate their zoning demands; and

WHEREAS, the FHA sought *to bring the fair share numbers back to reality* by among other things defining the prospective need as the need “based on development and growth which is reasonably likely to occur” and by calling for the fair share to be adjusted to a number lower than the fair share formula generated if the municipality lacked sufficient land to satisfy the obligation generated by the fair share formula; and

WHEREAS, the FHA sought *to reduce the burdens on municipalities* by prohibiting any requirement for municipalities to expend their own resources to comply; and

The New Jersey Council on Affordable Housing

WHEREAS, the FHA created COAH and conferred “primary jurisdiction” on COAH to administer the FHA and to implement the affordable housing policies of our State; and

WHEREAS, all acknowledge -- even Fair Share Housing Center (“FSHC”) -- that COAH functioned just fine in Rounds 1 and 2; and

WHEREAS, COAH did not adopt valid regulations for Round 3 despite multiple efforts to do so and made no efforts to cure the bottleneck the third time COAH voted 3-3 on Round 3 regulations; and

Mount Laurel IV

WHEREAS, in 2015, the Supreme Court issued a decision, commonly referred to as Mount Laurel IV, in response to a motion to transfer the responsibilities of COAH back to the courts in light of COAH’s failure to adopt valid regulations; and

WHEREAS, in Mount Laurel IV, the Supreme Court returned the task of implementing the doctrine back to the Courts because COAH had failed to do its job and made no effort to cure the roadblock when it voted 3-3 on the third iteration of Round 3 regulations; and

WHEREAS, notwithstanding the foregoing, the Court emphasized that it preferred the administrative remedy created by the FHA to a judicial one and hoped that COAH would be effective so that towns could comply once again through the administrative process created by the FHA; and

WHEREAS, the Court process proved to be far more expensive than the COAH process and was ill-suited for resolving comprehensive planning disputes over affordable housing matters; and

WHEREAS, the Round 3 process was a disaster with judges pressing municipalities to comply before even establishing the obligations with which they must comply; and

WHEREAS, ultimately, on March 8, 2018, after a 41-day trial in Mercer County, Judge Jacobson issued an opinion in which she set forth a fair share methodology; and

WHEREAS, in that trial and in various other instances throughout the state, FSHC took the position that the Statewide obligation should exceed 300,000 to be addressed between 2015 and 2025; and

WHEREAS, municipalities, through Dr. Robert Powell, presented evidence that, in a best case scenario, the State could only absorb less than 40,000 affordable units and thus argued that FSHC's calculations was not grounded in reality whatsoever; and

WHEREAS, the Court, having been constrained by the Supreme Court to prescriptively utilize a formula from 1993, ultimately concluded that the Statewide obligation to be constructed between 2015-2025 was roughly 153,000 units; and

The 354 Settlements with FSHC

WHEREAS, FSHC reports that it entered 354 settlements in Round 3; and

WHEREAS, many municipalities are reeling under the burden of satisfying their obligations under those settlements entered between 2015 and 2023; and

WHEREAS, many of those Round 3 settlements will result in development during the Round 4 period; and

WHEREAS, Round 4 is set to begin on July 1, 2025 and there is no comprehensive analysis on the impacts of the 354 Round 3 settlements and over-zoning described above; and

WHEREAS, indeed, the A4/S50 Bill fails to consider the impact from affordable housing projects that were approved during the Third Round, but are still not yet under construction, as said projects, as well as additional future projects, will impact legitimate public concerns like infrastructure, the environment, schools, traffic, parking and open space; and

WHEREAS, the Round 3 process destroyed the balance achieved by the Fair Housing Act in 1985; and

A-4/S-50

WHEREAS, on December 19, 2023, against the above backdrop, the Housing Committee of the Assembly (a) unveiled the Legislation (A-4) – a detailed 69-page bill that the Chairwoman of the Housing Committee announced had been worked on for a long time; and (b) scheduled the bill for a vote at a hearing scheduled less than 24 hours later; and

WHEREAS, on December 19, 2023, the Administrative Office of the Courts wrote to the Legislature and made clear that it could not structure the bill in the manner set forth in the proposed legislation; and

WHEREAS, notwithstanding the foregoing, on December 20, 2023, the Housing Committee voted the bill out of the Committee and announced that the bill needed to be ready for signing by the Governor before the end of the lame duck session on January 8, 2024; and

WHEREAS, the perception that the Legislative designed was to adopt the bill before the public had an opportunity to review it and provide meaningful comment was as real as it was unmistakable; and

WHEREAS, consequently, the Legislature did not ram the bill through in the lame duck session; and

WHEREAS, instead, on January 29, 2024, the Housing Committee of the Assembly met to consider a new version of A-4 and voted to release it out of the Committee; and

WHEREAS, on February 8, 2024, as a result of comments, letters and resolutions challenging this new version of A-4, the Appropriations Committee of the Assembly announced a number of changes to the Bill; and

WHEREAS, one witness likened the summary presented to the public at the February 8, 2024 Appropriations meeting to that of an auctioneer; and

