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Flag Salute.

Roll Call: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

**STATEMENT OF ADEQUATE NOTICE:**

Mayor Kovach 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.”

**Mayor Kovach welcomed the public to the meeting and explained how the meeting will be run by reading the following statement :**

NJSA 10:4-8(b) authorizes municipalities to conduct public meetings through use of streaming services and other online meeting platforms. Recently adopted P.L. 2020, c.11 amends OPMA to clarify that in times of emergency public bodies may vote, accept public comment and cause a meeting to be open to the public via electronic means.

The Town of Clinton is using ZOOM Video Meetings. Please be aware that this meeting is being recorded for the public record.

We will continue to address all questions and comments for any topic that is not on the current agenda during public comments as well as comments during public hearings for any ordinances.

Please use the chat feature in ZOOM to indicate that you wish to be recognized for a comment or a question. You must provide your name and address to be recognized. You can also type in your questions. Feel free going forward to email [councilmeeting@clintonnj.gov](mailto:councilmeeting@clintonnj.gov) with any questions or concerns between meetings.

We ask that you keep your device muted until called upon by council. The meeting’s moderator may also mute participants.

The mayor and council will respond to all votes via roll call with the exception of opening and closing of public hearings will be a voice vote.

The Mayor and Council will respond to all votes by raising hands or via roll call.

Please feel free to reach out with a note at [jkovach@clintonnj.gov](mailto:jkovach@clintonnj.gov) anytime!

**APPROVAL OF MINUTES**

A motion was made by Mr. Humphrey, seconded by Ms. Johnson, to approve the minutes of December 9, 2020 as submitted.

Vote all ayes  
Motion carried

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**APPROVAL OF EXECUTIVE SESSION MINUTES**

A motion was made by Ms. Intrabartola, seconded by Mr. Humphrey, to accept the first set of executive session minutes of December 9, 2020.

Vote all ayes  
1 Abstention (Karsh)  
Motion carried

**APPROVAL OF EXECUTIVE SESSION MINUTES**

A motion was made by Ms. Intrabartola, seconded by Mr. Humphrey, to accept the second set of executive session minutes of December 9, 2020.

Vote all ayes  
Motion carried

**APPROVAL OF MINUTES**

A motion was made by Ms. Intrabartola seconded by Mr. Humphrey to approve the minutes of December 23, 2020 as submitted.

Vote all ayes  
Motion carried

**APPROVAL OF RE-ORGANIZATION MINUTES**

A motion was made by Ms. Karsh, seconded by Mr. Humphrey, to accept the minutes of January 5, 2021 as submitted.

Vote all ayes  
1 Abstention (Dineen)  
Motion carried

**APPROVAL OF MONTHLY REPORTS – DECEMBER**

A motion was made by Ms. Johnson seconded by Ms. Dineen, to approve the monthly reports for the month of December as submitted:

Administrator's Report, Clerk's Account, Construction Control / Inspection Report, Police Report, Tax Collector's Report, Zoning Officer Report.

Vote all ayes  
Motion carried

**PUBLIC COMMENTS – NONE**

**MAYOR'S COMMENTS**

Mayor Kovach reported on the highlights of 2020! In recognizing all the challenges of COVID-19 presented for government and everyone in general, projects were still carried out as planned. Water main replacement project on West Main Street; the filter building at the Treatment Plant was taken down and is currently being rebuilt; and the Asset Management Plans for water and sewer continues.

Affordable housing plans are continuing with hard work and time being exerted on behalf of employees and professionals. During the difficult year past, the staff continued to provide services to residents and Mayor Kovach expressed her thanks to all employees and residents for their dedication and patience as well as to the Council members. Thank you to all!

Mayor Kovach updated everyone on the Governor's latest information regarding the COVID-19 vaccines. People are urged to register on the COVID link, available under "news" on the website.

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Governor Murphy has signed his Economic Recovery Package allowing for \$56,000,000 for Main Street businesses.

**RESOLUTION #39-21 – AMENDMENT TO SETTLEMENT AGREEMENT**

A motion was made by Mr. Humphrey, seconded by Ms. Dineen, to adopt Resolution #39-21 directing the Mayor and Clerk to sign the amended agreement as submitted:

**RESOLUTION # 39-21**

**AUTHORIZING EXECUTION OF AN AMENDMENT TO THE SETTLEMENT AGREEMENT  
WITH THE FAIR SHARE HOUSING CENTER (“FSHC”) FOR THE TOWN’S 1999-2025  
AFFORDABLE HOUSING OBLIGATIONS**

**WHEREAS**, the Town of Clinton (the “Town”) filed a Declaratory Judgment Action (the “Litigation”) in the Superior Court of New Jersey, Hunterdon County, in furtherance of the Supreme Court’s March 10, 2015, decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”), which was assigned to the Honorable Thomas C. Miller, P.J., Cv.; and

**WHEREAS**, Fair Share Housing Center (“FSHC”) is a Supreme Court-designated interested party in the Litigation in accordance with the Supreme Court Decision; and

**WHEREAS**, the Town and FSHC agreed to settle the Litigation pursuant to a Settlement Agreement dated September 18, 2018, which was approved by the Court; and

**WHEREAS**, since the signing of the Settlement Agreement, circumstances have dictated that the Town has revise its Housing Element and Fair Share Plan and amend the Settlement Agreement to reflect such changes; and

**WHEREAS**, a copy of such amendment to the Settlement Agreement is attached hereto.

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

1. The Mayor and Clerk are authorized and directed to execute the Settlement Agreement in substantially the same form as attached hereto.
2. The Town Attorney and Town Planner are hereby authorized to take all steps to effectuate the Settlement Agreement including submitting such Agreement for Court-approval, and drafting an Affordable Housing and Fair Share Plan
3. This Resolution shall take effect immediately.

