

4450

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

Flag Salute.

Roll Call: Present – Carberry, Pendergast, Smith, Sosidka, Mayor Kovach
Absent - Dineen, Rylak

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.”

APPROVAL OF MINUTES

A motion was made by Mr. Smith, seconded by Mr. Carberry to approve the minutes of the Council Meeting held September 13, 2016.

Vote all ayes
Motion carried

APPROVAL OF EXECUTIVE SESSION MINUTES

A motion was made by Ms. Sosidka seconded by Mr. Carberry to approve the Executive Session Meeting minutes of September 13, 2016.

Vote all ayes
Motion carried

APPROVAL OF MONTHLY REPORTS – SEPTEMBER

A motion was made by Mr. Carberry seconded by Ms. Sosidka to approve the monthly reports for the month of September as submitted:

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

Vote all ayes
Motion carried

PUBLIC COMMENT

Roger Mellick, 64 Center Street, came before council to introduce himself as the new chairperson of the Historic Commission and to request additional funds for the joint project being planned with the Red Mill Museum Village. Richard Miller, 18 Georges Place, also a member of the Historic Commission and on the Board of Trustees at the Red Mill, accompanied Mr. Mellick to explain the 100 Year Celebration of World War I to open at the museum on April 6, 2017. This commemorative exhibit will be the biggest exhibit ever held at the Red Mill. Mr. Miller distributed a WWI Centennial Exhibit Overview to Council for review and an exhibit budget with a total estimated cost of \$5,519.00. The Historic Commission is requesting an additional \$700.00 in the budget to work in conjunction with the Red Mill to produce this significant anniversary experience. Mr. Miller gave an interesting history of WWI and the statistics were startling. He also stated that they will be inviting local VFW and American Legions to come to the exhibit and

4451

Mr. Smith suggested the Red Mill ask them if they would consider a donation towards the exhibit. Mr. Cushing suggested they reach out to Gebhardt & Keifer, certainly they would consider making a donation! Mr. Carberry asked what other funding mechanisms the Red Mill has considered and Mr. Miller said they have already received a \$2,000.00 grant and are waiting to hear from other foundations about potential grants. Mayor Kovach asked Kathy Olsen, CFO, if we could find it in this year's budget but Ms. Olsen said we would have to wait until December to see. Mr. Smith made a motion that Council definitely consider the request, seconded by Mr. Carberry. Mr. Pendergast suggested having this as an agenda item on the first Council meeting agenda in December.

Vote all ayes
Motion carried

RECOMMENDATION OF LAND USE BOARD – REDEVELOPMENT

A motion was made by Mr. Pendergast, seconded by Ms. Sosidka to open the discussion regarding the recommendation of the Land Use Board Redevelopment Area. Paul Balasic, currently a resident of Maryland but longtime homeowner in the Town of Clinton, who has property at 45 West Main Street, currently occupied by his son, Christopher, and another location on Leigh Street, came before Council to discuss his home on West Main Street and his concern with the properties that have been named in the redevelopment plan. Mr. Balasic has a deep backyard that is land locked (Block 25, Lot 8) and must gain access through the adjacent driveway leading in from the Agway property known as Block 25, Lot 20. Mr. Balasic is not interested in giving up Block 25, Lot 8 and would like to be able to have an outbuilding erected in the future. Mr. Balasic asked if a zoning change is in the plan. Mayor Kovach said they are not making zoning changes and would only involve parties interested in being included in the re-development plan. Councilman Carberry said the plan is in a preliminary planning stage at this time. Mixed uses are allowed on West Main Street and that will continue. The plan is to manage what a developer comes in for and refuse something that does not fit and in keeping traffic in mind. The Master Plan is also in review for making updates. Mr. Balasic said he supports the efforts and the time Council has devoted to the plan.

A motion was made by Mr. Pendergast, seconded by Ms. Sosidka to accept the recommendation of the Land Use Board.

Vote all ayes
Motion carried

MAYOR'S COMMENTS-NONE

PUBLIC HEARING OF ORDINANCE ##16-11 – CAPITAL ORDINANCE FOR SEWER UTILITY

A motion was made by Mr. Pendergast, seconded by Mr. Smith, to open the public hearing of Ordinance #16-11:

ORDINANCE #16-11

CAPITAL ORDINANCE OF THE TOWN OF CLINTON SEWER UTILITY AUTHORIZING THE MAKING OF IMPROVEMENTS IN, BY AND FOR THE TOWN OF CLINTON SEWER UTILITY AND APPROPRIATING THERETO THE SUM OF \$40,000.00 FROM THE SEWER CAPITAL RESERVES FOR PURCHASE OF PUBLIC WORKS EQUIPMENT

Vote all ayes
Motion carried

4452

There being no public comment, a motion was made by Mr. Smith, seconded by Mr. Pendergast, to close the public portion of the meeting.

