

Councilman Smith called the meeting to order at 7:30 p.m.

Flag Salute.

Roll Call: Present – Duffy, Insel, Pendergast, Shea, Smith, Valenta
Absent – Mayor Schaumburg

STATEMENT OF ADEQUATE NOTICE:

Councilman Smith read the following statement: “Adequate notice of this meeting has been provided, indicating the time and place of the meeting and the proposed agenda, which notice was posted, made available to newspapers, and filed with the Clerk of the Town of Clinton in accordance with Section 3(d) of Chapter 231 of the Public Laws of 1975.”

RESOLUTION #104-11

Mr. Smith asked that Resolution #104-11 be adopted, excusing Mayor Schaumburg from attending this evening’s meeting due to a family emergency. Motion was made by Mr. Smith, seconded by Mr. Duffy to adopt Resolution #104-11.

RESOLUTION #104-11
EXCUSING ATTENDANCE FROM COUNCIL MEETING

WHEREAS, from time to time an emergency arises causing a Mayor or Council Member to miss a Council Meeting; and

WHEREAS, a family emergency has caused for Mayor Schaumburg to miss the Council Meeting this evening;

NOW THEREFORE BE IT RESOLVED, that the Council excuses Mayor Schaumburg from attendance at the Council Meeting held May 10, 2011.

Vote all ayes
Motion carried

APPROVAL OF MINUTES

A motion was made by Mr. Smith seconded by Mr. Pendergast, to approve minutes of April 26, 2011 as submitted.

Vote all ayes
1 Abstention (Duffy)
Motion carried

APPROVAL OF MONTHLY REPORTS – MAY

A motion was made by Mr. Pendergast, seconded by Mrs. Insel, to accept the monthly reports for the month of May as submitted:

Administrator’s Report, Buildings and Grounds Report, Clerk’s Account, Cat & Dog Licensing Accounts, Construction Control/Inspection Report, Fire Official Report, Road Foreman’s Report, Sewer Collector’s Report, Tax Collector’s Report, Water Collector’s Report, Wastewater Treatment Plant Superintendent’s Report, Water Superintendent’s Report, Zoning Officer’s Report.

Vote all ayes
Motion carried

PUBLIC COMMENT

Whitney Wetherill, 36 West Main Street, congratulated Mark Kim of Citispot, who re-opened at his new location on the corner of Main Street and Lower Center Street. It is fabulous to see so many people gathering inside and outside at the new location!

Ms. Wetherill questioned the status of the patio and parking lot project at the Hunterdon Art Museum. Mr. Smith explained that the topic will be discussed during Executive Session and following the session, council will come out and take action. Everyone was invited to wait in the hallway and return to the regular meeting. The topic for Executive Session is Contractual Dispute between the Hunterdon Art Museum and the Town of Clinton.

MAYOR'S COMMENTS

1. Residents and Merchants of Main Street, East Main Street and Lower Center Street, have received notification that sewer and water mains are being surveyed on Wednesday and Thursday evenings beginning at 5:00 P.M. to 3:00 A.M. The purpose is to determine the unknown conditions of mains prior to resurfacing the streets.
2. National EMS Week 2011 will be celebrated at the Clinton First Aid & Rescue Squad on Saturday, May 21, 2011. The squad will be open from 10 am to 2 pm for families to join in ambulance tours, first aid basics for kids, refreshments, blood pressure screening, rescue demonstrations CPR education. Sounds like a fun day is planned!

RESOLUTION #94-11 – OVERPAYMENT OF TAXES

A motion was made by Mrs. Valenta, seconded by Mr. Pendergast, to adopt Resolution #94-11 as submitted:

RESOLUTION # 94-11

WHEREAS, the Tax Collector of the Town of Clinton has received an overpayment for following block and lot due to overpayment on account.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Clinton that the Chief Financial Officer be authorized to refund the overpayment to the following account:

<u>BLOCK</u>	<u>LOT</u>	<u>OWNER</u>	<u>AMOUNT</u>
31	7.15	Giedre G. Riggio	\$ 500.00

BE IT FURTHER RESOLVED that the Tax Collector remove the overpayment on the above block and lot for the 3rd quarter of 2011.

