

**COUNCIL WORKSHOP MEETING
430 WESTFIELD AVE., CLARK, NJ**

June 7, 2021

7:47 pm

ROLL CALL:

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

Also, Present: Sal Bonaccorso, Mayor; Mark Dugan, Township Attorney; Edith Merkel, Township Clerk

PLEDGE OF ALLEGIANCE TO THE FLAG: MOMENT OF SILENCE

Dispensed

This meeting is in compliance with the Open Public Meetings Act (Chapter 231, P.L.1975) as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Star Ledger, Union County Local Source, and TAP into Clark, by posting such Annual Meeting Schedule 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.

The regular order of business will be suspended on June 21st to honor the Five Clark Women Awarded the 2021 Union County SHero Award

Mayor Bonaccorso: This is one of the sites that picked us up, and Elizabeth (Clee) is doing a lot of research. We are reaching out to these ladies; we would like to honor them for their work with the Shero Award. We have gotten in contact with a couple but a few we haven't...

Elizabeth Clee: I only got in touch with two because I know Kim and I know the nurse from the school.

Councilwoman Albanese: Their names are in the article...

Council: We don't know any of the other ladies.

Mayor Bonaccorso: We would like to honor them. I know like Kim did a lot of work and the nurse during the pandemic for a lot of people who are frontline workers, feeding them and things of that nature, I think it's only nice to do.

Councilwoman Albanese: Which ones did you know?

Elizabeth Clee: I know Kim and I know Laurie Kowalski.

Councilwoman Albanese: Bonnie Diaz, Sally Corvinus and Kristin Imbimbo.

Mayor Bonaccorso: Well, we'll see, Elizabeth is trying her best.

Councilman Smith: We will find them by that time.

Councilwoman Albanese: Maybe they are registered to vote and we could look up their address.

Elizabeth Clee: I have their addresses, I sent them a letter.

DISCUSSION:

Rahway Valley Sewerage Authority Agreement

Councilman Mazzarella: This is very close to the mayor's heart because I know that he loves the Sewerage Authority (laughter). But just to recap really quickly, I don't want to burden the

Council with a long speech what the Sewerage Authority is about. In the next couple of months, I will be presenting to Council, maybe one resolution and one ordinance or maybe two ordinances depending upon what Mark (Dugan) suggests. One is a vacating a settlement agreement that Clark had with the Rahway Valley Sewerage Authority through the court in 1994. Before 1994, because of all of our flows and our exceedances, the RVSA faced a moratorium in building in Clark and it created a method of calculation for surcharges. That is very invasive though the years, through really extensive review of it with John Laezza, which he was really spearheading this as far as we getting out of that agreement. If we stayed into the agreement the way the calculations have imposed, we've been paying over \$400,000.00 on excess flow charges. Now, using that same rationale in today's world, if we are imposed the same exceedances by the recalculation of the new settlement agreement, the revised settlement agreement, we will only be paying \$200,000.00. So, it is undoubtedly a benefit to the town. And if I may, I would like to speak for John, John was total in support of this. What I am going to do is after the meeting I have a couple of comments for Mark (Dugan) that I would like to enter and put into the body of the settlement agreement that protects Clark in the future. If we do pass this, the board cannot enact anything or revert back to the lesser amount for Clark, unless Clark gives a 100% agreement that they can move on this. So, that is it in a nutshell, and hopefully in the next couple of weeks Mark, we will enter into that first resolution or ordinance for the settlement agreement. And then thereafter, we will work on the ordinance, because the second part of it is an ordinance changing our whole 1995 agreement that imposes all of the communities, and all of this language should be put in there as well. So, Mark do you have anything to add?

Mark Dugan: Yes, we will talk about that. They probably need to be done essentially simultaneously because we can't vacate one agreement and then have the hopes that a new agreement is going to go into place if it isn't in place. So, I'm going to probably recommend that they be done essentially simultaneously (Councilman Mazzearella: okay) You are using the term "settlement agreement" and it is confusing me because there is an RVSA agreement among all of the member municipalities and then at some point Clark sued, I am not familiar with the history of this, but at some point, Clark sued and there was a settlement agreement among Clark and certain of the member municipalities which consented to the settlement and I don't know which ones didn't because I have not had the opportunity to study it carefully, but I don't believe all of them did because they refer to them as the consenting municipalities, which leads me to believe that there are some of them that didn't consent, but I will determine that. But, at any rate it has been honored as a settlement agreement for decades now, it establishes a different methodology for charging Clark as opposed to the rest of the member municipalities. Now John and you were working on this other agreement, I know that we have been talking about this now for probably two years (Councilman Mazzearella: right) because Dennis Estes, Counsel to the RVSA, had sort of a unique view of what he was doing, which I challenged, and then we backed off of it because I still think that I was right there. But essentially what they are going to be doing is they are capitulating implicitly my point that in order to amend an agreement unless you have agreed that fewer than all people need to agree to the amendment, you need all parties of the agreement to agree. That is apparently happening with now Clark joining the group, okay. John wrote a letter a couple of weeks ago, perhaps you wrote it, but it should have been on township letterhead saying that they wanted to go ahead with joining the new agreement which is going to have a less draconian approach to the exceedances (Councilman Mazzearella: correct) will be less costly. I don't know the weaves of this because I have not gotten into this and I was not involved in it and it is highly technical, I don't know that if I were reading it myself, along without the help of technical personnel that I could understand it all. But essentially what I understand you want me