Vote all ayes
Motion carried

A motion was made by Mr. Pendergast, seconded by Mr. Smith, to adopt Ordinance #16-11 on final reading.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

INTRODUCTION TO ORDINANCE #16-12 – SUBMISSION REQUIREMENTS FOR APPLICATIONS FOR DEVELOPMENT CONFORMING TO THE HIGHLANDS REGIONAL MASTER PLAN

A motion was made by Mr. Carberry, seconded by Ms. Sosidka, to adopt Ordinance #16-12 on first reading as submitted:

**TOWN OF CLINTON
HUNTERDON COUNTY, NEW JERSEY**

ORDINANCE #16-12

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF CLINTON TO UPDATE SUBMISSION REQUIREMENTS FOR APPLICATIONS FOR DEVELOPMENT

WHEREAS, the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.) was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring the natural resources of the New Jersey Highlands Region, in particular the water resources, which provide drinking water to over 5 million New Jersey residents; and

WHEREAS, the Highlands Act created the Highlands Water Protection and Planning Council (the “Highlands Council”) and charged it with crafting a comprehensive master plan for the New Jersey Highlands Region; and

WHEREAS, the Highlands Regional Master Plan was adopted by the Highlands Council through the adoption of Resolution 2008-27 on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, Resolution 2008-27 included the adoption of Highlands Regional Master Plan as well as the adoption of various technical reports and guidelines that accompanied the Plan including the 2008 Plan Conformance Guidelines; and

WHEREAS, the Plan Conformance Guidelines provide an overview of the Highlands Act’s bifurcated system for municipal conformance with the Highlands Regional Master Plan – mandatory Plan Conformance for any portion (or if applicable, the whole) of a municipality located within the

4453

Preservation Area and voluntary Plan Conformance for any portion (or if applicable, the whole) of a municipality lying within the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan within 15 months of the effective date of adoption thereof, or December 8, 2009; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

WHEREAS, the Plan Conformance Guidelines detail the requirements for Plan Conformance including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources; and

WHEREAS, the Plan Conformance Guidelines require conforming municipalities to adopt Initial Revisions as a first step of Plan Conformance; the initial revisions are revisions of the existing master plan and development regulations which are deemed necessary by the Highlands Council for prompt enactment by a petitioning local government in order to ensure the protection and enhancement of the resources of the Highlands Region; and

WHEREAS, the Plan Conformance Guidelines include the adoption of a Development Application Checklist Ordinance as an Initial Revision in order to ensure that any Application for Development not be deemed complete until such time as certain documents have been submitted by the Applicant and to ensure that Applications for Development are consistent or revised to be consistent with the Regional Master Plan; and

WHEREAS, the Town of Clinton is located in the Highlands Region with lands lying within both the Preservation Area and the Planning Area, as defined by section 7 of the Highlands Act; and

WHEREAS, the Governing Body of the Town of Clinton has, on behalf of the municipality, petitioned the Highlands Council for Plan Conformance with respect to Town lands located within both the Planning Area portion and the Preservation Area portion of the Highlands Region; and

WHEREAS, the Petition filed with the Highlands Council contains proposed amendments to the municipal planning program, including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources located within the Town; and

WHEREAS, the Governing Body finds that the proposed changes to the municipal planning program are of broad and significant effect, are vital to the protection of the Highlands resources of the municipal Highlands Area, and are compelling to the interests and general welfare of the community; and

4454

WHEREAS, the Governing Body recognizes that the formal municipal adoption of each component of the revised planning program must take place, in sequential order in accordance with all statutory requirements, involving public hearings and deliberation by the Environmental Commission Land Use Board, and Governing Body; a process that will require an additional undetermined period of time; and

WHEREAS, the Governing Body is aware that lands within the Planning Area are not regulated by the New Jersey Department of Environmental Protection's Highlands Rules (N.J.A.C. 7:38-1 et seq.) and, with the exception of Wastewater Management Plans and Water Allocation Permits, would remain without the full suite of Highlands Regional Master Plan protections during the interim period between the date of filing of the Petition for Plan Conformance and the adoption of ordinances and regulations that will provide such protections; and

WHEREAS, an immediate level of protection to the resources located within the Highlands Region by adoption of revised submission requirements pertinent to Applications for Development therein is required by the Plan Conformance Guidelines; and

WHEREAS, the adoption of revised submission requirements pertinent to Applications for Development therein is essential to ensuring that Applicants achieve compliance with the standards and protections required under the Highland Regional Master Plan despite the interim status of the municipal Plan Conformance ordinances and regulations, this interim period not constituting an appropriate instance in which municipal approvals based upon existing municipal regulatory requirements, can appropriately be issued conditioned upon subsequent approval by the Highlands Council or the New Jersey Department of Environmental Protection (NJDEP), as may occur under usual circumstances; and