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

RESOLUTION #95-11 – DONJON RECYCLING OF SCRAP METAL

Mr. Naples explained that this resolution is similar to the recycling of electronic waste resolution and agreement. This dumpster will accept scrap metal at the same location, the Wastewater Treatment Plant. The vendor will pick up the scrap and the proceeds will be split between the Town and the vendor. The only cost to the town will be \$15.00 to remove coolants from

appliances when necessary. A motion was made by Mrs. Insel, seconded by Mr. Duffy, to adopt Resolution #95-11 as submitted:

RESOLUTION # 95 - 11

**RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT
WITH DONJON RECYCLING FOR RECYCLING OF SCRAP METAL**

WHEREAS, the Town of Clinton received a proposal for scrap metal recycling services from DONJON Recycling, a Division of Donjon Marine Co., Inc. (“DonJon”); and

WHEREAS, pursuant to the proposal, DonJon will provide a container for the collection of scrap metal and pay the Town for scrap metal collected at current market prices; and

WHEREAS, the only charge to the Town will be for removal of coolants from recycled appliances; and

WHEREAS, the proposal will enable the Town to offer scrap metal recycling to its residents at the Wastewater Treatment Facility; and

WHEREAS, the value of services involved is below the bid threshold.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Clinton, Hunterdon County, that the Mayor and Clerk are hereby authorized to execute a contract with DONJON Recycling for scrap metal recycling in the form attached hereto.

Contract Between
DONJON Recycling and the Town of Clinton
for Scrap Metal Recycling

Town of Clinton, a municipal corporation of the State of New Jersey, Hunterdon County, with offices at 43 Leigh Street Clinton, New Jersey, 08809 (hereinafter the “Owner”)

and

DONJON Recycling, a Division of Donjon Marine Co., Inc., a New Jersey corporation, with offices at 160 Richards Avenue, PO Box 969, Dover, New Jersey 07802 (hereinafter the “Contractor”)

WITNESSETH, that in consideration of the agreements herein contained, to be performed by the parties hereto, and for other good and valuable consideration, it is mutually agreed as follows:

1. The Contractor shall furnish all labor, transportation, equipment, materials and supplies to carry out his obligations under this contract. This agreement shall be effective May 10, 2011 through December 31, 2011, or same may be terminated earlier by either party by giving NINETY (90) days prior written notice to the other party at the addresses listed above.

2. The Contractor agrees to perform all of the work listed herein and as set forth on the attached Schedule A for the compensation set forth on Schedule A. Contractor agrees that the

compensation set forth on Schedule A shall be in full compensation for the completion of the work under the Contract, and for all losses and damages arising out of the nature of the work, or from any unforeseen difficulty encountered in the prosecution of the work, and for all risks of any kind connected with the work, and for all expenses incurred by or in consequence of the work. The work to be performed includes:

- A. Provision of a 40 Cubic Yard container for the recycling of scrap metal as described on Schedule A (“the Container”) at the Owner’s Waste Water Treatment facility at 143 Leigh Street in the Town of Clinton (“the Facility”). Contractor shall deliver the Container to the Facility and place it as directed by Owner within five (5) days of the effective date of this Contract.
- B. The Contractor shall pick up at the Facility and dispose of all acceptable recyclable material in the Container within Forth Eight (48) hours of telephone notification by Owner.
- C. Contractor shall provide for the safe removal and disposal of refrigerants or coolants from appliances. Contractor represents that it has the certifications required for safe removal of such substances. Owner will be charged \$15.00 per appliance for this service during the term of this Contract.
- D. Contractor, at its expense, shall comply with Contractor’s applicable licenses and all applicable laws, regulations, rules, and orders, including, but not limited to, federal, state, and local laws regardless of when they become or became effective, related to (1) transport, storage, sale and recycling of scrap metal collected by Contractor from Owner pursuant to this Contract; and (2) removal and disposal of coolants from appliances. Contractor shall furnish satisfactory evidence of such compliance to Owner upon request.
- E. Contractor represents that it has all approvals and licenses required by local, County, State, or Federal ordinance, statute, rule or regulation required for the (1) collection, transport, storage, sale and recycling of scrap metal, including appliances; and (2) removal and disposal of coolants from appliances. Contractor shall provide proof of same to Owner upon request.
- F. The Contractor shall provide the Owner with tonnage and hours of processing reports of all recycled materials on a monthly basis.
- G. Owner shall hold harmless, defend and indemnify contractor for any foreign materials, including but not limited to residential/commercial waste or hazardous materials as defined by the New Jersey Department of Environmental protection, placed in the Container; provided that Contractor immediately notifies Owner if it finds any such foreign materials in the Container and holds those foreign materials for pickup by Owner. The Owner shall be responsible for proper transport and disposal of same. Owner shall have no responsibility for foreign materials unless it is notified by Contractor that such materials are included in the recyclable material collected by Contractor.
- H. Contractor agrees to release, hold harmless, indemnify, and defend Owner from and against all liability, cost, (including, without limitations, attorney’s fees, in addition to costs of suit and judgment) for loss of or damage to any property or

loss of the use thereof or for injury to or death of any person when arising or resulting from Contractor's performance under this contract including, but not limited to, the following:

1. The removal of scrap metal as provided for in this Contract;
2. The removal and disposal of coolants from appliances accepted for recycling.
2. The transportation of said scrap metal.