ROLL CALL: AYES: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes  
Motion carried

**INTRODUCTION OF ORDINANCE #21-01 – AMENDING DEVELOPMENT FEES**

A motion was made by Mr. Traphagen, seconded by Ms. Dineen, to introduce Ordinance #21-01 on first reading:

**ORDINANCE # 21-01**

**AN ORDINANCE AMENDING DEVELOPMENT FEE ORDINANCE**

**WHEREAS**, the Town of Clinton filed a Declaratory Judgment Action in the Superior Court of New Jersey, Hunterdon County, captioned IMO Town of Clinton, Docket No. HNT-L-304-15 (the “Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10, 2015, decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

**WHEREAS**, the Superior Court granted a Conditional Judgment of Compliance and Repose to the Town in its Declaratory Judgment Action On October 14, 2020; and

**WHEREAS**, the conditions of such judgment require amendments to the Town’s Development Fee Ordinance.

**NOW THEREFORE BE IT ORDAINED**, by the Council of the Town of Clinton, County of Hunterdon, and State of New Jersey, as follows:

**Section 1.** Article XII of the Code of the Town of Clinton entitled “Development Fees” is hereby amended as follows (deletions indicate with strike through ~~thus~~ and additions indicated in bold italic *thus*):

**§ 88-81 Purpose.**

**A.** In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

**B.** Pursuant to P.L.2008, c.46 section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH is was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that ~~are~~ were under the jurisdiction of the Council ~~or court of competent jurisdiction and have a COAH-approved~~ ***and are now before a court of competent jurisdiction and have a court-approved*** spending plan may retain fees collected from nonresidential development.

**C.** This article establishes standards for the collection, maintenance, and expenditure of development fees ~~pursuant to~~ ***in a manner consistent with*** COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38 ***and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), as directed by the court.*** Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing ***in accordance with a court-approved spending plan.*** This article shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C.~~5:97-8.5:93-1~~, ***et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented and the New Jersey Fair Housing Act of 1985.***

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§ 88-82 **Basic requirements.**

**A.** This article shall not be effective until approved by ~~COAH pursuant to N.J.A.C. 5:96-5.1~~ **a court of competent jurisdiction.**

**B.** Clinton Town shall not spend development fees until ~~COAH~~ **a court of competent jurisdiction** has approved a plan for spending such fees ~~in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.~~

§ 88-83 **Definitions.**

The following terms, as used in this article, shall have the following meanings:

**AFFORDABLE HOUSING DEVELOPMENT**

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred-percent affordable development.

**COAH or THE COUNCIL**

The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

**DEVELOPER**

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT FEE**

Money paid by a developer for the improvement of property as ~~permitted in N.J.A.C. 5:97-8.3~~ **authorized by *Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990)* and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and as regulated by applicable COAH rules.**

**EQUALIZED ASSESSED VALUE**

The assessed value of a property divided by the current average ratio of assessed-to-true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (N.J.S.A. 54:1-35a through N.J.S.A. 54:1-35c).

**GREEN BUILDING STRATEGIES**

Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§ 88-84 **Residential development fees.**

**A.** Imposed fees.

(1) Residential developers, except for developers of the types of development specifically

exempted below, shall pay a fee of 1 1/2% of the equalized assessed value for residential development, provided no increased density is permitted.

(2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1 1/2% of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

**B. Eligible exactions, ineligible exactions and exemptions for residential development.**

*(1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Rumson, shall be exempt from the payment of development fees.*

*(2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance and any preceding Ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.*

*(3) Any repair, reconstruction or improvement of a structure, the cost of which is less than 50% of the market value of the structure before the improvement or repair is started. For purpose of this section, "market value" shall mean the equalized assessed value of the existing improvement as established by the Borough Tax Assessor. The cost of the repair, reconstruction or improvements shall be determined by an itemized construction cost estimate prepared and submitted to the Construction Official. The estimate shall be signed and sealed by an architect or professional engineer licensed by the State of New Jersey, or where no such professionals are retained, signed by the contractor or the homeowner. Where prepared by the homeowner or contractor, the Borough Engineer may review such estimates for accuracy. "Substantial improvement" is considered to commence when the first alteration of any wall, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:*

*(a) Any project for improvement of a structure to comply with existing state or local*

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*building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or*

*(b) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.*

*(4) Structural alterations that do not increase gross floor area of a building or structure or increase the equalized assessed value of a property shall be exempted from paying a development fee.*

*5) Nonprofit organizations constructing residential projects which have received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.*

*6) Federal, state, county and local governments shall be exempted from paying a development fee.*

*7) Homes replaced as a result of a natural disaster, fire or flood shall be exempt from the payment of a development fee. (This exemption applies only for the owner of record at the time of the fire, flood, or natural disaster.)*

~~(1) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.~~

~~(2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.~~

~~(3) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.~~

~~(4) Expansions and renovations to residential units where no new unit is created shall be exempt from development fees.~~

## **§ 88-85 Nonresidential development fees.**

### **A. Imposed fees.**

**(1)** Within all zoning districts, nonresidential developers, except for developers of the types

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of development specifically exempted, shall pay a fee equal to 2 1/2% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.

