

Mayor Miller called the meeting to order at 7:30 p.m.

Flag Salute.

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

STATEMENT OF ADEQUATE NOTICE:

Mayor Miller 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.”

APPROVAL OF MINUTES

A motion was made by Mr. Smith, seconded by Mr. Pendergast to approve the minutes of the Regular Council Meeting held November 9, 2011 as submitted.

Vote all ayes
1 Abstention (Shea)
Motion carried

APPROVAL OF MONTHLY REPORTS – OCTOBER

A motion was made by Mr. Shea, seconded by Mr. Pendergast to accept the monthly reports for the month of October as submitted: Assessor’s Report, Treasurer’s Report, Zoning Officer’s Report.

Vote all ayes
Motion carried

PUBLIC COMMENT

Walter Wilson, Attorney for Charles Didea of D & D Enterprises, LLC, returned to Council to finalize obtaining the temporary certificate of occupancy and previously discussed. Mr. Wilson and Attorney Richard Cushing have discussed that Town Council and the Board of Adjustment is in agreement and expressed no objection to granting a TCO for the commercial and market residential units located at 102 West Main Street, Block 1, Lot 33 pending the completion of the resurfacing of the parking areas. Mr. Wilson obtained two (2) proposals for performing the work, however, Mr. Wilson requested an estimate from the Town Engineer, Robert Clerico, P.E. for an estimate to assist in the setting by Council of the required guarantee amount. Mr. Wilson’s client is willing to post the suggested bond amount as provided by Mr. Clerico. Mr. Clerico reviewed all information and requests that a bond be posted in the amount of \$35,000 plus \$3,000.00 cash. A motion was made by Mr. Smith, seconded by Mr. Pendergast that the Town accept the \$35,000 performance bond and the \$3,000 cash through Penn National for D & D Enterprises LLC, located at 102 West Main Street, Block 1, Lot 33 in the Town of Clinton, New Jersey, subject to approval and review of the Town Administrator, Mr. Naples and the Town Attorney, Richard Cushing as to form.

Vote all ayes
Motion carried

Mr. Cushing asked Mr. Wilson to have the bond to his office for review by Wednesday, November 23, 2011.

As a side note: Mr. Wilson wished to make known that the original water easement at the Mews has been located.

MAYOR'S COMMENTS

Mayor Miller had no comments to be made. Councilman Pendergast asked if he could ask a question of Mayor Elect, Janice Kovach. He stated that he has been approached by residents as to why the Town is going to be audited? Following the Election of November 8 and the Council meeting of November 9th, nothing was mentioned until the Hunterdon Democrat was released on Thursday, November 10 stating that Ms. Kovach is seeking an audit of the Town. Ms. Kovach apologized for not mentioning it at the Council meeting and stated it was not her intent to cause a stir, it is only to get an understanding of what the financial status is of the Town. Mr. Pendergast accepted Ms. Kovach's explanation and said it would have been nice to have had it mentioned prior to the newspaper article.

WATER REFUND

Water Collector, Nancy Burgess, is requesting a water refund in the amount of \$241.41 be returned to Matthew Messina. Mr. Messina has a credit balance. A motion was made by Mr. Shea, seconded by Mr. Smith to grant the request as submitted.

ROLL CALL: Ayes: Pendergast, Shea, Smith, Mayor Miller

Vote all ayes
Motion carried

RESOLUTION # 166-11 – TAX ASSESSOR RE-APPOINTMENT

A motion was made by Mr. Smith, seconded by Mr. Shea, to adopt Resolution #166-11, authorizing the re-appointment of a Joint Tax Assessor as submitted.

RESOLUTION #166-11

**AUTHORIZING THE RE-APPOINTMENT OF A
JOINT MUNICIPAL TAX ASSESSOR BETWEEN THE TOWNSHIP
OF TEWKSBURY AND TOWN OF CLINTON, COUNTY OF
HUNTERDON, STATE OF NEW JERSEY PURSUANT TO
40:48B-14, ET SEQ. AND 40:8A-1, ET SEQ.**

WHEREAS, the Township of Tewksbury (hereby referred to as "Tewksbury") and the Town of Clinton (hereby referred to as "Clinton"), in the County of Hunterdon, State of New Jersey, are desirous of achieving cost savings and efficiencies by having Tewksbury continue to be the lead agency for the office of Joint Municipal Tax Assessor; and

WHEREAS, Section 40:48B-14, et seq. allows for two (2) or more municipalities to enter into an Interlocal Services Agreement ("Agreement") for the establishment of the office of Joint Municipal Tax Assessor; and

WHEREAS, Section 40:8A-1, et seq. allows for two or more municipalities to enter into an Agreement for the purpose of providing for the joint provision of services, and Section 40:8A-5 recognizes the assessment of taxes as an applicable joint service; and

WHEREAS, Tewksbury has a documented history of providing cost effective service through shared services to other municipalities; and

WHEREAS, Tewksbury and Clinton have agreed to continue the office of Joint Municipal Tax Assessor.