I. Contractor agrees to maintain insurance coverage as follows during the term of this Contract:

Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury and property damage liability, \$2,000,000 products and completed operations annual aggregate; \$1,000,000 personal injury and advertising injury and \$2,000,000 general policy aggregate.

Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage extends to owned, non-owned and hired automobiles, trucks and trailers.

Workers' Compensation: Statutory coverage in compliance with the Compensation Laws of the State of New Jersey. Coverage shall include Employer's Liability with minimum limits of \$1,000,000 each accident, \$1,000,000 disease-policy limit, \$1,000,000 each employee.

Excess Insurance/Umbrella: \$5,000,000 each occurrence/aggregate.

The Contractor agrees to list the Owner as an additional insured on the applicable policies. Contractor shall provide Owner with a certificate confirming the above coverage

Upon full execution of this Contract, Contractor is authorized to proceed with the work.

SCHEDULE A

Scrap Metal Recycling Services

1. Container and roll-off service to be provided by Contractor on a No Fee/ No Charge basis during the term of this Contract. The Container will be exchanged during regular business hours for the Facility, Monday through Friday, at Owner's request upon telephone notice to Contractor as set forth in the Contract.
2. Prior to exchange of Containers, Owner will pack materials in Container as tightly as possible to maximize weight.

Payment

1. Contractor agrees to accept the scrap metal collected from Owner less the amount paid to Owner as set forth in Paragraph 2 below as full compensation for the completion of the work under the Contract; except that Owner will pay Contractor \$15.00 per appliance for the safe removal of coolants as provided in Section 2.C. above.
2. Contractor agrees to pay Owner per pound of metal for each type of metal in the Container based on market price at the time of Container exchange. Prices will be based on metric tons (2,240 lbs). Contractor will notify Owner periodically of changes in

market prices. Contractor will pay owner by check at the middle and end of the month depending on when the Container is exchanged.

Vote all ayes
Motion carried

Mr. Shea requested that a notice be placed in the Town Newsletter advising residents.

RESOLUTION #96-11 – CERTIFICATION OF ANNUAL AUDIT

Following the distribution of the 2010 Annual Audit, Council must provide evidence that the report was received and reviewed by Mayor and Council. A motion was made by Mr. Pendergast, seconded by Mr. Duffy, to adopt Resolution #96-11 confirming same.

**RESOLUTION # 96-11
CERTIFICATION OF ANNUAL AUDIT**

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2010 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body, and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and,

WHEREAS, the Local Finance Board has promulgated N.J.S.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled “Comments and Recommendations” and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled “Comments and Recommendations as evidenced by the group affidavit form of the governing body attached hereto; and,

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27 BB-54 to wit:

R.S.52:27 BB-52 – “A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the (Director of Local Government Services), under provisions of this Article, shall be guilty of a misdemeanor and, upon conviction,

may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED, That the Governing Body of the Town of Clinton, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Vote all ayes
Motion carried

The Council certified compliance by signing the Group Affidavit which will be forwarded to the Division of Local Government Services.

RESOLUTION #97-11 – BYO FOR CLINTON FIRE DEPARTMENT

The Clinton Fire Department wishes to hold a fund raiser on site on Friday, May 20, 2011 beginning at 5:00 p.m. The menu will include clams, hot dogs and hamburgers. Resolution #97-11 permits adult attendees to “Bring Your Own”. A motion was made by Mr. Pendergast, seconded by Mr. Shea, to adopt Resolution #97-11 as submitted.

RESOLUTION # 97-11

WHEREAS, the Code of the Town of Clinton, Chapter 32, Section 7, prohibits consumption of alcoholic beverages in, on, or upon any public street, or land owned or occupied by any federal, state, county or municipal government, or as further explained in the Section 32-7 A through D; and

WHEREAS, alcoholic beverages may be consumed at occasions or events held by bona fide nonprofit organizations or other groups if specifically permitted by resolution of the Mayor and Council; and

THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Town of Clinton, that BYO (Bring Your Own) consumption of alcoholic beverages shall be permitted at a public fund raiser at the Clinton Fire Department to be held Friday, May 20, 2011 between the hours of 5:00 PM and 8:00 PM.