**(2) *Within all zoning districts,*** ~~Non~~nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2 1/2% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

**(3)** Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2 1/2% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

**B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.**

**(1)** The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the development fee of 2 1/2%, unless otherwise exempted below.

**(2)** The fee of 2 1/2% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

**(3)** Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.

**(4)** A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L.2008, c.46, shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

**(5)** If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by Clinton Town as a lien against the real property of the owner.

***(6) Federal, state, county and local governments constructing nonresidential housing shall be exempted from paying a development fee.***



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**§ 88-86 Collection procedures.**

**A.** Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

**B.** For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

**C.** The construction official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.

**D.** Within 90 days of receipt of that notice, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

**E.** The construction official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

**F.** Within 10 business days of a request for the scheduling of a final inspection, the municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

**G.** Should Clinton Town fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).

**(1)** Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy.

**(2)** The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

**H.** Appeal of development fees.

**(1)** A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Clinton Town. Appeals from a determination of the Board may be made to the Tax Court in accordance

with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

(2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Clinton Town. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**§ 88-87 Affordable Housing Trust Fund.**

**A.** There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.

**B.** The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- (1) Payments in lieu of on-site construction of affordable units;
- (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
- (3) Rental income from municipally operated units;
- (4) Repayments from affordable housing program loans;
- (5) Recapture funds;
- (6) Proceeds from the sale of affordable units; and
- (7) Any other funds collected in connection with Clinton Town's affordable housing program.

***C. In the event of a failure by Clinton Town to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within Clinton Town, or, if not practicable, then within the County or the Housing Region.***

***Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and***

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***deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund or impose such other remedies as may be reasonable and appropriate to the circumstances.***

~~Within seven days from the opening of the trust fund account, Clinton Town shall provide COAH with written authorization, in the form of a three party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).~~

**D.** All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by ~~COAH~~ ***the court.***

**§ 88-88 Use of funds.**

**A.** The expenditure of all funds shall conform to a spending plan approved by ~~COAH~~ ***the court.*** Funds deposited in the housing trust fund may be used for any activity approved by ~~COAH~~ ***the court*** to address the ~~Clinton~~ Town's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

**B.** Funds shall not be expended to reimburse Clinton Town for past housing activities.

**C.** At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.

**(1)** Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.

**(2)** Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.

**(3)** Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

**D.** Clinton Town may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, ~~in accordance with N.J.A.C. 5:96-18.~~

**E.** No more than 20% of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or ~~objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.~~ *related to securing or appealing a judgement from the court are not eligible uses of trust funds.*

**§ 88-88.1 Monitoring.**

*Clinton Town shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all trust fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Town), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Clinton's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the spending plan approved by the court.*

~~Clinton Town shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Clinton Town's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by COAH.~~

**§ 88-88.2 Ongoing collection of fees.**

The ability for Clinton Town to impose, collect and expend development fees *shall expire with the expiration of the repose period covered by its Judgment of Compliance unless Clinton Town has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive*

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*Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.* shall expire with its judgment of compliance unless Clinton Town has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Clinton Town fails to renew its ability to impose and collect development fees prior to the expiration of judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (N.J.S.A. 52:27D-320). Clinton Town shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Clinton Town retroactively impose a development fee on such a development. Clinton Town shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

**Section 2.** If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part there of directly involved in the controversy in which such judgment shall have been rendered.

**Section 3.** All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only and the provisions of this Ordinance shall govern in the event of any inconsistency.

**Section 4.** This Ordinance shall take effect upon the filing thereof with the Hunterdon County Planning Board after final passage, adoption, and publication in the manner prescribed by law.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes  
Motion carried

A copy of this ordinance will be published in the January 21, 2021 edition of the Hunterdon Review. A public hearing will be held February 10, 2021.

#### **INTRODUCTION OF ORDINANCE #21-02 – AMENDING MF-1 ZONING DISTRICT**

A motion was made by Ms. Johnson, seconded by Ms. Karsh, to introduce Ordinance #21-02 on first reading as submitted:

#### **TOWN OF CLINTON ORDINANCE # 21-02**

#### **AN ORDINANCE AMENDING THE MF-1 ZONING DISTRICT**

**WHEREAS**, the Town of Clinton filed a Declaratory Judgment Action in the Superior Court of New Jersey, Hunterdon County, captioned IMO Town of Clinton, Docket No. HNT-L-304-15 (the “Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10,

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2015, decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

**WHEREAS**, Clinton Moebus 34, LLC is the owner of Block 14, Lot 32, which has been subdivided into three lots: Block 14, Lots 32, 32.01, and 32.02; and of Block 25, Lot 19;

**WHEREAS**, pursuant to a Consent Order filed on or about October 14, 2015, CM34 is a defendant-intervenor in the above-referenced Declaratory Judgment Action; and