WHEREAS, the Governing Body finds that the adoption of such submission requirements are important not only to provide such immediate resource protections, but to ensure the proper management of Applications for Development involving lands within the Highlands Area of the municipality; and

WHEREAS, the Highland Council deems the immediate protections ascribed by this Ordinance to lands in the Planning Area and the Preservation Area of the municipality, eligible for application of the provisions of the Highlands Act at N.J.S.A. 13:20-22 and N.J.S.A. 13:20-24 regarding legal representation to municipalities filing for Plan Conformance and regarding the strong presumption of validity and extraordinary deference afforded to such ordinances;

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Town of Clinton that the Land Use Ordinance of the Town of Clinton be and is hereby amended to incorporate the following provisions:

SECTION 1. APPLICABILITY

This Ordinance shall apply to any Application for Development within the Town of Clinton that seeks approval of a site plan, subdivision, or change in use, where approval of such Application would:

- A. For residential development, create three (3) or more dwelling units;
- B. For non-residential development:

1. Result in the ultimate disturbance of one (1) acre or more of land;
2. Produce a cumulative impervious surface area of one-quarter ($\frac{1}{4}$) acre, or more; or
3. Introduce or expand on any of the following land uses/facilities:
 - a) Landfills;
 - b) Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
 - c) Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials;
 - d) Industrial treatment facility lagoons; or
 - e) Any Major or Minor Potential Contaminant Source (as identified in Appendix A and Appendix B of this Ordinance, respectively) on lands located within 200 feet of the wellhead of any public community well or public non-community well, as these are defined at Section 4 below.

All thresholds in A. and B., above, shall be interpreted to apply cumulatively over time, beginning as of the effective date of this Ordinance. If or when any one of the thresholds is reached, the Ordinance shall apply to any and all development in excess of that threshold. Where an application proposes a mixed use, the thresholds in B., for non-residential development shall apply to the whole of the project, while that in A., shall apply to the residential component. For purposes of this Ordinance, the phrases “Application for Development,” “Highlands Area,” “residential development,” “ultimate disturbance,” and “cumulative impervious surface area” shall be defined as provided at Section 4 below.

SECTION 2. ADMINISTRATIVE COMPLETENESS

A. CONSISTENCY DETERMINATIONS REQUIRED. No Application for Development included in Section 1 above, shall be deemed complete or considered for review by the applicable Town Land Use Board until and unless the Applicant has obtained and provided a copy of:

1. A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan; or
 2. A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan, accompanied by a certification, as detailed in Section 2.B below, by the Applicant’s professional(s) that the application has been revised since review by the Highlands Council to achieve consistency with the Highlands Regional Master Plan.
- B. FINDINGS OF INCONSISTENCY. Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan, no such application shall be deemed complete or considered for review by the

applicable Town Land Use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant's plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the application has been revised to achieve consistency with the Highlands Regional Master Plan and specifically describing the revisions made to achieve such consistency.

C. CHECKLIST WAIVER. The Town may issue a waiver from the provisions of this Section where it can be established by the Applicant and can be verified by the designated representative(s) of the Town that:

1. The activity, improvement or development proposed by the subject Application for Development has not yet been formally determined to be exempt from the Highlands Act (see Section 3.B, below), but eligibility for an exemption has been sufficiently established by the Applicant; or
2. The activity, improvement or development proposed in the Application for Development will neither encroach upon a Highlands Resource or Highlands Resource Area, nor be of detrimental impact to any Highlands resource or Highlands Resource Area as these are identified and delineated in the Highlands Regional Master Plan. The Applicant's professional(s) responsible for preparation of the Applicant's plan shall establish compliance of the above through a formal certification specifically addressing the Highlands Resources and Resource Areas and related policies and objectives as identified in Chapter 4 of the Highlands Regional Master Plan.

D. HIGHLANDS COUNCIL CALL-UP. All municipal waivers or findings of application completeness issued pursuant to this Section shall be issued in writing, inclusive of a statement indicating the rationale for the determination. All such determinations shall be subject to Highlands Council call-up review, and shall include conditions requiring same consistent with this paragraph. The municipality shall within five (5) calendar days of issuance of all such determinations, provide a copy of the decision to the Applicant and to the Highlands Council. The Highlands Council call-up review period shall expire 15 calendar days following its receipt of same. Upon determining to exercise this authority for call-up review, the Highlands Council shall transmit notice to the Applicant and the municipality. Absent any such notification from the Highlands Council within that timeframe, the application shall be considered complete, with the date of the waiver or finding of application completeness to be as of the date of first issuance by the municipality.