Vote all ayes
1 Abstention (Duffy)
Motion carried

RESOLUTION # 98-11 – LEINS TO BE ASSESSED TO PROPERTIES

A motion was made by Mr. Pendergast, seconded by Mrs. Insel, to adopt Resolution #98-11 as submitted:

RESOLUTION #98-11

WHEREAS Section 45 BRUSH, GRASS, AND WEEDS, of the Town of Clinton Code Book requires that certain aspects of a homeowners property be maintained as to not create a concern to the public, welfare and safety or constitute a fire hazard; and,

WHEREAS the code states that all grass and weeds must be maintained so as not be greater than 3 inches in height; and,

WHEREAS the Code Enforcement Official is authorized to enforce Section 45 by notifying residents of a violation and allowing ten (10) days to abate a violation; and,

WHEREAS of the owner of said property does not abate the problem within ten (10) days after receipt of the notice, a provision in the Section allows for the Public Works/ Business Administrator to reinspect the lands in question and report to Council at its next regular meeting the condition complained of, and

WHEREAS the Public Works/ Business Administrator shall cause the condition complained of to be abated and certify to the Mayor and Council, the cost charged which shall become a lien upon the lands and be added to become a part of taxes next to be assessed and levied upon the lands and shall bear interest at the same rate as taxes and be collected and enforced by the same officer and in the same manner as taxes.

NOW, THEREFORE, BE IT RESOLVED, that steps to abate conditions as stated in Section 45 to the following properties have been remedied by the Town of Clinton Public Works Department and the liens on the respective fees be assessed to the said properties are as follows:

TOTAL AMOUNT	
2 Hillside Drive Block 5, Lot 17	\$148.00
19 West Main Street Block 25, Lot 20	\$133.00

BE IT FURTHER RESOLVED that the Mayor and Council have reviewed documentation and approve the liens to be assessed as presented. Certified copies of this resolution shall be presented to the Town of Clinton Tax Assessor and Tax Collector.

Vote all ayes
Motion carried

RESOLUTION #99-11 – OVERPAYMENT OF TAXES

A motion was made by Mr. Pendergast, seconded by Mr. Shea, to adopt Resolution #99-11 as submitted:

RESOLUTION # 99-11

WHEREAS, the Tax Collector of the Town of Clinton has received double payments for the following block and lots due to refinance or closings,

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Clinton that the Chief Financial Officer be authorized to refund the overpayments to Corelogic Real Estate Tax Service c/o Refund Department, PO Box 961250, Fort Worth, TX, 76161, for the following account:

<u>BLOCK</u>	<u>LOT</u>	<u>OWNER</u>	<u>AMOUNT</u>
6	3	Kimberly Williams	\$ 1,994.35
16	7	Jeremy Padmos & Mary Davis	\$ 2,452.39

29.01	25	William Funke & Heidi Naomi	\$ 2,412.63
31.01	29.17 Condo	Kelly Bishop	\$ 405.16

BE IT FURTHER RESOLVED that the Tax Collector remove the overpayments on the above block and lots for the 2nd quarter of 2011.

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

RESOLUTION #100-11 – CHAPTER 159 – CLEAN COMMUNITIES GRANT

Kathy Olsen, CFO, explained that the Clean Communities Grant money was received following the adoption of the Municipal Budget. In order to appropriate the amount of \$4,304.22 into the budget, a Chapter 159 must be completed and filed with the Division of Local Government Services. A motion was made by Mr. Pendergast, seconded by Mr. Shea, to adopt Resolution #100-11 as submitted:

RESOLUTION # 100-11

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget and,

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and,

WHEREAS, the Town of Clinton has received \$4,304.22 from the State of New Jersey and wishes to amend its 2011 budget to include this amount as a revenue.

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Town of Clinton hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget for they year 2011 in the sum of \$4,304.22 which is now available as a revenue from:

Miscellaneous Revenues
Special Item of General Revenue Anticipated with Prior Written
Consent of the Director of Local Government Services:
Public and Private Revenues Off-Set with Appropriations:
Clean Communities Program, and

BE IT FURTHER RESOLVED, that a like sum of \$4,304.22 is hereby appropriated under the caption of:

General Appropriations
(a) Operations Excluded from the 2.0% Cap
Public and Private Programs Off-Set by Revenues:
Clean Communities Program:
Other Expenses

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes

Motion carried

RESOLUTION # 101-11 – PURCHASE/LEASE OF POLICE VEHICLE

Resolution #92-11 adopted at the April 26, 2011 council meeting has been withdrawn. Funds came out of the wrong account. A motion was made by Mr. Pendergast, seconded by Mrs. Valenta to replace #92-11 with the following resolution:

RESOLUTION #101-11

WHEREAS, the Town of Clinton wishes to lease/purchase a Police Vehicle from an authorized vender under the Cranford Co-op Purchasing Program;

WHEREAS, the purchase of goods and services by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A. 40A:11-12; and

WHEREAS, Warnock Fleet has been awarded the Cranford Co-op Contract #101 Item #8 effective October 1, 2010 to September 30, 2011; and

WHEREAS, the purchasing agent recommends the utilization of this contract on the grounds that it represents the best price available; and

WHEREAS, the actual cost for the Police Vehicle is expected not to exceed \$25,418.00; and

WHEREAS, the Chief Financial Officer has certified the availability of \$9,805.68 under the 2011 Current Budget, Police Department, Other Expenses, and the balance pending funding in subsequent budgets.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Clinton, that Warnock Fleet be awarded a contract for the lease/purchase of a Police Vehicle.