**WHEREAS**, the Town of Clinton (the “Town”) entered into Settlement Agreements with Fair Share Housing Center on September 18, 2018 and with CM34 on October 30, 2018 (hereinafter the “Settlement Agreements”) that determine the Town’s affordable housing obligation and the mechanisms for how the obligation will be addressed; and

**WHEREAS**, the Settlement Agreements contemplate development of Block 14, Lot 32 with a noncontiguous inclusionary residential development; Block 14, Lot 32.01 with a commercial development; and Block 25, Lot 19 ten age-restricted affordable rental apartments; and

**WHEREAS**, in furtherance of such Settlement Agreements, the Town Council adopted Ordinance 19-11 creating the Multi-Family (MF-1) Zoning District and permitting such inclusionary development; and

**WHEREAS**, the Superior Court granted a Conditional Judgment of Compliance and Repose to the Town in its Declaratory Judgment Action On October 14, 2020; and

**WHEREAS**, the conditions of such judgment require amendments to Ordinance 19-11 to require phasing of the construction of the market and affordable units.

**NOW THEREFORE BE IT ORDAINED**, by the Council of the Town of Clinton, County of Hunterdon, and State of New Jersey, as follows:

**Section 1.** Section 88-51(C) entitled “Map and schedule” is amended such that the boundary of the Multi-Family Housing (MF-1) District shall be applied to a portion of Block 14, Lot 32 consistent with a Settlement Agreement between the Town and Clinton Moebus 34, LLC dated October 30, 2018.

**Section 2.** Section 88-56.1 of the Code of the Town of Clinton entitled “MF-1 Multi-Family Housing Zone” is hereby amended to add subsection (N) as follows:

Affordable Housing Phasing. Pursuant to the Settlement Agreement referenced in Section A herein and Joint Development Agreement amongst Clinton Development Partners, LLC, Music Hall Group, LLC, and AMBE Holdings of Clinton, LLC, the development contemplated in the MF-1 Zone shall transfer its affordable housing obligation of 10 units off-site to Block 25, Lot 19 or properties adjacent thereto. No more than twenty-eight (28) Certificates of Occupancy shall be issued for residential units in the MF-1 Zone until Certificates of Occupancy have been issued for the ten (10) off-site affordable residential units and the appropriate deed restrictions have been filed with the Hunterdon County Clerk (i.e. Certificates of Occupancy for all fifty-six residential units in the MF-1 Zone shall not be issued until all ten (10) Certificates of Occupancy have been issued and the appropriate deed restrictions filed for the ten (10) off-site affordable residential units.)

**Section 2.** If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation

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to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 3.** All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only and the provisions of this Ordinance shall govern in the event of any inconsistency.

**Section 4.** This Ordinance shall take effect upon the filing thereof with the Hunterdon County Planning Board after final passage, adoption, and publication in the manner prescribed by law.

ROLL CALL: AYES: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes  
1 Abstention ( Intrabartola)  
Motion carried

A copy of this ordinance will be published in the January 21, 2021 edition of the Hunterdon Review. A public hearing will be held February 10, 2021.

**INTRODUCTION OF ORDINANCE #21-03 – POSTPONED TO JANUARY 27, 2021 MEETING**

**INTRODUCTION OF ORDINANCE #21-04 – PILOT AGREEMENT**

A motion was made by Ms. Johnson, seconded by Ms. Intrabartola, to introduce Ordinance #21-04 on first reading as submitted:

**ORDINANCE #21-04**

**ORDINANCE AUTHORIZING A TAX ABATEMENT AND PILOT AGREEMENT WITH OLD 22 URBAN RENEWAL ASSOCIATES, LLC**

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the “Redevelopment Law”) authorizes the Town to arrange or contract with a redeveloper for the planning, construction or undertaking of any project or redevelopment work in an area designated as an area in need of redevelopment; and

**WHEREAS**, by Resolution #141-19, adopted on October 22, 2019, the Town designated the property identified on the Town tax map as Block 21, Lots 29, 30.01, 31, 32, and 33 (the “Property” or the “Redevelopment Area”), as well as other lots within said Block, as an area in need of redevelopment in accordance with the Redevelopment Law”); and

**WHEREAS**, by Resolution 137-20, adopted on September 23, 2020, the Town designated Old 22 Urban Renewal Associates, LLC as redeveloper of the Redevelopment Area in accordance with the Redevelopment Law (the “Redeveloper”), and authorized the execution of a redevelopment agreement (the “Redevelopment Agreement”) with the Redeveloper; and

**WHEREAS**, pursuant to the Amended Redevelopment Plan and Concept Plan, the Redeveloper intends to construct a mixed-use development with one hundred and twenty (120) residential units and approximately 6,005 square feet of retail / commercial space (the “Project”); and

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**WHEREAS**, twenty percent (20%), or 24 units, of the residential units will be set aside for affordable housing rental units as set forth in Resolution No. 2020-14 of the Land Use Board; and

**WHEREAS**, pursuant to and in accordance with the provisions of New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq.* as amended and supplemented (the “Exemption Law”), the Town is authorized to provide for and accept, in lieu of real property taxes, an annual service charge paid by the Redeveloper to the Town; and