SECTION 3. EXCLUSIONS AND EXEMPTIONS

A. EXCLUSIONS. The following specific improvements and related applications shall be excluded from the provisions of this Ordinance:

1. The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
2. Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.

3. Any Agricultural or Horticultural Use or Development that would not result in either:

- a. An increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) to the total land area of a Farm Management Unit. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Section 4, below); or
- b. Construction of three (3) or more residential dwelling units (including accessory dwelling units) served by individual on-site septic system(s).

B. EXEMPTIONS. Any activity, improvement or development project listed and demonstrated to constitute a Highlands Act exemption shall be exempt from the provisions of this Ordinance. Formal demonstration of a Highlands Act exemption for an Application for Development involving lands located (or partially located) in the Highlands Area shall consist of one of the following:

1. *State Agency Determination.* State Agency Determinations shall include either, a Highlands Applicability Determination (HAD) issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by the Highlands Council for a Planning Area proposal, in either case, indicating that the proposal qualifies as a Highlands Act Exemption.
2. *Municipal Determination.* Pursuant to a future Town Ordinance to be entitled “Town of Clinton Highlands Area Exemption Ordinance”, for any application involving Highlands Act Exemptions #1, #2, #4, #5, #6, #7, or #8, the applicant may request and shall be deemed to have satisfied the evidentiary requirement by obtaining a Municipal Exemption Determination issued by the Municipal Exemption Designee, provided such Determination indicates that the proposal qualifies as a Highlands Act Exemption. Once the Highlands Area Exemption Ordinance is in place, the applicant may rely upon the findings of a Municipal Exemption Determination to the same extent and with the same protections as would apply in the case of a Highlands Exemption Determination issued by the Highlands Council or of a HAD issued by the NJDEP.

SECTION 4. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

Agricultural or Horticultural Development – means construction for the purposes of supporting common farm site activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Agricultural or Horticultural Use – means the use of land for common farm site activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Agricultural Impervious Cover – means agricultural or horticultural buildings, structures or facilities with or without flooring, residential buildings and paved areas, but not meaning temporary coverings.

Applicant – means a developer submitting an Application for Development.

Application for Development – means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

Disturbance – means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Disturbance, Ultimate – means the total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

Farm Management Unit – means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

Highlands Council – means the New Jersey Highlands Water Protection and Planning Council.

Highlands Act – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 et seq.

Highlands Applicability Determination (HAD) – means the determination made by the NJDEP of whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan.

Highlands Area – means that portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands Regional Master Plan.

Highlands Region – means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

Impervious Surface – means any structure, surface, or improvement that reduces or prevents absorption of storm water into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

Impervious Surfaces, Cumulative – means the total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot, parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

Major Potential Contaminant Sources (PCS) – means land uses and activities determined by the Highlands Council to pose a major risk of ground water contamination (see Appendix A).

Minor Potential Contaminant Sources (PCS) – means land uses and activities determined by the Highlands Council to pose a minor risk of ground water contamination (see Appendix B).

Municipal Land Use Law (MLUL) – means the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

NJDEP – New Jersey Department of Environmental Protection

NJDEP Preservation Area Rules – means the regulations established by the NJDEP to implement requirements of the Highlands Act, titled “Highlands Water Protection and Planning Act Rules,” and codified at N.J.A.C. 7:38-1 et seq.

Planning Area – means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

Plan Conformance – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Guidelines.

Public Community Well – means a well that provides water to a public water system serving at least 15 service connections used by year-round residents or regularly serving at least 25 year-round residents.

Public Non-Community Well – means a well that is not a public community well and that provides water to a public water system regularly serving at least 25 individuals for at least 60 days in any given calendar year.

Preservation Area – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

Regional Master Plan (RMP) – means the Highlands Regional Master Plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

Solar Panel – means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array. (As defined by the Highlands Act, N.J.S.A. 13:20-1 et seq, as amended.)

Structure – means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

SECTION 5

If any portion, paragraph, clause, sentence or phrase of this Ordinance is determined to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions of this Ordinance.

SECTION 6

All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 7

This Ordinance shall take effect after final passage and publication in the manner prescribed by law.

APPENDIX A. MAJOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Major Potential Contaminant Sources include those listed below.

1. Underground fuel and chemical storage and oil tanks regulated by NJDEP under provisions of the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.).
2. Above-ground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
3. Automotive service center (repair & maintenance).
4. Dry cleaning processing facility.
5. Road salt storage facility.
6. Cemetery.
7. Highway maintenance yard.
8. Truck, bus, locomotive maintenance yard.
9. Site for storage and maintenance of heavy construction equipment and materials.
10. Site for storage and maintenance of equipment and materials for landscaping, excluding household storage and maintenance of such equipment.
11. Livestock operation containing 300 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] as defined by the NJ Department of Agriculture in its Criteria and Standards for Animal Waste Management, at NJAC 2:91.
12. Quarrying and/or mining facility.
13. Asphalt and/or concrete manufacturing facility.
14. Junkyard/auto recycling and scrap metal facility.
15. Residential or agricultural motor fuel in NJDEP exempted underground storage tanks (i.e., under 1,000 gallons).