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

RESOLUTION #102-11 – DISCHARGE OF MORTGAGE – Bishop / Lucas

A motion was made by Mr. Shea, seconded by Mr. Duffy, to adopt Resolution #102-11 as submitted:

**RESOLUTION # 102- 11
A RESOLUTION CONCERNING DISCHARGE OF
AFFORDABLE HOUSING MORTGAGE**

WHEREAS former Town of Clinton resident, Kelly Bishop, purchased a home at 17 Woodcrest Lane, Clinton, New Jersey, on February 15, 2006; and

WHEREAS this home was designated as an Affordable Housing unit in the Town of Clinton; and

WHEREAS pursuant to the State of New Jersey Department of Community Affairs, Division of Housing regulations, Kelly Bishop executed a mortgage to the Town of Clinton Affordable Housing Authority which was recorded in Hunterdon County, New Jersey, on February 21, 2006 in Mortgage Book 2985 on page 46; and

WHEREAS on April 28, 2011, Kelly Bishop sold the home to Karissa Luca, who has executed a mortgage to the Affordable Housing Authority;

NOW THEREFORE BE IT RESOLVED that the Mayor has the authority to execute a Discharge of the Mortgage given by to the Town of Clinton Affordable Housing Authority.

Vote all ayes
Motion carried

INTRODUCTION OF ORDINANCE #11-09 – CAPITAL ORDINANCE

A motion was made by Mr. Pendergast seconded by Mr. Duffy, to introduce Ordinance #11-09 on first reading:

CAPITAL ORDINANCE NO. 11-09

CAPITAL ORDINANCE OF THE TOWN OF CLINTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY, AUTHORIZING THE MAKING OF IMPROVEMENTS IN, BY AND FOR THE TOWN OF CLINTON AND APPROPRIATING THEREFOR THE SUM OF \$59,500 FROM THE TOWN OF CLINTON CAPITAL IMPROVEMENT FUND

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

Section 1. The Town of Clinton in the County of Hunterdon, State of New Jersey, is hereby authorized to make the following improvements, by and for the Town, including all work, materials and appurtenances necessary and suitable therefore:

<u>PURPOSE</u>	<u>ESTIMATED COST</u>
Railings for Municipal Building	\$ 12,000.00
Roof for Community Center	\$ 12,500.00
Four Wheel Drive Truck	\$ 30,000.00
Energy Saving Projects	\$ 5,000.00
TOTAL	\$ 59,500.00

Section 2. The aggregate sum of \$49,500.00 is appropriated from the Capital Improvement Fund, and \$10,000 from the Reserve for Public Works Equipment as described in Section 1 hereof.

Section 3. Said improvements are lawful capital improvements of the Town of Clinton having a period of usefulness of at least five (5) years. Said improvements shall be made as general improvements, no part of the cost of which shall be assessed against property specially benefited.

Section 4. The capital budget of the Town of Clinton is hereby amended to conform with provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital

budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 5. This capital ordinance shall take effect after final passage and publication as required by law.

Vote all ayes
Motion carried

A copy of this ordinance will be published in the May 13, 2011 edition of the Courier News. A second reading and public hearing will be held May 24, 2011.

INTRODUCTION OF ORDINANCE #11-10 – CAPITAL ORDINANCE

A motion was made by Mr. Pendergast, seconded by Mrs. Valenta, to adopt Ordinance #11-10 as submitted:

**SEWER UTILITY
CAPITAL ORDINANCE NO. 11-10**

CAPITAL ORDINANCE OF THE TOWN OF CLINTON SEWER UTILITY, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY, AUTHORIZING THE MAKING OF IMPROVEMENTS IN, BY AND FOR THE TOWN OF CLINTON SEWER UTILITY AND APPROPRIATING THEREFOR THE SUM OF \$137,000 FROM THE SEWER CAPITAL IMPROVEMENT FUND

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

Section 1. The Town of Clinton in the County of Hunterdon, State of New Jersey, is hereby authorized to make the following improvements to the Sewer Utility in, by and for the Town, including all work, materials and appurtenances necessary and suitable therefore:

<u>PURPOSE</u>	<u>ESTIMATED COST</u>
Roof Replacements	\$ 20,000.00
Four Wheel Drive Truck	\$ 30,000.00
Relining Project	\$ 75,000.00
Grinder	\$ 12,000.00
 TOTAL	 \$137,000.00

Section 2. The aggregate sum of \$107,000.00 is hereby appropriated from the Capital Improvement Fund and \$30,000.00 from the Reserve for Public Works Equipment of the Town of Clinton Sewer Utility to the payment of the cost of the improvements as described in Section 1 hereof.