**WHEREAS**, the Redeveloper submitted an application to the Town Council, and in accordance with the Exemption Law; and

**WHEREAS**, pursuant to N.J.S.A. 40A:20-8, the Town Council must adopt an ordinance authorizing the execution of a Financial Agreement with the Redeveloper setting forth the terms of the payments in lieu of taxes; and

**WHEREAS**, by motion passed on December 9, 2020, the Town Council authorized the drafting and execution of a Memorandum of Understanding outlining material terms of a Financial Agreement; and

**WHEREAS**, the Town Council believes that it is in the best interests of the Town to grant the requested tax abatement and enter into a PILOT agreement with the Redeveloper in order to provide it with a long-term tax exemption pursuant to N.J.S.A. 40A:20-1, *et seq.*, so as to develop and maintain the Project as very-low, low- and moderate-income housing; and

**WHEREAS**, pursuant to N.J.S.A. 40A:20-9 the PILOT agreement shall not take effect until approved by ordinance of the municipality;

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Clinton, County of Hunterdon, State of New Jersey, as follows:

1. The Town Council hereby authorizes a tax abatement pursuant to the Long-Term Tax Exemption Law (N.J.S.A. 40A:20-1, *et seq.*) for the Project, which Project is more fully described in a certain Redeveloper’s Agreement between the Town and Redeveloper dated September 23, 2020.

2. The Town Council hereby further authorizes an agreement between the Redeveloper and the Town of Clinton consistent with Memorandum of Understanding referenced herein for a payment in lieu of taxes (PILOT) agreement pursuant to the Long-Term Tax Exemption Law (N.J.S.A. 40A:20-1, *et seq.*).

3. The PILOT agreement shall be substantially in the form that is attached hereto and made a part hereof authorizing an annual service charge as follows:

- 11% of Annual Gross Revenues for the first six years after the Annual Service Charge Start Date
- 12.5% of Annual Gross Revenue for years 7-11
- 13% of Annual Gross Revenues for years 12-16
- 15% of Annual Gross Revenues for years 17-21
- 17% of Annual Gross Revenues for years 22-26
- 20% of Annual Gross Revenues for the years 27-30



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4. The Mayor, Town Attorney and the Town Clerk shall be and are hereby authorized to execute the agreement and any and all documents necessary to enter into said agreement.

5. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

6. This ordinance shall become effective twenty (20) days after its final passage and publication according to law.

ROLL CALL: AYES: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes  
1 Abstention (Karsh)  
Motion carried

A copy of this ordinance will be published in the January 21, 2021 edition of the Hunterdon Review. A public hearing will be held February 10, 2021.

**INTRODUCTION OF ORDINANCE #21-05 – RECREATION COMMITTEE**

Mayor Kovach explained that Council would be approving this ordinance with the addition of a provision for bylaws. A motion was made by Ms. Intrabartola, seconded by Mr. Humphrey, to introduce Ordinance #21-05 on first reading as submitted:

**ORDINANCE #21-05**

**ORDINANCE ABOLISHING THE RECREATION COMMISSION AND ESTBALISHING A RECREATION COMMITTEE**

**WHEREAS**, it is the desire of the governing body of the Town of Clinton (the “Town”) to provide for the recreational needs of all citizens of the Township; and

**WHEREAS**, the governing body has in the past entrusted that task to the Board of Recreation Commissioners pursuant to N.J.S.A. 40:12-1; and

**WHEREAS**, it is the determination of the governing body that it is in the best interest of the citizens of the Town to change the Commission to a Committee; and

**WHEREAS**, the governing body, being ultimately responsible for providing such recreational needs of the community, has determined that the same can be best accomplished by the formation of a Recreation Committee under the direct authority and supervision of the Mayor and Town Council.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Clinton, the County of Hunterdon, that the Code of the Town of Clinton “Code”) is hereby amended as follows:

**SECTION 1.** Section 4-20 of the Code, entitled “Board of Recreation Commissioners” is hereby renamed “Recreation Committee” and is amended as follows: (1) those portions of the Code set forth below are hereby amended as follows (additions noted in bold italics **thus** and deletions noted in strikethrough ~~thus~~); and (2) portions of the Code not set forth below shall remain unchanged:

A. Creation. There is hereby created a ~~Board of Recreation Commissioners~~ **Recreation Committee** for the Town of Clinton, ~~pursuant to N.J.S.A. 40:12-1 through 40:12-8.~~

B. Duties. Duties of the Board of ~~Recreation Commissioners~~ **Recreation Committee members** shall be to ~~oversee~~ **coordinate** and provide all recreational activities within the Town of Clinton, ~~including coordinating the maintenance and upkeep of parks and playgrounds facilities with the Public Works/Business Administrator, the providing of recreational services, the oversight of activities at playgrounds and parks, the oversight of recreational employees hired to assist with recreational activities, the appointment of recreational employees, the collection of and accounting for monies received for recreational activities,~~ subject to and limited by the annual appropriation approved by the Mayor and Council and income received, ~~control lands, playgrounds, and recreation places acquired and leased. The Board may adopt a Board Seal, suitable rules, regulations and bylaws for use of recreational facilities, and the conduct of all persons while on or using the same, set fees and charges for the use of recreational lands and facilities as authorized and limited by statute and ordinance, and provide such reports and information to the Chief Financial Officer and the Mayor and Council as shall be necessary in order to satisfy the Chief Financial Officer and the Mayor and Council.~~