NOW THEREFORE BE IT RESOLVED, that the Township of Tewksbury and the Town of Clinton hereby wish to continue the office of Joint Municipal Tax Assessor, which office shall be held by the incumbent Tax Assessor, Ann Marie Obiedzinski, upon agreement by Tewksbury and Clinton effective this 22ND day of November, 2011.

BE IT FURTHER RESOLVED, that the Mayor, the Clerk of the Town, the Chief Financial Officer, and any other proper official of the Town, be and each of them is hereby authorized to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary and proper for carrying out the transactions contemplated by this resolution.

ROLL CALL: Ayes: Pendergast, Shea, Smith, Mayor Miller

Vote all ayes
Motion carried

(This resolution was tabled at the November 9, 2011 meeting)

RESOLUTION #171-11 - EXTENSION OF THE NJDOT GRANT AWARD

RESOLUTION # 171-11

Resolution Authorizing an Application to the New Jersey Department of Transportation for an Extension of the Deadline for Awarding a Contract for the Lower Center, Main and East Main Streets Improvement Project

WHEREAS, the Town of Clinton has received two grants from the New Jersey Department of Transportation's (NJDOT) Transportation Trust Fund for road improvement projects: "Main Street and Lower Center Street – FY 2010 Municipal Aid Program - \$163,000.00 Grant" and "East Main Street – FY 2011 Municipal Aid Program - \$125,000.00 Grant"; and

WHEREAS, NJDOT previously granted authorization to allow the Town to merge the two grants and perform work under a single contract along with a four-month extension of the deadline to award the contract associated with the 2010 grant; and

WHEREAS, the deadline for the Town to award the contract is November 23, 2011; and

WHEREAS, the Town submitted the Final plans, specifications and an engineer's estimate to NJDOT on October 4, 2011 after conducting a public hearing on the project at the September 13, 2011 Council meeting; and

WHEREAS, NJDOT reviewed said documentation and issued comments on October 20, 2011, including a request that the Town receive approval of the project from the State Historic Preservation Office (SHPO) prior to putting the contract out to bid; and

WHEREAS, the Town of Clinton prepared an application to SHPO and submitted it on October 28, 2011; and

WHEREAS, SHPO deemed the application to be technically and professionally complete on November 4, 2011 and granted approval at that time by determining that the project did not constitute an encroachment on the Clinton Historic District; and

WHEREAS, the additional comments raised by NJDOT in their October 20, 2011 review were addressed and revised documentation were hand delivered to NJDOT on November 3, 2011; and

WHEREAS, the Town requested that NJDOT allow the Town to place the advertisement for bid by November 7, 2011 so that bid could be opened and the Contract awarded prior to the November 23, 2011 deadline and

WHEREAS, the DOT granted that authorization to advertise the project on November 10, 2011; and

WHEREAS, at that point the Town had insufficient time to place the legal notice under the Local Public Contracts Law requirements for minimum advertising period and still allow for the award of the contract by the November 23, 2011 deadline; and

WHEREAS, the Town placed the request to advertise the Notice to Bidders on November 11, 2011 and

WHEREAS, the Advertisement was published in the Express Times on November 12, 2011 and in the Hunterdon Co Democrat on November 17, 2011 with a bid opening date set for December 2, and

WHEREAS, the Town plans to award the contract, barring any bid inconsistencies, at their December 13, 2011 meeting; and

WHEREAS, this date is beyond NJDOT's current deadline to award by November 23, 2011; and

WHEREAS, the Town must file a formal request to obtain a further extension of the deadline.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Town of Clinton hereby request that NJDOT grant an additional 35-day extension to the current deadline to award the contract for the Lower Center, Main and East Main Streets Improvement Project. This extension will allow the contract to be awarded prior to December 28, 2011. The total extension requested including the original four months extension previously granted will still be under the 6-month maximum allowed by NJDOT.

Vote all ayes
Motion carried

CORRESPONDENCE

1. Hunterdon County Open Space & Historic Preservation Trust Program is requesting the annual resolution from municipalities not seeking to use the funds for 2012. This resolution is on the agenda for December 13, 2011.