Section 3. Said improvements are lawful capital improvements of the Sewer Utility having a period of usefulness of at least five (5) years. Said improvements shall be made as general improvements, no part of the cost of which shall be assessed against property specially benefited.

Section 4. The capital budget of the Town of Clinton Utility is hereby amended to conform with provisions of this ordinance to the extent of any inconsistency herewith. The

resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 5. This capital ordinance shall take effect after final passage and publication as required by law.

A copy of this ordinance will be published in the May 13, 2011 edition of the Courier News. A second reading and public hearing will be held May 24, 2011.

Vote all ayes
Motion carried

PERMIT WAIVER REQUEST – RED MILL MUSEUM VILLAGE

The Red Mill Museum Village is requesting the waiver of a fire permit in the amount of \$42.00 for the Schoolhouse Sunday – 18th Century Cooking demonstration held May 8, 2011. Mr. Smith questioned waiving permits for non-profits on a regular basis and suggested changing the language in the ordinance. Mr. Shea and Mr. Pendergast disagreed. A brief discussion took place and council agreed that all waiver requests be presented to the council before events take place. A motion was made by Mr. Duffy, seconded by Mr. Pendergast, to approve the request as submitted.

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

CORRESPONDENCE

1. Hunterdon County Utilities Authority forwarded the amended Solid Waste Management Plan to municipalities along with a public hearing of the Board of Chosen Freeholders for May 19, 2011. The plan is on file in the Clerk's office for review.
2. Hunterdon County Planning Board is hosting "Coffee with the County on Creating a Community Garden" on Wednesday, May 25, 2011 from 7:30 a.m to 9:00 a.m. at the Route 12, County Complex in the Main Assembly Room. Mr. Duffy, Chair of Buildings and Grounds, will be attending.

REPORTS FROM COUNCIL & TOWN OFFICIALS

Councilman Duffy

1. Clinton Fire Department – Mr. Duffy is in receipt of an application for membership for Tyler Platt, 44 Center Street, Clinton. Mr. Duffy highly recommends that Tyler's application be approved due to his dedicated service he has given to the Fire Department as a Junior fireman. A motion was made by Mrs. Insel, seconded by Mr. Shea, for Tyler to become an active member of the Clinton Fire Department.

Vote all ayes
Motion carried

2. Clinton Fire Department is hosting their first fund raiser clam bake on the Fire Department grounds. It will be held on Friday, May 20, 2011 beginning at 5:30 p.m. Resolution #97-11, adopted earlier this evening, will permit adults to BYOB! Burgers and hot dogs will also be served.

Councilman Pendergast

1. Sewer Committee – meeting Friday, May 20 at 8:00 a.m. at the Treatment Plant.
2. Clinton Public School held their annual car wash on Saturday, May 7, 2011, it was a huge success! CPS made \$1,300.00.

Councilwoman Insel

1. Clinton Guild – hosted Pansy Festival! A beautiful day brought crowds to Town!
2. National Tourism Week was held May 2 – 15, 2011. Hosted by the Hunterdon County Chamber of Commerce, their mission is to support the success of member organizations and support the promotion of tourism as a primary responsibility toward maintaining vitality in its municipalities and among its businesses. Guild president, Linda Johnson, did a wonderful job representing the Town of Clinton during their visit to Clinton on May 6th. She welcomed representatives from the State of New Jersey and discussed a goal “To Get Hunterdon County on the State web site”! Mayors from Raritan and Lambertville also attended. Everyone was very impressed with Clinton, the variety of shops and eateries. Grant monies are being made available to help local municipalities.
3. Smart Growth – Meeting May 19, 2011 at 7:30 p.m. Mr. Naples will join in the meeting.

Councilman Shea

1. Roads Meeting – discussed projects on East Main Street, Lower Center, and Main Street. The request to the State to combine the grants has been approved. The televising of the water and sewer lines will take place Wednesday and Thursday evenings, May 11 and 12th, from 5:00 p.m. to 3:00 a.m. Televising will assure there are no blockages or problems underground prior to the resurfacing project which is planned for August/September timeline. The Pony Truss bridge is currently being repaired and painted so there will be no complications during the Main Street project.

The Main Street paver project continues as three more landlords have signed on!

2. Shade Tree – Arbor Day, was held Friday, April 29, 2011 on East Main Street. Two trees were Planted and named Will and Kate in honor of the Duke and Duchess of Cambridge and their wedding on this day. Thanks to Lou Spanner, Town Arborist and Pat Goehe, Shade Tree chair, for a fun event! Children all received evergreen seedlings. Whitney Wetherill asked that everyone take notice of the evergreen on her front lawn was planted in 1992 by the Hoffman Family, the previous owners. It was an Arbor Day Tree!