to do is to go ahead with what John said, which was we were going to vacate our settlement agreement (Councilman Mazzarella: correct) and terminate our settlement agreement. So, we have both that we have been delivered both an ordinance because it was approved by way of ordinance, it needs to be terminated by way of ordinance (Councilman Mazzarella: that's right.) So, we have an ordinance vacating it and an agreement in which we agree to terminate it. That should occur simultaneously with the ordinance agreeing to the new document. I think that is how it should go, I have to look at it again, I haven't really had the opportunity yet, you and I talked about this. If that is what you are talking about when you are saying that you want to go ahead with a new settlement agreement, this is not a settlement agreement.

Councilman Mazzarella: Well, it is not a settlement agreement.

Mark Dugan: It is an agreement (Councilman Mazzarella: that's right.) the settlement agreement fell only with Clark and the litigation that Clark instituted back in the 90's, and settled by way of getting this more favorable formula for its charges for its exceedance. It is kind of an unusual thing that they are charging you for exceedances. They never really enforced that, they were supposed to have hearings and all of that. Even when I was there this was talked about. I was on the RVSA with Frank for a few years back. So, if John wanted to do it then we should do it because John knew what he was doing and we should move forward with that. At this point I just want to make sure that it is done in proper order and we don't spend an awful amount of time trying to reinvent the wheel because I think that this has been sort of been litigated in the colloquial sense for a long time now. They have been arguing over this for a long time now and if you have come to a decision that we are going to go ahead with the rest of the group, and join the rest of the group under a new agreement that changes the way that actually alleviates a lot of the problems with the other agreement.

Councilman Mazzarella: That's correct. The second component to that is that our original agreement that we had that outline all of the changes that we are doing over and above the settlement agreement, we have to talk about that. There are two components...

Mark Dugan: Well, you have an old agreement that is going to be terminated when you adopt the new agreement, which amends and reinstates what I just added, the old agreement (Councilman Mazzarella: right) The old agreement is going away, there are only two agreements than are left the new agreement to be adopted and joined and the settlement agreement which we are also vacating. So, we are going to have one agreement standing when the dust settles, the new agreement, not two, one.

Councilman Mazzarella: Okay, that's fine.

Councilwoman Albanese: Now Frank mentioned we are going to save \$200,000.00.

Mark Dugan: I have no idea what the numbers are. I have no idea the propriety of the deal, I was not involved in it at all. But John wrote a letter saying that we are joining it, I am assuming John who is a very prestigious, thorough man...

Councilwoman Albanese: The other towns are going to agree to it?

Councilman Mazzarella: I don't know, I would hope so.

Councilman O'Connor: In the letter from James Meade the Executive Director, he would like this completed no later than July 2021.

Councilman Mazzaella: Well, I spoke with him and I said I doubt that this is going to be... we have had this agreement, the regular agreement since 1931, and it has been moving along and changing and changing. And I said to Jim, “listen, if it doesn’t get done in a month or two months, what’s the rush?” I mean we’ve waited this long, so he said “I agree”.

Mark Dugan: Unless there is an issue, I don’t see there being an impediment in completing it in July. Essentially, unless you want me to get into the weeds of reviewing the agreements and pointing out the different...that’s going to take a lot of time. But, if you are okay with John’s analysis of it and his conclusion without him here, it is unfortunate, but his conclusion to move forward, and I am assuming that is the case because he wrote a letter saying that he wanted to do that, it is essentially the mechanics of adopting two ordinances, signing two agreements, and that is the end of it. So, that won’t take long to do.

Councilwoman Albanese: So, do the other towns have to agree or not?

Councilman Mazzaella: Yes, right now.