APPENDIX B. MINOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Minor Potential Contaminant Sources include the following:

1. Underground storage of hazardous substance or waste of less than 50 gallons.
2. Underground heating oil storage tank with a capacity of less than 2,000 gallons.
3. Sewage treatment facility regulated by a NJPDES permit granted under NJAC 7:14A.
4. Industrial waste line.
5. Septic system disposal field.
6. Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C 7:14A et seq.
7. Storm water retention-recharge basin on an industrial property receiving runoff from surfaces other than roof areas.
8. Dry well on an industrial property receiving runoff from surfaces other than roof areas.
9. Waste oil collection, storage and recycling facility.
10. Agricultural chemical bulk storage and mixing or loading facility including crop dusting facilities.
11. Above-ground storage of hazardous substance or waste in quantities of less than 2,000 gallons.
12. Livestock operation containing 8 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] or those receiving 142 or more tons of animal waste per year as defined by the NJ Department of Agriculture pursuant to its Criteria and Standards for Animal Waste Management, at NJAC 2:91.

-B1-

Vote all ayes
Motion carried

A summary of this ordinance will be published in the October 19 edition of the Hunterdon Review. A public hearing will be held November 8, 2016.

RESOLUTION #110-16 – HIGH SCHOOL REFERENDUM QUESTION

Council discussed the resolution that refers to the North Hunterdon-Voorhees Regional High School District Board of Education Referendum Question on the November 2016 ballot. At a recent meeting, Francis Goger, Board member, attended the meeting to explain to Council the improvements that would be made if the referendum was approved. Council had questions at that time and asked for clarification, which they received from the Board Superintendent, Jeffrey Bender. Below is the resolution that the Board asked Council to adopt.

DRAFT

RESOLUTION # 110-16

**In Support of
North Hunterdon-Voorhees Regional High School District Board of Education
Referendum Question on November 2016 Ballot**

WHEREAS the Town of Clinton is a municipality within the North Hunterdon-Voorhees Regional High School District, and students in this municipality attend school in the North Hunterdon-Voorhees Regional High School District in grades 9 through 12;

WHEREAS the North Hunterdon-Voorhees Regional High School District Board of Education has approved a referendum question to be placed on the general election ballot on November 8, 2016, seeking voter approval for the sale of bonds for projects at North Hunterdon and Voorhees High Schools to maintain safe school facilities and improve students' learning environment;

WHEREAS the projects to be funded upon voter approval include the following, all of which have been reviewed and approved by the New Jersey Department of Education:

- **Replacement of most windows at North Hunterdon High School**
- **Replacement of all windows at Voorhees High School**
- **Renovations of the library/technology center at North Hunterdon High School**
- **Renovations of the library/technology center at Voorhees High School**
- **Upgrades to HVAC (heating, ventilation, air conditioning) system at North Hunterdon High School**
- **Replacement of the stadium visitor bleachers with ADA upgrades at Voorhees High School**
- **Replacement of stadium visitor/band bleachers and tennis court bleachers at North Hunterdon High School**
- **ADA accessibility to home stadium bleachers at Voorhees High School**
- **Renovation of the athletic field house at North Hunterdon High School**

WHEREAS the proposed projects would benefit all students of the North Hunterdon-Voorhees Regional High School District, including students residing in the Town of Clinton;

WHEREAS the total estimated cost of the proposed projects is not to exceed \$9,743,000; and if the referendum is approved, the State of New Jersey will provide \$2,888,800 in debt service aid, reducing the cost of the projects to be borne by local taxpayers to \$6,854,200; and such state aid will be granted only if the referendum receives voter approval;

WHEREAS, simultaneous with the issuance of bonds for the projects, the North Hunterdon-Voorhees Regional High School District will retire its existing debt on previous projects, which existing debt required a larger annual debt service payment than the proposed projects; and therefore the proposed projects will result in NO ADDITIONAL TAXES for local taxpayers;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Town of Clinton finds that the projects listed above at North Hunterdon and Voorhees High Schools would benefit all students in the regional high school district, including students residing in Clinton Town, and would result in no additional taxes for local taxpayers; and

BE IT FURTHER RESOLVED that the Mayor and Council of the Town of Clinton hereby expresses its support for the referendum question to be placed on the general election ballot, seeking voter approval for the sale of bonds for projects at North Hunterdon and Voorhees High Schools, and

BE IT FURTHER RESOLVED that the Council urges voters to vote YES on the referendum question on November 8, 2016; and

BE IT FURTHER RESOLVED that a copy of this Resolution shall be sent to the Board Secretary of the North Hunterdon-Voorhees Regional High School District Board of Education, and a copy shall be attached to the minutes of this meeting of the Regular Council Meeting and published on the website of the Town of Clinton.