James T. Naples, PW/Business Administrator

1. A letter has been sent to the Department of Transportation requesting that they address the terrible road conditions coming off Exit 15 and along West Main Street.
2. Notice will be placed in the Town Newsletter announcing the new scrap metal and electronic dumpsters at the Treatment Plant.
3. Meeting next week with the Borough of Flemington to discuss joining the North Hunterdon Municipal Court.

Police Chief Brett Matheis

Electronic Message Boards have been placed in key locations displaying important messages. These solar panel operated boards cost about \$15,000 each but were paid for by grant money.

Councilman Smith

1. Rescue Squad responded to 136 calls in April, down from 166 in April, 2010. Response times in Town average 3 minutes 7 seconds and 6 minutes 6 seconds out of town.
2. The Pete Pender Memorial Fishing Derby was held May 7, 2011. Approximately 80 youngsters joined in the fun! The biggest fish weighed in at 4 ½ to 5 pounds.
3. Water Committee held a pre construction meeting for the 2.5 MG Storage Tank. Plans are for work to begin soon and have the tank functional by December, 2011.

APPROVAL OF STANDBY AND OVERTIME

A motion was made by Mr. Duffy, seconded by Mrs. Valenta to approve the standby and overtime pay attached to these minutes for April 15 through April 28, 2011.

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

PAYMENT OF BILLS

A motion was made by Mrs. Insel seconded by Mr. Pendergast, to approve the voucher list attached to these minutes.

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

RESOLUTION #- 103-11 – EXECUTIVE SESSION – Potential Litigation – Contract Negotiations

A motion was made by Mr. Pendergast, seconded by Mrs. Insel, to enter into Executive Session at 8:11 p.m. to discuss a matter of Potential Litigation and Contract Negotiations. Mr. Cushing explained to the audience that the Hunterdon Art Museum Executive Director and Board Members were asked to attend tonight's meeting. Obviously, no one showed. Council expects to return to the regular council meeting and take action.

RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Mayor and Council find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Mayor and Council will reconvene in public session at the conclusion of the executive session;

NOW, **THEREFORE**, BE IT **RESOLVED** by the Mayor and Council of the Town of Clinton, County of Hunterdon, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public (Provision relied upon:

_____);

_____A matter where the release of information would impair a right to receive funds from the federal government;

_____A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

_____A collective bargaining agreement, or the terms and conditions thereof (Specify contract:

_____A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed;

_____Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____Investigations of violations or possible violations of the law;

 X _____Pending or anticipated litigation or contract negotiation in which the public body is or may become a party; (the general nature of the litigation or contract negotiations is:

_____OR _____the public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.)

_____Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: _____

OR _____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this

information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists);

_____Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is _____

OR _____ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.;

_____Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Mayor and Council hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Town Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Town or any other entity with respect to said discussion. That time is currently estimated to be: _____ (estimated length of time) OR upon the occurrence of _____

BE IT FURTHER RESOLVED that the Mayor and Council, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

Vote all ayes
Motion carried

A motion was made by Mr. Pendergast seconded by Mrs. Insel to return to the Regular Council meeting at 9:10 p.m.

Vote all ayes
Motion carried

ORDINANCE #11-09 – AMENDED

Following discussions during Executive Session, it was decided to amend Ordinance #11-09 to include funds for the Clinton Mills Dam and Dike contractor bills for Adamsville Construction. A motion was made by Mr. Shea, seconded by Mr. Duffy to amend the Ordinance as suggested and shown below.

TOWN OF CLINTON
AMENDED
CAPITAL ORDINANCE NO. 11-09
CAPITAL ORDINANCE OF THE TOWN OF CLINTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY, AUTHORIZING THE MAKING OF IMPROVEMENTS IN, BY AND FOR THE TOWN OF CLINTON AND APPROPRIATING THEREFOR THE SUM OF \$159,500 FROM THE TOWN OF CLINTON CAPITAL IMPROVEMENT FUND AND CAPITAL SURPLUS FUND

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

Section 1. The Town of Clinton in the County of Hunterdon, State of New Jersey, is hereby authorized to make the following improvements, by and for the Town, including all work, materials and appurtenances necessary and suitable therefore:

<u>PURPOSE</u>	<u>ESTIMATED COST</u>
Railings for Municipal Building	\$ 12,000.00
Roof for Community Center	\$ 12,500.00
Four Wheel Drive Truck	\$ 30,000.00
Energy Saving Projects	\$ 5,000.00
Dam & Dike Project	\$100,000.00
TOTAL	\$159,500.00

Section 2. The aggregate sum of \$49,500.00 is appropriated from the Capital Improvement Fund, \$10,000 from the Reserve for Public Works Equipment, and \$100,000.00 from the Capital Surplus Fund as described in Section 1 hereof.