C. Members. ***The Recreation Committee shall consist of nine members, plus two alternates. In addition, one member of the Town Council shall serve as a non-voting member, but shall not be required to attend all meetings. Members shall be residents of the Town of Clinton. The members shall serve without compensation except that they shall be reimbursed for expenses incurred in the performance of official business. All members of the***

***Recreation Committee shall be appointed by the Mayor with the advice and consent of***

***Council.*** ~~The Board of Recreation Commissioners shall consist of seven plenary members, two alternates and two ex-officio members. One member of Council shall be appointed as a plenary member and one as an ex-officio member. All members shall be appointed by the Mayor with the advice and consent of the Council, except the Council members, who shall be appointed by the Mayor. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. The alternate members shall be designated Alternate No. 1 and Alternate No. 2. A vote may not be delayed in order that a regular member of the Board of Recreation Commissioners may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote. Ex-officio members may attend meetings and provide comments or ask~~

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questions regarding the proceedings but shall not vote. Members, alternate members, and ex officio members shall be citizens and residents of the Town.

D. Terms of members.

(1) At the first appointment of members to the ~~Board of Recreation Commissioners~~ **Recreation Committee** the following terms apply: two shall be appointed for a term of one year; two shall be appointed for a two-year term; ~~one~~ **two** shall be appointed for a three-year term; ~~one~~ **two** shall be appointed for a four-year term; and one shall be appointed for a five-year term. Initial appointments shall terminate December 31 of the last year of the term. Upon the expiration of the first appointment term of each said member, the succeeding term thereafter shall be for five years. Vacancies occurring other than by expiration of the term shall be filled for the unexpired term only.

(2) At the first appointment of alternate members to the ~~Board of Recreation Commissioners~~ **Recreation Committee** the following terms apply: one shall be appointed for one year and one shall be appointed for two years. Initial appointments shall terminate December 31 of the last year of the term. Upon the expiration of the first appointment term of each said member, the succeeding term thereafter shall be for five years. Vacancies occurring other than by expiration of the term shall be filled for the unexpired term only.

~~———— (3) ——— The terms of the ex officio members shall be one year, or until their term as Council member shall terminate, if that should occur sooner.~~

E. Chairperson. At the beginning of each year, the ~~Board of Recreation Commissioners~~ **Recreation Committee** shall designate a member of the Board to serve as ~~Chairperson for the Board~~ **Chair**.

F. Recreation Director, secretary, assistants.

~~———— (1) ——— If a sufficient appropriation has been provided for, the Board of Recreation Commissioners~~ **Recreation Committee, with the consent of the Mayor and Council,** may appoint a Recreation Director for a term not to exceed three years. **Salary recommendations will be made to Mayor and Council during annual budget process.** ~~—, a secretary or clerk, and such number of custodians, supervisors and assistants for the several playgrounds and recreation areas under its control as they shall think necessary, and fix and determine their salaries. Such expenses are subject to and limited by the annual appropriation approved by the Mayor and Council and income received.~~

~~(2) ——— Such secretary or clerk will keep minutes of each meeting of the Board of Recreation Commissioners and provide copies thereof to the members, alternate members and ex officio members, the Mayor and Council, the Public Works/Business Administrator, and the Chief Financial Officer. In addition, such secretary or clerk shall prepare for the Chairperson of the Board all correspondence, shall~~

~~prepare, in consultation with the Chairperson, an agenda for each meeting, shall keep possession of all records and communications of the Board (except financial records which are to be kept by the Chief Financial Officer), and shall follow up to make sure that the decisions of the Board are carried out.~~

G. Finances.

(1) The Mayor and Council shall annually fix, determine and appropriate a sum sufficient for *the activities of the Recreation Committee.*

~~the care, custody, policing and maintenance of such playgrounds and recreation places and for the expenses of the Board of Recreation Commissioners which shall be raised by taxation in the same manner as other taxes, and shall provide a suitable office or offices for the Board of Recreation Commissioners.~~

(2) The Chief Financial Officer shall oversee all expenditures and purchases for recreational activities. In the Fall of each year, the ~~Chief Financial Officer~~*Recreation Committee* shall, at the direction of the ~~Board of Recreation Commissioners~~*Chief Financial Officer*, prepare a proposed budget for submission to the Mayor and Council for the next calendar year. The Chief Financial Officer shall keep track of all expenditures and revenues for recreational activities during the course of the budget year so that recreational expenditures are consistent with budgeted amounts and all revenues are accounted for.

(3) Expenditures of the ~~Board of Recreation Commissioners~~*Recreation Committee* are limited by its annual appropriation as approved by the Mayor and Council, and such funds it has from fees collected.

(4) All monies received *by the Recreation Committee* ~~by the Board of Recreation Commissioners~~ shall be paid over to the Town Chief Financial Officer, and be held by him/her kept in a special fund, ~~under the control of the Board of Recreation Commissioners~~ and used only for the purpose of defraying the expenses of improving, maintaining, or policing the playgrounds and recreation places and for the other appropriate expenses of the ~~Board~~*Committee*.

