

**SPECIAL COUNCIL MEETING, 430 WESTFIELD AVE., CLARK NJ
December 4, 2023**

ROLL CALL:

Present: Council Members Albanese, Hund, Mazzarella, Minniti, O'Connor, Toal, Smith

Also Present: James Ulrich, Business Administrator; Mark Dugan, Township Attorney; Edith Merkel, Township Clerk; Elizabeth Clee, Director of Communications Business Development; Police Captain Christopher Lott

The Special Meeting of the Municipal Council of the Township of Clark was called to order at 7:30 pm by Council President Smith. He asked all present to participate in a moment of silence, following the salute to the Flag.

PLEDGE OF ALLEGIANCE TO THE FLAG - MOMENT OF SILENCE

This meeting is in compliance with the Open Public Meetings Act as adequate notice of this meeting has been provided by sending written advanced notice of at least 48 hours to the Star Ledger, Union County Hawk, Union County Local Source, and TAP into Clark, by posting such Meeting Agenda on the Bulletin Board in Town Hall reserved for such announcements, as well as the Official Website of the Township and the proper filing of said Notice. Formal action may be taken at this meeting.

RESOLUTIONS:

Resolution 23-185

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR THE APPOINTMENT OF A HEARING OFFICER**

WHEREAS, the Township of Clark has a need for Arbitrator and Hearing Officer services pursuant to Section 3-27(c) of the Township of Clark Municipal Code as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the Qualified Purchasing Agent has determined and certified in writing that the value of the acquisition will not exceed \$44,000; and,

WHEREAS, the anticipated term of this contract is one (1) year and may be extended two (2) times for the like one (1) year term as approved by the Township of Clark Governing Body; and

WHEREAS, the firm of Kronick Resolutions, 69 Montgomery Street, Jersey City, NJ 07311 has submitted a proposal dated November 30, 2023, indicating they will provide services as an Independent Hearing Officer in connection with disciplinary charges against employees of

the Police Department for the fee of \$1,500.00 per day of hearing and \$200.00 per hour for additional hours for research, analysis, communications and/or decision; and

WHEREAS, Kronick Resolutions has completed and submitted a Business Entity Disclosure Certification which certifies that Kronick Resolutions has not made any reportable contributions to any political or candidate committee for any members of the Governing Body for the Township of Clark, in the previous one (1) year and that the contract will prohibit Kronick Resolutions from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer certifies, pursuant to N.J.A.C. 5:30-5.4 that there are adequate funds for this contract. Funds have been certified to be available in account number 20-155-201, from Law Special Services.

NOW THEREFORE, BE IT RESOLVED by the Township Council of the Township of Clark, in the County of Union, State of New Jersey, that it hereby authorizes the Business Administrator to enter into a contract with Kronick Resolutions as described herein; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

Moved by Councilwoman Albanese, seconded by Councilman Hund

Discussion:

Jim Ulrich: explained the Attorney General's requirement to hire an independent Hearing Officer.

Council President Smith directed roll call:

Aye: Albanese, Hund, Mazzarella, Minniti, O'Connor, Toal, Smith

Resolution 23-186

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 was not determined at the time of the adoption of the budget; and

WHEREAS the Director may also approve the insertion of an item of appropriation for equal amount.

WHEREAS the initial sum of \$55,032.00 was requested for insertion in the 2023 municipal budget by Resolution #23-76 adopted May 15, 2023 and approved by the Director on August 24, 2023; and

WHEREAS notice of an amendment to the original sum bringing the total award to \$118,088.00 was received on November 20, 2023.

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Clark, in the County of Union, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2023 in the amended sum of \$118,088.00 which is now available from the State of New Jersey, New Jersey Association of County and City Health Officials (NJACCHO) Grant in the amount of \$118,088.00; and

BE IT FURTHER RESOLVED that the like sum of \$118,088.00 is hereby appropriated under the caption New Jersey Association of County and City Health Officials (NJACCHO) Grant; and

BE IT FURTHER RESOLVED that the above is the result of funds from the State of New Jersey in the amount of \$118,088.00.

Moved by Councilwoman Albanese, seconded by Councilman O'Connor

Discussion:

Council President Smith: stated we already approved that; it was just an increase.

Jim Ulrich: responded yes, it is an increase of \$63,000.00, we monitor all these grants seeing if there's additional funds, he added when we can take advantage of additional funds, we do it.

Council President Smith directed roll call:

Aye: Albanese, Hund, Mazzaella, Minniti, O'Connor, Toal, Smith

Resolution 23-187

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 was not determined at the time of the adoption of the budget; and

WHEREAS the Director may also approve the insertion of an item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council of the Township of Clark, in the County of Union, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2023 in the sum of \$24,960.00 which is now available from the State of New Jersey, Childhood Lead Exposure Prevention Project Grant in the amount of \$24,960.00; and

BE IT FURTHER RESOLVED that the like sum of \$24,960.00 is hereby appropriated under the caption Childhood Lead Exposure Prevention Project Grant; and

BE IT FURTHER RESOLVED that the above is the result of funds from the State of New Jersey in the amount of \$24,960.00.

Moved by Councilman Hund, seconded by Councilman Mazzarella

Discussion:

Jim Ulrich: gave a brief summary on the Resolution.

Council President Smith directed roll call:

Aye: Albanese, Hund, Mazzarella, Minniti, O'Connor, Toal, Smith

Resolution 23-188

BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey that John Uszal is hereby appointed as a Member of the Clark Volunteer Fire Department effective this 4th day of December 2023.