WHEREAS, the Appropriations Committee voted the bill out of the Committee at its February 8, 2024 meeting before the public had an opportunity to even see the changes, much less process their significance and comment on them; and

WHEREAS, the bill has been improved marginally as it has evolved from its initial version in December of 2023 to the current version voted out of the Appropriations Committee of the Assembly on February 8, 2024; and

WHEREAS, despite elimination of just some of the gross excesses of the prior version of the bill, the current bill released after the February 8, 2024 Appropriations Committee meeting is still severely flawed; and

WHEREAS, the Bill still creates a judicial entity made up of 3-7 retired Mount Laurel judges called “The Program”, which, unlike COAH, is not comprised of an equal number of municipal and housing representatives, and is not made up of an equal number of Republicans and Democrats, thereby depriving the citizens of our State of the carefully crafted COAH Board that included a diversity of interests and that was the centerpiece of the FHA adopted in 1985; and

WHEREAS, the Bill still does not require the promulgation of affordable housing obligations, or the adoption of substantive regulations, in a way that utilizes an open and transparent process that COAH used and that gave all interested parties an opportunity to comment and receive COAH’s response to their comments; and

WHEREAS, as detailed below, the bill creates a patently unreasonable responsibility on municipalities by imposing an obligation on them to create a realistic opportunity for satisfaction of a fair share that is itself unrealistic; and

WHEREAS, the current version still details the methodology to be used for determining the fair share numbers of municipalities in Round 4 and in subsequent rounds; and

WHEREAS, the current version still presumes that 40 percent of all new households will qualify as low or moderate; and

WHEREAS, the current version still calls for the determination of the prospective need by subtracting the number of households reported in the 2010 Decennial Census from the number of households reported in the 2020 Decennial Census and multiplying that figure by 40 percent; and

WHEREAS, we calculate the statewide need number to be 84,690 based upon the formula set forth in the bill; and

WHEREAS, the current version of the Bill calls for 84,690 to be adjusted by the number of conversions and demolitions; and

WHEREAS, the statewide fair share would be increased from 84,690 to 96,780, if we assume the same number of demolitions and conversions used by Judge Jacobson in her formula for Round 3 that will apply in Round 4; and

WHEREAS, we can estimate the obligation of each municipality if we assume that the same percentage of the regional need in Round 3 for each municipality applies in Round 4; and

WHEREAS, we have widely distributed our estimates and invited input after acknowledging that we have done the best we can to formulate estimates in very limited time; and

WHEREAS, other than an analysis of the allocation factors by an expert for the American Planning Association (Creigh Rahenkamp) who identified problems with the allocation

factors, nobody has accepted our invitation to review and comment on our rough estimates; and

WHEREAS, to the contrary, the Executive Director of Fair Share Housing Center testified that he did not have a calculation of the fair share numbers; and

WHEREAS, more importantly, no committee of the Assembly or Senate has identified the fair share obligations municipalities should expect based upon the formula set forth in the bill; and

WHEREAS, the 96,780 fair share number estimated for Round 4 compares to the roughly 211,000 COs issued between 2010 and 2020; and

WHEREAS, the 96,780 fair share number divided by 211,000 COs equals roughly 46 percent (45.867 percent to be more precise); and

WHEREAS, all municipalities should be able to cure any violations of the prohibition against exclusionary zoning with inclusionary zoning; and

WHEREAS, traditional inclusionary zoning ordinances generally require no more than 20 percent of the units to be affordable; and

WHEREAS, it is mathematically impossible to satisfy a 46 percent problem with a 20 percent solution and, therefore, the number generated by the statutory formula is patently excessive; and

WHEREAS, while this mathematical error conceptually may have existed at COAH, COAH utilized its discretion to reduce the statewide number to roughly 5,000 units per year in Rounds 1-2 (or lower for prospective need in its attempted regulations in 2014); and

WHEREAS, in addition, COAH's Round 2 regulations had flexible standards, Regional Contribution Agreements (RCAs), an achievable bonus structure, waivers and other flexible standards to further mitigate the problem; and

WHEREAS, had COAH not mitigated the problem, it is likely that the regulations would have been challenged by municipalities; and

WHEREAS, as detailed below, the Bill still fails to account for the enormous burdens on municipalities to comply with their Round 3 obligations before imposing very substantial additional burdens on those 354 municipalities for Round 4; and

WHEREAS, a representative of FSHC testified that it has entered into 354 settlements and that it would furnish those settlements to the Housing Committee, which it has failed to do; and

WHEREAS, we have pressed FSHC to advise how much development will take place in Round 4 as a result of municipalities implementing the 354 settlements reached in Round 3; and

WHEREAS, Adam Gordon on behalf of FSHC has indicated he doesn't know the answer to this question and no committee of the Assembly or Senate has even hinted at what the answer might be; and

WHEREAS, the Bill requires municipalities to create a realistic opportunity for satisfaction of a fair share without taking into account how many affordable units can realistically be achieved through traditional inclusionary zoning (where generally one out of every five units must be affordable); and