H. Acquisition of property. The ~~Board of Recreation Commissioners~~*Recreation Committee* shall have no power to incur any obligation in the name of the Town or on the Town's account, except for expenditures within the ~~Board's Committee's~~ appropriation as made by the Mayor and Council, and any expenditure shall be in accordance with the fiscal affairs rules imposed by law.

~~(1) — The Board of Recreation Commissioners may investigate and recommend the lease or purchase of lands and present estimates of costs and proposed improvements to the Mayor and Council, which are vested with the power to decide such issues and appropriations. The power to purchase, lease, condemn, or to decline such actions as to such lands is within the powers of the Mayor and Council.~~

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~~———— (2) ——— The title to all lands acquired or taken shall vest in the Town of Clinton, and all leases shall be in the name of the Town of Clinton.~~

I. Fees and charges.

(1) The ~~Board of Recreation Commissioners~~ **Mayor and Council** shall, within the first two months of its creation *the adoption of this ordinance establishing the Recreation Committee*, with the assistance of the Chief Financial Officer, will determine the nature and amount of all revenue sources from those who pay to use Town facilities or services and shall then cause to have prepared an ordinance establishing a charge therefor. The ordinance may permit certain charges of a fluctuating nature to be set by the Mayor and Council by yearly resolution. Thereafter, services for recreation activities shall only be imposed pursuant to the charges established by law.

(2) Charges for the use of ~~Board of Recreation~~ **Town properties and** facilities shall be as follows:

<b>Facility</b>	<b>Charge</b>
Field use	To be established by yearly resolution
Use of Community Center	To be established by yearly resolution
User charge for participation in summer recreation program	To be established by yearly resolution
Registration fee for Clinton Basketball League	To be established by yearly resolution
Tennis program	To be established by yearly resolution

J. Violations of rules and regulations. The ~~Board of Recreation Commissioners~~ **Mayor and Council**, when adopting suitable rules and regulations for use of the playgrounds and recreation areas, and the conduct of all persons while on or using the same, may recommend to the ~~Mayor and Council~~ that provision be made by ordinance that violations be a disorderly persons offense, and that penalties be set for such offenses by ordinance.

**SECTION 2.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4.** This Ordinance shall take effect upon final passage and publication according to law.

ROLL CALL: AYES: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

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Vote all ayes  
Motion carried

A copy of this ordinance will be published in the January 21, 2021 edition of the Hunterdon Review. A public hearing will be held February 10, 2021.

**RESOLUTION #40-21 – ELECTRICAL SUPPLY SERVICES**

Mr. Phelan, Business Administrator, explained that an online auction had taken place to get the best rates for the Town for street lighting. The process has proven itself over the past few years with a 7 ½ % reduction in cost. A motion was made by Ms. Karsh, seconded by Ms. Dineen, to adopt Resolution #40-21 as submitted:

**RESOLUTION 40-21**

**A RESOLUTION OF TOWN OF CLINTON AUTHORIZING THE PURCHASE OF  
ELECTRICAL SUPPLY SERVICES FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE  
FOR PUBLIC STREETLIGHTS**

WHEREAS, the Town of Clinton has determined to move forward with the EMEX Reverse Auction in order procure electric services for the Town of Clinton; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) (the “Act”) authorizes the purchase of electric service for public use through the use of an online auction service; and

WHEREAS, the Town of Clinton will utilize the online auction services of EMEX, LLC, an approved vendor pursuant to the Act, waiver number EMEX LLC-1, located at [www.energymarketexchange.com](http://www.energymarketexchange.com); and

WHEREAS, EMEX, LLC is compensated for all services rendered through the participating supplier that a contract is awarded to; and

WHEREAS, the auction will be conducted pursuant to the Act.

NOW BE IT RESOLVED, that the Mayor of the Town of Clinton hereby authorize the Public Work’s Business Administrator to execute on behalf of the Town of Clinton an electric contract proffered by the participating supplier that submits the winning twenty-four (24) month bid in the EMEX Reverse Auction.

Vote all ayes  
Motion carried

**RESOLUTION #41-21 – CHANGE ORDER NO 1 VALVE PROJECT**

A motion was made by Ms. Dineen, seconded by Ms. Karsh, to adopt Resolution #41-21 as submitted:

**RESOLUTION #41-21**

**CHANGE ORDER NO. 1**

**WHEREAS**, the need has arisen for a change order to the Water Valve Exercising and Replacement Phase I Project; and

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**WHEREAS**, there was an increase in the amount of time to complete the project, and;

**WHEREAS**, the original contract days projection was 75 days and the proposed increase is 365 Days, bringing the total adjusted contract amount to 440 Days in order to reconcile as-built quantities;

**WHEREAS**, based on the as-built quantities and unit prices proposed by the contractor for various size valve assessments, resulting in a reduction in contract value of \$2,290.00;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Town of Clinton that Change Order Number 1 for the Water Valve Exercising and Replacement Phase I Project be approved.