Council continued their discussion referring to the projects listed. Mr. Pendergast stated that he could not support all the work after hearing there has been such a decline in enrollment and said maybe one of the schools should close. Ms. Sosidka thought the School Board only wanted Council to get the word out about the referendum. Mr. Carberry stated he felt the facilities need to be updated but agrees with declining the resolution. Mr. Smith said he can see updating the HVAC system at North Hunterdon but with regard to replacing windows at Voorhees, unless they are broken, cannot support doing that. Ms. Sosidka said for a school in Hunterdon County, one of the wealthiest in the State, the schools are in poor condition, referring specifically to North Hunterdon, the school that she is most familiar with. Mr. Pendergast agreed that some things need to be done, but not everything. Mr. Smith said it is up to the individual voters to make a decision on how to vote and that it is not Council's position to tell people how to vote. Mr. Cushing suggested encouraging people to explore the North Hunterdon – Voorhees Regional High School District website and urge voters to educate themselves.

A motion was made by Mr. Carberry, seconded by Mr. Smith, to accept Resolution #110-16 as submitted.

ROLL CALL: Ayes: Carberry
Nay: Pendegast, Smith, Sosidka, Mayor Kovach Motion failed

A motion was made by Mayor Kovach encouraging voters in the community to educate themselves on the referendum and to encourage and ensure they go out to vote in November. Voters can go to the North Hunterdon-Voorhees Regional High School District website for additional information, motion was seconded by Mr. Smith.

RESOLUTION #111-16 – ANNUAL CURFEW

Mr. Smith questioned the dates inserted into the Resolution beginning with October 7 running through November 4. How can the curfew begin on October 7 when today is already October 11? The resolution was amended as stated. A motion was made by Mr. Pendergast, seconded by Mr. Carberry to adopt Resolution #111-16 as amended.

RESOLUTION #111-16

WHEREAS, the period immediately prior and subsequent to Halloween, and the holiday time period commencing October 11 and continuing through November 4, 2016, a time when persons under the age of eighteen and others often engage in mischief, acts of vandalism, and other petty disorderly offenses which are harmful to and interfere with the rights of citizens to use the streets and public areas of the Town of Clinton; and

WHEREAS, the Chief of Police of the Town of Clinton has determined, after due investigation and deliberation, that the incidence of juvenile delinquency within the Town will or may reach such a level of frequency or severity so as to present a clear and present danger to the public peace, safety, health, morals and welfare of the Town; and

WHEREAS, the Chief of Police has studied and evaluated to question of the public safety and health in the Town of Clinton and has determined that the safety of the public and the welfare of juveniles will be enhanced if a nocturnal curfew is imposed limiting the ability of persons under the age of eighteen to use the streets and public areas of the Town of Clinton.

WHEREAS, Chapter 60 of the Ordinance of the Town of Clinton authorizes the imposition of a curfew.

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

- (A) Based on an oral report submitted to the Mayor and Council by the Chief of Police, the Mayor and Council hereby declare that a temporary emergency exists in the Town of Clinton during the period from Tuesday, October 11, 2016, up to and including Friday, November 4, 2016; and
- (B) The Mayor and Council do hereby declare a curfew commencing at 9:00 p.m. October 11, 2016, up to and including 6:00 a.m. November 4, 2016. The terms of the curfew shall be consistent with Chapter 60 of the Code of the Town of Clinton.
- (C) Notice of this curfew shall be posted in accordance with Section 60-8 of the Ordinance of the Town of Clinton in such places as may be designated by the Chief of Police so as to give all interested parties notice of the imposition of the curfew.