WHEREAS, we also sought to ascertain how many affordable units could be realistically achieved through traditional inclusionary zoning by urging the Legislature to do a market study since the strength of the housing market will determine the number of market units

that can reasonably be anticipated that are essential to generating one affordable unit for every four market units constructed; and

WHEREAS, the Legislature has not furnished a market study in response to our repeated emphasis on the need for one to ascertain how many affordable units could be realistically achieved through traditional inclusionary zoning; and

WHEREAS, as explained below, the bill dilutes the protections to which a municipality is currently entitled as it seeks to comply voluntarily and even after it secures approval of its affordable housing plan; and

WHEREAS, current laws preserve a municipality's immunity in the absence of proof that the municipality is "determined to be constitutionally noncompliant", the proposed bill does not give municipalities seeking to comply voluntarily the same measure of protection the Supreme Court deemed appropriate; and

WHEREAS A4/S50 subjects municipalities to litigation not only as they seek approval of their Housing Element and Fair Share Plans, but also even after they secure approval of those plans; and

WHEREAS, more specifically, A4/S50 provides municipalities a "compliance certification" if the municipality secures approval of its affordable housing plan; however, that certification does not prevent an interested party from "alleging that, despite the issuance of compliance certification, a municipality's fair share obligation, fair share plan, housing element, or ordinances implementing the fair share plan or housing element are in violation of the Mount Laurel doctrine"; and

WHEREAS, the Bill suffers from a myriad of additional flaws; and

WHEREAS, under current laws, a municipality would have a right to rely on the fair share number that COAH provides; however, under the new bill a municipality would only have a presumption of validity that the number the DCA provides to the municipality is appropriate and FSHC, a deep pocketed developer or any other interested party could seek to overcome that presumption through litigation; and

WHEREAS, the A4/S50 Bill replaces a straightforward system by which a municipality could secure bonus credits up to a 25 percent cap with a highly complicated system for securing bonuses with many conditions attached to various forms of bonus.; and

WHEREAS, the Legislature previously capped the fair share of any municipality down to 1,000 in recognition that any obligation above 1,000 would be "onerous"; A4/S50 applies the 1,000-unit cap only to a component of the municipality's fair share -- the prospective need -- and authorizes the imposition of an obligation that is onerous; and

WHEREAS, the A4/S50 Bill creates unfair requirements and ambiguity when it comes to the Vacant Land Adjustment process, which could lead to municipalities that lack sufficient vacant land being required to produce more affordable housing units than is practical; and

WHEREAS, the A4/S50 Bill includes many other provisions and changes to the FHA that are impractical and devoid of any consideration of the burdens created by the statute; and

WHEREAS, as a result of the facts set forth above, a bill that boasts of its effectiveness in reducing costs and litigation will clearly have the exact opposite effect; and

WHEREAS, in addition to all the concerns expressed above, a bill that so radically changes the affordable housing laws of our state still needs considerable work; and

WHEREAS, indeed, as the following facts demonstrate, the Legislature has yet to do the most fundamental due diligence before enacting a statute with such broad ramifications;

1. The Legislature has not and cannot inform the public of the fair share obligations the bill, if enacted, would impose on the public;
2. The Legislature has not and cannot inform the public of the obligations that municipalities will satisfy in Round 4 from the 354 settlements achieved in Round 3 before heaping substantial additional burdens on them for Round 4;
3. The Legislature has not and cannot inform the public of the number of affordable units that can realistically be achieved through traditional inclusionary zoning while imposing obligations on municipalities to create a realistic opportunity for a fair share that far exceeds any number a municipality can realistically achieve through inclusionary zoning; and

WHEREAS, as a result of the pronounced lack of due diligence, the bill will likely force taxes to increase dramatically and will foster serious overdevelopment creating unreasonable burdens on our schools, public services, roads, sewer and water infrastructure; and

WHEREAS, the Legislature clearly can and should upgrade the affordable housing policies of our State; however, the current Version of A4 is not the answer and the most fundamental diligence can and should be exercised before adopting such a bill.

NOW, THEREFORE, BE IT RESOLVED, that for all of the above reasons, the Mayor and Council of the Township of Clinton, objects to and opposes Assembly Bill No. 4/Senate Bill No. 50, and requests that the bill be tabled, re-written and re-introduced in way that imposes achievable obligations and facilitates the ability of the municipality to satisfy its obligations.

A certified copy of this resolution shall be sent to the Legislators in the State Assembly and Senate representing our District immediately.

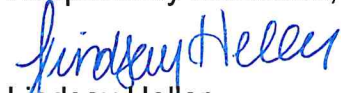
PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA – Comments should be limited to three (3) minutes.

Dr. Stager, Superintendent of Schools, thanked the Council and voters for approving to have another SRO in the schools. Dr. Stager gave an update on the preschool that opened at Spruce Run and that there are about 100 families on the lottery list for enrollment. There are a few upgrades for the school that will be requested in the next few weeks.

ADJOURNMENT

The Mayor and Council adjourned the meeting at 7:30 pm.

Respectfully submitted,



Lindsay Heller
Acting Township Clerk

Approved by the Mayor and Council: February 28, 2024