ROLL CALL: AYES: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes  
Motion carried

**SPECIAL EVENTS AND BANNER APPLICATIONS – SUNRISE ROTARY**

Several applications were submitted for upcoming events by the Sunrise Rotary:

Cardboard Boat Race	July 10, 2021	8am to 1:00 p.m.
Memorial Fishing Derby	May 1, 2021	7:30 a.m. to noon
Memorial banner	April 19 – May 3	
Great Rubber Ducky Race	July 11, 2021	10 a.m. to noon
Ducky banner	June 28 – July 12	

Motions made by Ms. Johnson seconded by Mr. Humphrey to approve the Cardboard Boat Race as requested.

Vote all ayes  
Motion carried

Motion made by Ms. Dineen, seconded by Ms. Intrabartola to approve the Memorial Fishing Derby and banner request.

Vote all ayes  
Motion carried

Motion made by Ms. Intrabartola, seconded by Ms. Karsh to approve the Great Rubber Ducky Race and banner as requested.

Vote all ayes  
Motion carried

**BANNER REQUESTS – RED MILL MUSEUM VILLAGE**

Several banner requests were submitted for events to be held at the Red Mill Museum Village:

	<u>BANNERS</u>	<u>EVENT DATE</u>
Military Heritage Day	April 5 – 11	April 11
Summer Program Sign Up	May 3 - 10	Weeks of 6/21; 7/6-20; 8/2-16
British Car Day	May 24-30	June 5

Kids Day	August 2-8	August 8
30 <sup>th</sup> Haunted Red Mill	Sept 27-Oct 10	Oct. 15, 16, 22, 23, 29, 30
Winter Village /Tree Festival	Nov. 8 – 15	Nov. 26, 27, 28

A motion was made by Ms. Dineen, seconded by Ms. Intrabartola, to approve the banner requests as submitted.

Vote all ayes  
Motion carried

### **CORRESPONDENCE**

Hunterdon Art Museum sent out cards to council giving dates of exhibits and workshops through May, 2021.

### **REPORTS OF COUNCIL**

#### **Tara St. Angelo, Attorney**

Ms. St. Angelo reported that this is her last Council Meeting until she returns in May, 2021. Ms. St. Angelo is going on maternity leave! Ms. St. Angelo will be missed and everyone wished her well! Mr. Cushing will be returning to cover the Clinton meetings in her absence.

#### **Councilwoman Karsh**

Economic Development Committee will meet January 26, 2021 at 7:30 p.m. The Committee is anxious to hear what the Governor has to offer following his words of signing the Economic Recovery Package yesterday. Ms. Karsh is arranging to meet with Paul Muir, the director of the Clinton Guild, to discuss their events for the coming year.

#### **Councilman Humphrey**

Environmental Commission has three vacancies. Currently the members are Veronique Lambert, Chairwoman, Shade Tree liaison, John Kashwick and Mr. Humphrey, himself. Discussions were held as to possibly making parallel commissions with Shade Tree, combing membership, minutes, meetings, etc. Mr. Kashwick will bring the proposal to the Shade Tree at their next meeting.

Mr. Humphrey recently asked that all Council representatives review their committees, commissions and boards currently on the website and report the appropriate changes so that the website stays current. Next Newsletter is the March issue and articles are requested early February.

Clinton Fire Department – Chief Hedden celebrating his son’s birthday so no report. A membership application was accepted for Anthony C. Frezza, 14 Patton Street, High Bridge, NJ. A motion was made by Mr. Humphrey, seconded by Ms. Johnson, to accept Mr. Frezza as a member.

Vote all ayes  
Motion carried

#### **Councilwoman Dineen**

Land Use Board – re-organization was held January 5, 2021. Congratulations to Craig Sailer remaining as Chair and Tamara Healy as Vice Chair.

Conditional Use Variance was granted to the Holiday Inn to become an assisted living facility. Next meeting is January 19, 2021. Also a completeness review for the Clinton House.



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Roads Committee – Town is applying for a DOT Grant for sidewalk repairs to be made under the Route 78 overpass on Leigh Street. Union Road and Georges Place design is complete and Town will be going out for bid soon.

Introduction of an ordinance to seek funding for Center Street project, a presentation will be made so that everyone will understand the ordinance and the project prior to introduction.

Ms. Dineen thanked Chief Kubinak for a successful search for a new solar panel speed sign with batteries compatible with our current signs.

Ms. Dineen also wanted to thank the DPW and Water Department for their being dedicated employees, whatever the time or weather, they are responsive to water main breaks that have been happening way too often recently!

**Councilman Traphagen**

South Branch Emergency Services reported 351 calls for the previous month and a total of 3,736 calls for 2020. Word of caution, the number of calls increased due to COVID-19 and a reminder to be cautious and stay safe.

**STANDBY AND OVERTIME**

A motion was made by Ms. Dineen, seconded by Ms. Intrabartola, to approve the standby and overtime attached to these minutes for the period December 11 through December 24 and the period of December 25, 2020 to January 7, 2021.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes  
Motion carried

**PAYMENT OF BILLS**

A motion was made by Mr. Humphrey, seconded by Ms. Johnson, to approve the voucher list as attached to these minutes for the period of December 25, 2020 through January 7, 2021.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes  
Motion carried

**ADJOURNMENT**

There being no further business, a motion was made by Mr. Traphagen, seconded by Ms. Dineen, to adjourn the meeting at 8:02 p.m.

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Cecilia Covino, RMC/CMC  
Municipal Clerk

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Janice Kovach, Mayor