Section 3. Said improvements are lawful capital improvements of the Town of Clinton having a period of usefulness of at least five (5) years. Said improvements shall be made as general improvements, no part of the cost of which shall be assessed against property specially benefited.

Section 4. The capital budget of the Town of Clinton is hereby amended to conform with provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 5. This capital ordinance shall take effect after final passage and publication as required by law.

ROLL CALL: AYES: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

A copy of this ordinance will be published in the May 13, 2011 edition of the Courier News and a public hearing will be held May 24, 2011.

Mr. Cushing proceeded to give a full explanation of the background and the controversy between the Town of Clinton and the Hunterdon Museum of Art regarding payment from the Museum for the work that has been done on their property to the present audience.

RESOLUTION #105-11 - TOWN OF CLINTON vs HUNTERDON ART MUSEUM

A motion was made by Mr. Smith, seconded by Mrs. Valenta, to adopt Resolution #105-11 as submitted and to direct Mr. Cushing to note in the resolution that the Town of Clinton co-signed the loan agreement for the Hunterdon Art Museum with the State of New Jersey.

RESOLUTION # 105 – 11

WHEREAS, the Hunterdon Art Museum (“Museum”) owns property on Lower Center Street, adjacent to the South Branch of the Raritan River on which is located in a historic mill which is used as an art museum; and

WHEREAS, over the years the South Branch of the Raritan River has overflowed its banks causing damage to the Museum property and nearby properties and flooding the downtown area of the Town of Clinton; and

WHEREAS, in order to remedy this problem the Town of Clinton secured from the State of New Jersey, Department of Environmental Protection a grant in the amount of \$914,000 to reconstruct portions of the Dam and the dikes along the Museum's side of the River; and

WHEREAS, in order to design the reconstruction of the Dam and the dikes the Town of Clinton hired an engineer highly experienced in the construction and reconstruction of dams, who prepared a set of plans to reconstruct the dam and the dikes in a manner consistent with the terms of the grant; and

WHEREAS, after that design was completed, the Museum requested that the engineer prepare for it plans for additional work in order to improve the patio and parking area of the Museum which design work included extending the "training wall" along the edge of the South Branch for an additional distance, adding fill and drainage features and other work that improved the Museum's property; and

WHEREAS, discussions were held between the Town of Clinton and the Museum about the additional costs that would be incurred by virtue of work requested by the Museum and the Museum agreed to pay for those cost for that work that benefited the Museum property; and

WHEREAS, in order to further assist the Museum in its efforts to improve and upgrade its property, the Town, at the urging of the Museum, agreed to co-sign on a loan to the Museum from the State of New Jersey for the upgrades to the Museum property; and

WHEREAS, the reconstruction of the dam and dikes and the construction of most, but not all, of the work being done for the Museum, has now been completed, but the Museum has failed and refused to pay for its fair share of the work done for it; and

WHEREAS, the Town of Clinton has attempted to work out a fair resolution with the Museum through a series of correspondence to the Museum, copies of which are attached to this Resolution; and

WHEREAS, the Town believes the Museum has not negotiated in good faith. For example, although the Museum claims to have an engineering report to substantiate the amount that it says it owes, it has failed and refused to provide that report and, even though requested, it has refused to have direct discussions with Town officials, preferring instead to engage outside counsel, at substantial expense, to represent it in the dispute; and

WHEREAS, because of the amount of money expended extended or incurred to construct the improvements which benefit only the Museum, the Town of Clinton does not have adequate funds to pay for the balance of the money due in connection with the project; and

WHEREAS, the Town of Clinton acknowledges the Hunterdon Art Museum is a valuable asset to the Town of Clinton and the surrounding area; however, the Mayor and Council believe that the Hunterdon Art Museum should not be subsidized by the taxpayers of the Town of Clinton, particularly during this difficult financial period when many Town taxpayers are feeling the financial stress associated with the Great Recession and higher gas prices; the Town of Clinton has had to reduce services in order to comply with State mandates regarding levy caps and other not-for-profit agencies in the Town have not sought, nor have they been granted, subsidies by the taxpayer of the Town.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Clinton in the County of Hunterdon, that the Municipal Attorney is authorized to take all reasonable steps to collect the money is due from the Hunterdon Art Museum, including instituting suit, participating in alternate dispute resolution procedures or engaging in settlement negotiations as may be appropriate.

ROLL CALL: Ayes: Duffy, Insel, Pendergast, Shea, Smith, Valenta

Vote all ayes
Motion carried

ADJOURNMENT: There being no further business, a motion was made by Mr. Duffy seconded by Mrs. Valenta to adjourn the meeting at 9:30 P.M.

Vote all ayes
Motion carried

Cecilia Covino, RMC/CMC
Town Clerk

Councilman Robert B. Smith