Vote all ayes
Motion carried

RESOLUTION #112-16 – PURCHASE TRUCK FOR SEWER DEPARTMENT

A motion was made by Mr. Carberry seconded by Mr. Pendergast to adopt Resolution #112-16 as submitted:

RESOLUTION #112-16

WHEREAS, the Town of Clinton Sewer Utility wishes to purchase a 2017 Ford F350 Pickup Truck from an authorized vendor under the Morris County Cooperative Pricing Council (MCCPC);

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

WHEREAS, Ditschman/Flemington Ford has been awarded the MCCPC Contract #15-C, Item #21 effective November 1, 2015 to October 31, 2016; and

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

WHEREAS, the actual cost for the Pickup Truck is expected not to exceed \$35,568.00; and

WHEREAS, the Chief Financial Officer has certified the availability of \$35,568.00 under the Sewer Utility Capital Budget;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Clinton, that Ditschman/Flemington Ford be awarded a contract for the purchase of a Pickup Truck.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

RESOLUTION #113-16 – CANCELLATION OF LIEN

A motion was made by Mr. Carberry, seconded by Ms. Sosidka, to adopt Resolution #113-16 as submitted:

RESOLUTION # 113-16

WHEREAS, the Tax Collector of the Town of Clinton has been paid \$1,145.13, the amount necessary to redeem Tax Sale Certificate #2015-1 on Block 1, Lot 19, assessed to Moises Sarmiento, and purchased by US Bank Custodian BV001 Trust & Crdtrs.

NOW THEREFORE BE IT RESOLVED, on this 11th day of October, 2016 by the Mayor and Council of the Town of Clinton, County of Hunterdon, that the Chief Financial Officer be authorized to issue a check in the amount of \$1,145.13 to US Bank Cust BV001 Trust & Crdtrs, 50 South 16th Street, Suite 2050, Philadelphia, PA, 19102-2513 MTAG, upon receipt of the Original Tax Sale Certificate endorsed for cancellation, and

BE IT FURTHER RESOLVED that the Tax Collector be authorized to cancel Lien #2015-1 on Block 1, Lot 19, assessed to Moises Sarmiento, from the Town of Clinton Tax Records.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

WATER REFUNDS

Water Collector, Nancy Burgess, is requesting a water refund in the amount of \$20.20 payable to George Sims. A motion was made by Mr. Smith, seconded by Mr. Carberry to issue the refund as requested.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

A second request in the amount of \$71.49 payable to Kurt Sweely. Motion made by Mr. Carberry, seconded by Ms. Sosidka to issue the refund as requested.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

REQUEST TO REFUND PERFORMANCE GUARANTEE – CRAIG STEM

Craig Stem has completed a project at the Shammy Shine 2 on Route 173 and all inspections have been done and is requesting his performance bond be terminated. Mr. Clerico, Town Engineer, has reviewed the improvements made and based on his recommendation to release the performance guarantee posted

for the project, a motion was made Mr. Carberry, seconded by Ms. Sosidka to release the bond as requested.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

REVIEW OF BEST PRACTICES

Kathy Olsen, CFO, distributed copies of the Best Practices Survey which is required by the Department of Community Affairs to be reviewed by Council. Ms. Olsen, along with Rich Phelan, Administrator, completed the survey. Some policy changes will take place in the upcoming year in regards to the Personnel Policy and the process that the Tax Assessor will report in writing to the Tax Collector the number of tax appeals by June 1st. The Tax Assessor currently reports verbally to the Collector, but it will now be done in writing. Making these changes will improve our responses, however, we scored 90% on the survey and will not be losing any State aid.

CORRESPONDENCE - NONE

REPORTS FROM COUNCIL

Councilman Smith

Rescue Squad - reported 256 calls for the month of September and 2,567 calls year to date. Those numbers are up 224 over 2015 while covering the same area.

Buildings and Grounds – steps have been replaced in the Lower Center Street parking lot which lead down to the alley near the drug store. The concrete must cure for 28 days before the railings can be installed. Once the parking lot is paved the black top will be even with the steps.

A tree must be removed from the driveway at De Mott Pond. Quotes are being solicited.

The electrical panel near the Hunterdon Art Museum has been replaced and secured with a lock.

Roads Committee - Town Engineer has inspected the three municipal parking lots and has marked out where improvements need to be completed before paving.

The pedestrian improvement project on West Main Street is currently on hold while the engineer looks into the Transportation Trust Fund.

The paver reimbursement program was terminated in 2009. However, a quasi-town official made a commitment to reimburse an individual recently so the Town will have to find funds to make the payment. Mr. Smith said a resolution should be prepared stating that the project is terminated and reimbursements will not be made any longer. Property owners laying pavers will still have to conform to the standards on Main Street. A motion was made by Mr. Carberry, seconded by Mr. Pendergast, to state in writing that the paver reimbursement has been terminated since 2009.

Vote all ayes
Motion carried

Ms. Sosidka would like to encourage beautification throughout the Town, and suggested the possibility that the Conservancy, with their 501© 3 status, can raise funds to continue beautifying the Town outside the realm of butterfly plantings.