Moved by Councilman Minniti, seconded by Councilman O'Connor

Discussion: none

Council President Smith directed roll call:

Aye: Albanese, Hund, Mazzarella, Minniti, O'Connor, Toal, Smith

Resolution 12-189

WHEREAS, the Township wishes to replace its aging, unreliable and hence costly heating, ventilating and air-conditioning equipment and system with new, more modern and efficient equipment and a new, more modern and efficient system; and

WHEREAS, the Township previously adopted Resolution 23-150 (the "PSE&G Resolution") in which it approved a Direct Install Program Participation Agreement with Public Service Electric & Gas ("PSE&G") for such purpose, but such program offered by PSE&G then was no longer available to the Township; and

WHEREAS, SJI Utilities, Inc. ("SJIU"), which wholly-owns, directly or indirectly, *inter alia*, Elizabethtown Gas Company ("EGC"), a public utility subject to the jurisdiction of the Board of Public Utilities or the Federal Energy Regulatory Commission or its successor, in

accordance with tariffs and schedules of charges made, charged or exacted, filed with the board or commission, is party to a certain Professional Services Agreement, dated March 1, 2021, between SJIU, as the Customer, and Applied Energy Group, Inc. (“AEG”), as the Service Provider (the “PSA I”); and

WHEREAS, AEG, in turn, is party to a certain Professional Services Agreement, dated July 1, 2021, between AEG and CMC Energy Services, Inc. (“CMC”), as Contractor (the “PSA II”) (the PSA I and the PSA II collectively are called the “PSA”); and

WHEREAS, CMC has offered, for and on behalf of AEG, SJIU and EGC, under and pursuant to the PSA, through itself and its contractors and subcontractors, to replace and finance the replacement of the Township’s aging, unreliable and hence costly heating, ventilating and air-conditioning equipment and system with new, more modern and efficient equipment and a new, more modern and efficient system, in accordance with the annexed Direct Install Program Participation Agreement and, and as amended by, a certain Scope of Work Addendum, dated November 21, 2023 (collectively, the “Agreement”); and

WHEREAS, N.J.S. 40A:11-5(1)(f) provides that “ ... [a]ny contract the amount of which exceeds the bid threshold, may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor and shall be awarded by resolution of the governing body if ... (1) ... [t]he subject matter thereof consists of ... (f) ... [t]he supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities or the Federal Energy Regulatory Commission or its successor, in accordance with tariffs and schedules of charges made, charged or exacted, filed with the board or commission; ...”;

WHEREAS, the Agreement contemplates the “supplying of ... [a] product ... [and] the rendering of ... [a] service by” EGC through SJIU, by and through its contractors, AEG and CMC, through itself and its contractors and subcontractors.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Township of Clark that the Agreement be and hereby is approved; and

BE IT FURTHER RESOLVED, that the value of the Agreement is subject to 2023 budget appropriation; and

BE IT FURTHER RESOLVED, that the Mayor and the Business Administrator be and hereby are authorized to execute and deliver the Agreement; and

BE IT FURTHER RESOLVED, that the PSE&G Resolution be and hereby is rescinded.

Move by Councilman Mazzarella, seconded by Councilwoman Albanese

Discussion:

Jim Ulrich: gave a brief summary on the Resolution

Council President Ulrich directed roll call:

Aye: Albanese, Hund, Mazzarella, Minniti, O'Connor, Toal, Smith

PUBLIC COMMENTS:

Each person addressing the Council shall first give their name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 5 minutes in duration.

Michael Shulman, 382 Carolina St.:

- questioned if details can be provided for the first Resolution 23-185 on the agenda as to the contract for the appointment of a Hearing Officer; the hourly rate, is it an open-ended contract, what the expectation is in terms of duration to handle these matters
 - the BA responded the rate is \$1,500.00 per day for the hearing, \$200.00 for any opinion he has to write, or any research that they have to do, and as for the duration, it's like any other court proceeding

Janice Petrucci, 162 Gertrude St.:

- talked about an issue that she came before council about six months ago regarding the parking situation at the Soccer Park at Bartell's and was hoping if some kind of resolution was made
 - the BA gave detailed information in regards to the situation
 - Council President Smith responded we've reached out to the Soccer Club, we're trying to put more time between the games so there's better flow and at that point will also lessen the amount of games and try to move some of the games to Kumpf
 - Captain Lott responded (tape inaudible, no microphone)
- stated she doesn't think giving people tickets for parking would probably help but it's not going to solve the problem
 - Council President Smith responded we have also asked the police to do more patrols over there and give out warnings or give out tickets
- added she thinks the only solution is to curb the volume

Donna Cacchione, 210 East Lane:

- stated she's here tonight on behalf of herself and two of her neighbors to question an item that was on the November 20th agenda regarding the sale of certain land in the Township to be sold at private sale
 - the BA responded to put her questions are in writing and they would be taken up with the Attorney and we'll get back to you with the answers

Daniel Fuchs, 333 Carolina St.:

- asked about the Attorney that was hired at the November 6th meeting
 - the BA gave details including rules of civil service

Seeing no one else coming forward Councilman Toal made a motion to close the public portion of the meeting, seconded by Councilwoman Albanese

Council President Smith directed roll call:

Aye: Albanese, Hund, Mazzarella, Minniti, O'Connor, Toal, Smith

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

Councilwoman Albanese: no comment.

Councilman Hund: no comment.

Councilman Mazzarella: no comment.

Councilman Minniti: no comment.

Councilman O'Connor: no comment.

Councilman Toal: no comment.

Councilman Smith: no comment.

ADJOURNMENT:

Motion to adjourn was made by Councilman Toal, seconded by Councilman Minniti

Council President Smith directed roll call:

Aye: Albanese, Hund, Mazzarella, Minniti, O'Connor, Toal, Smith

APPROVED

WILLIAM F. SMITH
Council President

ATTEST:

EDITH L. MERKEL, RMC
Township Clerk