Mark Dugan: So, one of the changes, as I understand it, to the agreement is there will be two thirds...that’s what Frank is concerned about. There will now be a two thirds requirement, instead of unanimity to change the agreement, as the case with all agreements, there is going to be an ability to change the agreement based on a vote of two thirds of the member municipalities. Frank’s concern, I guess, is that two thirds of them will turn against us and try to do something to us. He proposed a “right to revert” which has been rejected outright by Dennis. But Dennis is just a lawyer, he is not the RVSA, he’s their lawyer that’s all he is like as I am your lawyer. I could say that I don’t want to do this and the Mayor can say we’re doing it, and guess what, we’re doing it because that’s the Mayor’s call not mine, I am just your servant essentially. And then Frank was mentioning to me also well if we can’t do because he thought that it was in the minutes, it wasn’t in the minutes, so, he was talking about having a veto power, where Clark can veto. It would give Clark the superpower that no other municipality would have but I find it hard to believe that they would agree to that. We are going to be basically in the crowd again, not on our own like we have been and we are going to be subjected to...

Mayor Bonaccorso: Two thirds majority now, right?

Mark Dugan: A majority and that is not easy to get. It does allow for greater flexibility. Do you know how hard it is to get unanimity, it’s almost impossible (Councilman Mazzaella: it is) especially as contentious as you. Two thirds are hard to get, but at least two thirds are due able, unanimity is nearly impossible if there is any kind of controversy about the issue. So, we should be able to get that done by July, but if not, it will be in August.

Councilman Mazzaella: I want to thank Sal for giving John and myself free range on this to try to put this to bed.

Mayor Bonaccorso: Let me tell you something, I saw the meetings you guys had; I probably would have committed suicide if I had to sit in on them. I do appreciate you Frank for the work that you did. You recognized John’s work because as you were going off about John and the great job he did, as always, we know what a great job he did, but John and Frank did worked very hard and I appreciate your work.

Mark Dugan: I’ll have a further report. I am going to assume that you don’t want me to review these things in detail. If you do then let me know. I’m not going to do it unless you expressly tell me too.

Mayor Bonaccorso: I want to read the letter again and then talk to you about it. (Mark Dugan: alright, sounds good) I meant I trust John's judgement and Frank but I just want to make sure we are in the right.

Mark Dugan: Okay, no problem. I will take care of whatever you want me to do.

Mayor Bonaccorso: Thank you Mark.

RESOLUTIONS:

- 1. Council as the ABC Board:** Authorizing the annual renewal of Alcoholic Beverage Licenses for the 2021-2022 Term

Discussion:

Township Clerk: The majority of the licensees are in compliance to be renewed. We are waiting for the Holiday Inn to finish their compliance. And then the two licenses that I have not been able to get in touch with them, is the Gran Centurions, I am not talking about Gary's, Gary is in compliance, but the actual club. The Polish Cultural Foundation has got me worried; their voice mail is full; they don't look at their email.

Mayor Bonaccorso: They were at the parade.

Councilwoman Albanese: Very unusually.

Township Clerk: I know that is what I heard, but they are not responding. The last person that I had as a contact, she didn't respond to the email either, so I don't know what's happening there. So anyway if they comply by the time the meeting happens then they will be on and if not they won't.

Councilman O'Connor: And that will that mean that they will not have a license?

Township Clerk: Well it would mean then they will have to petition the state for a special ruling and it gets complicated. But then that's on them, I have been really trying to get in touch with somebody.

Mayor Bonaccorso: Should we send a registered letter maybe?

Township Clerk: I thought about that but the only thing is that I don't think that anybody is in the office because why would their voicemail be full and you can't even leave a voicemail message?

Councilman O'Connor: What is our obligation?

Township Clerk: None, zero, no obligation.

Council President Hund asked for a mover and second on this Resolution
Motion: Smith Second: Albanese

CONSENT AGENDA RESOLUTIONS:

2. Authorizing the Chief Financial Officer to refund overpayment of 2021 taxes in the amount of \$36,128.15
3. Authorizing the Chief Financial Officer to refund overpayment of 2021 sewer fees in the amount of \$2,360.27
4. Authorizing the Chief Financial Officer to apply sewer account balance adjustments as credit in the amount of \$5,577.00
5. Authorizing the Tax Collector to settle a tax appeal for Block 148 Lot 15 as authorized by the Tax Court of New Jersey with a refund in the amount of \$70,661.12

Council President Hund asked for a mover and second on this Consent Agenda
Motion: Toal Second: Albanese

PUBLIC COMMENTS:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

Seeing no one coming forward Councilman O'Connor made a motion to close the public portion of the meeting, seconded by Councilman Minniti

Council President O'Connor directed roll call: All Ayes
Aye: Albanese, Mazzarella, Minniti, Smith, O'Connor, Toal, Hund

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

Mayor Bonaccorso: It has been a heck of a month, let's put it that way, from the last time that we met. We talked about it earlier that Jim (Ulrich) is coming on Monday, the 14th that will be his first full time day, so he will be available.

We are looking forward, obviously, for the fireworks.

Summer camp is moving forward.

The Governor said that the kids don't have to wear masks for summer camp, and he will probably drop the mask mandate for the school districts in September too.