REPORTS FROM COUNCIL & TOWN OFFICIALS

James T. Naples, PW/Business Administrator

1. Mr. Naples reported on his attendance at the League of Municipalities and the sessions he attended regarding finance, budget, water, governmental efficiency and housing.

2. The East Hunterdon Solar Renewable Energy Co-Operative held a bid opening today, November 22nd. No bids were received and the co-op will determine in December if the project will be re-bid again this year.

Kathy Olsen, CFO

1. Reporting on the League, attended several sessions with respect to finance, budgeting, purchasing, and ethics. It is not clear as to what municipalities will be getting in State Aid. Pending legislature includes that bids will be required to be posted on the State website and it will be the responsibility of the municipality to post and remove them from the site. Towns will be issued user name and passwords. Towns are now able to lease advertising space on their web sites. Towns may have to pay interest on the 2% held to contractors.

Councilman Smith

1. League sessions: attended several sessions regarding municipal engineering and requirements changing within the State.
2. Water Committee – meeting Wednesday, November 23rd at 8:00 a.m.
3. Rescue Squad – Police Chief Mathies, OEM coordinator, supports Clinton’s bid on a Hybrid ambulance grant.
4. Christmas Parade – an outline of the December 2nd parade has been distributed by Chief Matheis.
5. Council received a memo and a proposed ordinance from Mr. Cushing in October regarding clothing bins placed in the Town. Mr. Cushing explained that a new law was recently enacted which makes a permit required for clothing bins. It appears that Legislature was concerned that unscrupulous entities might use clothing bins for some non-charitable purposes. The ordinance will be introduced in the new year and a permit application will be developed.

Councilman Shea

1. Attended several seminars regarding flooding, liquor licenses and DOT Local Aid. Made very good contacts and acquired important information. The Governor’s League Luncheon was held on Thursday and was very well attended. The Governor discussed finalizing his tool kit and shared services.

Clerk Covino

1. Attended sessions and obtained ceu’s for Ethics, Professional Development and Records. Also attended the Clerk’s Annual meeting and as Public Relations Booth chair, worked the booth in the Convention Center.
2. Re-organization meeting discussion revisited. Mayor Elect Kovach asked council to consider January 2, 2012 to hold the meeting. Three council members were not in attendance this evening, therefore an email will go out to council members asking for input and the discussion will continue at the next meeting.

Attorney Cushing

Mr. Cushing reported on seminars that he also attended and presided over. A new law regarding

bidding and a clause that a contractor can withdraw his bid within five days. Mr. Cushing also attended an OPRA session and an Ethics seminar. The seminar Mr. Cushing presided over was early steps to terminating an employee.

Councilman Pendergast

1. Attended sessions regarding Shared Services, Police Departments and creating sustainability for the arts and how to generate the arts in a municipality. Mr. Pendergast was proud to report that Clinton is a thriving “artsy” Town, having an Art Museum and Hetzel’s Art Supply!

Mayor Miller

On Saturday, November 26, 2011, the 150th Celebration of the Leigh Mansion will be held on the front steps of our Municipal Building. The gathering will take place at 3:00 p.m. and Town Historian, Allie McGaheran, will give a brief history of the Leigh Mansion. Cake and cider will be served. All invited to attend!

APPROVAL OF STANDBY AND OVERTIME

A motion was made by Mr. Smith seconded by Mr. Pendergast to approve the standby and overtime pay attached to these minutes October 28, 2011 through November 10, 2011.

ROLL CALL: Ayes: Pendergast, Shea, Smith, Mayor Miller

Vote all ayes
Motion carried

PAYMENT OF BILLS

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

ROLL CALL: Ayes: Pendergast,, Shea, Smith, Mayor Miller

Vote all ayes
Motion carried

RESOLUTION #- 172-11 – EXECUTIVE SESSION – Potential Litigation

A motion was made by Mr. Pendergast seconded by Mr. Smith to enter into Executive Session at 8:02 p.m. to discuss a matter of Potential Litigation.

**RESOLUTION #172-11
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;

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. Smith seconded by Mr. Pendergast to return to the Regular Council meeting at 8:06 p.m.

Vote all ayes
Motion carried

ADJOURNMENT: There being no further business, a motion was made by Mr. Smith seconded by Mr. Shea to adjourn the meeting at 8:07 p.m..

Vote all ayes
Motion carried

Cecilia Covino, RMC/CMC
Town Clerk

Richard F. Miller, Mayor