Richard P. Cushing, Esq. Town Attorney

Mr. Cushing updated Council regarding Affordable Housing obligations and confirmed that the Town of Clinton is part of the group contesting the requirements. Contributions are being sought to continue the litigation in the amount of \$5,000.00. The attorneys are fighting the battle by coming up with an equitable resolution to provide housing. The Town has an intervenor related to the Moebus Tract. Mr. Carberry asked if an agreement is reached for the Town, is the Town still bound? Mr. Cushing said no, and that the Town would get word early and the Town would get input of the process and can decide whether to take advantage of the decision or not. A motion was made by Mr. Carberry, seconded by Mr. Pendergast to make the \$5,000 payment and to adopt Resolution #114-16 as prepared by the Town Attorney. The Mayor and Clerk are hereby authorized to execute the amended shared services defense agreement attached herewith.

RESOLUTION #114-16
AUTHORIZING EXECUTION OF
AMENDED SHARED SERVICES DEFENSE AGREEMENT

WHEREAS, the Town of Clinton has filed a Declaratory Judgment Action 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, 57 similar Declaratory Judgment Actions are before Judge Miller in Vicinage 13;

WHEREAS, many of these municipalities (collectively the "Vicinage 13 Municipal Group") wish to cooperate collectively regarding the strategy and development of discovery, motions, briefs, and trial practice that may be used in the above-referenced Declaratory Judgment Actions, thereby saving time and monies for individual municipalities;

WHEREAS, the Town executed a Municipal Shared Services Defense Agreement for Vicinage 13 (hereinafter "Vicinage 13 MSSDA") to participate in the Vicinage 13 Municipal Group; and

WHEREAS, due to various municipalities settling the litigation and withdrawing from the group and the costs of preparing for numerous depositions and an eventual trial, the Vicinage 13 Municipal Group requires each municipality to contribute an additional \$5,000; and

WHEREAS, an Amended Municipal Shared Services Defense Agreement for Vicinage 13 (hereinafter Amended Vicinage 13 MSSDA"), has been prepared (attached hereto) (a) so that monies can be collected; and (b) so that the rights and responsibilities of each municipality that wishes to sign the agreement are defined; and

WHEREAS, due to prolonged litigation before the Appellate Division and Supreme Court, a trial in Vicinage 13 has been delayed, requiring the Vicinage 13 Municipal Group to apply to extend immunity from builder's remedy lawsuits past the October 31, 2016 deadline.

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

1. The terms and conditions of the Vicinage 13 MSSDA attached hereto are hereby approved, ratified and confirmed.
2. The amount of \$5,000 is hereby authorized to be expended by the Town of Clinton.

3. A certification of funds authorizing the aforesaid expenditure has been signed by the Chief Financial Officer of the Town of Clinton and is appended hereto.
4. The Mayor be and is hereby authorized to execute the aforesaid Amended Vicinage 13 MSSDA to memorialize the participation of the Town of Clinton and to take any and all actions reasonably required to effectuate said Agreement.
.
5. This Resolution shall take effect immediately.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

Councilman Pendergast

1. Sewer Committee – the plans to start the sewer re-lining project on Halstead Street have been postponed due to equipment difficulties. Email blasts will go out once rescheduled.
2. Fire Department - Clinton Fire Department has accepted a junior application for membership from Patrick Hill, 11 Twin Oaks Lane, Annandale, NJ. A motion was made by Mr. Pendergast, seconded by Ms. Sosidka, to accept the membership as submitted.

Vote all ayes
Motion carried

There are large signs that can be placed on abandoned buildings if the home is unsafe to enter. These signs are placed on the property to warn construction officials and firefighters about entering if there is a fire. The signs are red, 2 x 2 ft with reflective borders. The chief is getting ordinances from other towns for the Town of Clinton to consider. Ms. Sosidka commented on how putting these signs on abandoned buildings and drawing attention to them will make them look even worse. Mr. Pendergast admitted they are not attractive but for safety reasons and the fact that mutual aid may arrive at a scene before Clinton's fire department, they may not know the circumstances and this measure will ensure safety.

The annual Fire Department banquet is scheduled for December 10, 2016 at Beaver Brook Country Club at 6:00 p.m. Invitations will be forthcoming.

STANDBY AND OVERTIME

A motion was made by Mr. Smith seconded by Mr. Carberry to approve the standby and overtime submitted for the period of September 9 through September 22, 2016 attached to these minutes.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

STANDBY AND OVERTIME

A motion was made by Mr. Carberry seconded by Mr. Smith to approve the standby and overtime submitted for the period of September 23 through October 6, 2016 attached to these minutes.

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

PAYMENT OF BILLS

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

ROLL CALL: Ayes: Carberry, Pendergast, Smith, Sosidka, Mayor Kovach

Vote all ayes
Motion carried

ADJOURNMENT: There being no further business, a motion was made by Mr. Carberry, seconded by Ms. Sosidka to adjourn the meeting at 8:31 p.m.

Cecilia Covino, RMC/CMC
Municipal Clerk

Janice Kovach, Mayor