We will probably add new business into the calendar for this month. The Board of Education was strongly urge to put together a resolution asking the Governor for the mask mandate to be drop, and we are going to confirm the resolution at our meeting. What I think I want to do Edie too is put together our own resolution from us, not only supporting the Board of Ed but as Mayor and Council telling him to drop the mandate too. Now, when I said "drop" I want you to understand one thing, it is called "you have to mandate." There is still a choice, and I believe in that choice, if you want to wear a mask you are more than welcome too, if you don't then that is fine too. And there are parents on both sides of the issue, not doubt about it. So, I am just asking not to say that it is illegal to wear a mask but it is a choice. If you want to send your kid with a mask then you do, and if you don't, you don't, that's it, it doesn't infringe on anybody, it doesn't hurt anybody's education, or civil rights, or anything like that. So, I am probably going to add those two things for our meeting.

The new building, as you see they are doing the site work right now, it is being done today. The Waterson Memorial, on July 4th, it will not be ready for that particular day in its entirety. But I

went through it today with the Construction Manager and we were going to make some makeshift changes out front that will allow the monument to be brought to the front of the building and an area that we can gather for the 50th anniversary of Clark's only fallen police officer, at 9 am they usually have it. In the meantime, I don't know when the outside is going to be completely done but there after I'll figure a date and have the grand opening, ribbon cutting, it will probably be done on a Saturday so that it does not interfere with work, and we will have some dignitaries and invite some people and go from there. I don't know if I am going to advertise it to the community for one reason, I don't know if they are going to allow tours in the police department. If they come to the outside dedication then they can come into the Chambers, etcetera and so on, but I don't know, I have to see if the Chief is back in business by then, I'll have to find out. Nothing more on that. As you can see our prosecutor got a big promotion, big promotion to be the Director of Criminal Justice in New Jersey, so, that's going to be interesting to see where we are at with this thing now. She has left the building from what I heard.

Mark Dugan: Who is the acting prosecutor?

Mayor Bonaccorso: I don't know, I don't know.

Mark Dugan: Are they going to appoint who we thought?

Mayor Bonaccorso: Yes, it is going to be who we thought, but let's see tomorrow. Tomorrow is the Primary Election, so get out and vote. Right after the primary they are going to appoint a permanent prosecutor.

Councilwoman Albanese: So, with the construction of the street and the parking lot. Are those going to be done together?

Mayor Bonaccorso: The building is going to be done first and then the parking lot is going to be within the same time. I don't know exactly...

Councilwoman Albanese: The same time as that street?

Mayor Bonaccorso: It's all going to be done before school begins, the street. School has got to get our first. When is the last day of school?

Elizabeth Clee: June 23rd is graduation.

Councilwoman Albanese: Okay, so sometime in September, that's weeks away. When are we opening up the building?

Mayor Bonaccorso: This building has been open. We are just not advertising it. We have opened this building and we have not advertised it. We have some people that just come for daily visits, and it is not a playground, it is a place of business. So, when they come to the door, there is nothing on the door they are welcome to come in, there are no more phone numbers to call or anything else.

Councilman Hund: Someone pointed out to me that they were going to allow no masks and that there are parents that wanted their children to wear masks to school. So a complete opposite of what we are experiencing here.

Mayor Bonaccorso: You know Steve, I walk through different places and I go without my mask and there are people with masks on, and I am being very honest I don't think anything bad about

Workshop Council Meeting June 7, 2021..... 8
those people. God bless you, if that is the way that you want to do it then do it. But, don't tell me what I need to do. If people are vaccinated and they still want to wear a mask, so be it. But I mean if you are and you don't want to wear it I don't think you should have to do that either. Especially now with summer here, even during the pandemic the numbers went down tremendously, I mean you really didn't hear of it.

Councilman Smith: We are going to be at zero very soon.

Councilwoman Albanese: What about recreation programs? Do the kids have to wear masks?

Mayor Bonaccorso: Now he just said today no masks at summer camp. And Ralph and I had said we are not mandating people for summer camp. We are not telling kids to go out in the 95-degree heat with masks on. When they pass out the guys are going to be running around like chickens with their heads cut off.

Councilwoman Albanese: No comments this evening.

Councilman Mazzearella: No comments.

Councilman Minniti: No comments.

Councilman O'Connor: No comments this evening.

Councilman Smith: No comments.

Councilman Toal: No comments.

Township Clerk: I just want to say thank you for the Resolution, which I did not write. Dawn DelVecchio and Elizabeth Clee wrote that Resolution.

Councilwoman Albanese: Good job.

Mark Dugan: I just wanted to say that I am going to miss John a lot.

Council President Hund: We can all be in agreement with that. I have nothing to add myself.

Council President Hund asked for a motion to adjourn
A motion to adjourn was made by Councilwoman Albanese, seconded by Councilman O'Connor.

ROLL CALL: All Ayes

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

ADJOURNMENT