

**SPECIAL COUNCIL MEETING, 430 WESTFIELD AVE., CLARK, N.J.  
March 7, 2011**

**ROLL CALL:**

Present: Council Members Albanese, Barr, Kazanowski, O'Connor, Toal, Whiting, Mazzarella

Also Present: Mayor Sal Bonaccorso, John Laezza, Business Administrator; Howard Lesnik, filling in for Township Attorney; Edith Merkel, Township Clerk; Richard O'Connor, Township Engineer.

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

Council President Mazzarella: We are going to dispensed with the Pledge of Allegiance for this meeting because we'll do it at our next meeting, our Workshop Meeting, which you boys (speaking to cub scouts in attendance) will be involved with.

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

**ORDINANCES, APPROPRIATIONS AND CLAIMS:**

**PUBLIC HEARING ON PROPOSED ORDINANCES:**

(No objections have been received in connection with the proposed Ordinance)

**Ordinance 11-08**

**AN ORDINANCE TO ESTABLISH AND COLLECT USER FEES FOR THE  
COLLECTION AND TREATMENT OF WASTEWATER AND THE REPEAL OF  
ORDINANCE NUMBERS 06-06, 06-14, 06-22, 09-01, 09-06, 10-05, AND 11-04**

Council President Mazzarella opens the Public Hearing on Ordinance 11-08

Marge Berson, 7 Winters Court: Question regarding sewer charges. 1. RVSA fees to Clark went down by 21% from 2009 to 2010 if there was a 21.4% reduction in what Clark was charged by this Sewerage Authority, why wasn't that passed on to the citizens? 2. If we are paying the same rate, let's roll it back into taxes and give us all of the advantage of a tax deduction for the couple of a hundred dollars that it is. There doesn't seem to me to be a point for this separate utility that we now have. (Questions were condensed. Full text is available in the Clerk's office)

John Laezza: I'd be happy to answer. I would question 21.4% reduction. I think it was probably a reduction to the Township of Clark from a 17% charge to a 15% charge from a thirteen month charge, so it's about a 4% reduction, #1.

Mayor Bonaccorso: Marge, don't look at the budget numbers. You have to look at percentage that we owe to the Rahway Valley, that's what Mr. Laezza is saying 17% down to 15%, that's what we pay on. The overall budget means nothing to Clark, it's the share of what we owe, correct.

Marge Berson: Right but isn't this...are these...can I show you this piece of paper. This shows what the municipality was charged in 2009 4.2 million and charged in 2010 3.3 million.

John Laezza: And in 2011 it's 3.188 million.

Marge Berson: Okay so it's holding nicely, finally they are getting their act together a little.

John Laezza: Okay but we have both a treatment system and a collection system. We pay for the collection system. Our budget is four million dollars. We have to generate sufficient revenue from sewer users to bring in four million dollars. We don't just pass through because we have to take care of the collection system. The sewers that run through the ground in Clark are our responsibility; the water that goes through those sewer systems we pay for. And those sewer systems get clogged we pay for them and when they break we repair them. So that's another point. Point #3 if you recall when we were paying the four million and up, we were getting one million to one million six from Gypsum, US Gypsum is gone. We still pay because it's a five year average. So our costs are as if we were getting sewerage from Gypsum, we are paying that. And so we have to reallocate our funds, subsequently an increase because we had to cover a million five that we were not collecting. And so that has to be distributed basically to our residents and to the other users. So that over the five thousand and sixty-three users we have in town, families and property that we have in town, four thousand three hundred and that seventy-eight are paying minimum and the others are paying from three hundred to two hundred thousand dollars.

Council President Mazarella: I might add we went to court to see if they can rescind that determination on the five year rolling average and the court sided with the Sewerage Authority.

Mayor Bonaccorso: We were also turned down by the courts and negotiation with apartment dwellings on Lexington and Sweetbriar in that area that we were billing them one way and the court said no we have to bill them another way. #2 and this is you know stuff we haven't talked about and your questions are good questions...by rolling it back into the taxes, you will have absolutely zero services, you will have no services and that's a point in fact a 2% budget putting that back in. When you look at your...I mean John you are a CPA on a \$200.00 bill, I mean what are you writing off most average, \$35.00 or \$40.00. (John Laezza: \$30.00 max) I personally would pay the extra \$30.00 to have bulky clean-up, to have leaf collection, to have recreation for both seniors and the youth in town, to be able to put salt and plow the roads as efficiently as we can when we have those storms, etc. and so on. If you look at the Township of Cranford right now they are laying off public safety people, police and fire because of the sewer, and they are decreasing recreation. I was on a Mayor's Forum with them two weeks ago and I got to talk to them about it, so like I said most of the towns are doing what we are doing now in the collection of the wastewater and you know also like John said to you that when we get a call at 2 am that a sewer is clogged and we have to call out men on overtime, part of putting that budget together over the years was us trying to figure how much of our DPW are going to use on the work of the

underground piping and you know when the pump stations go down, we have pump stations by us that pump the sewerage obviously and it's very expensive and this is all part of the treatment that goes in. So you know it's not just how much you and I use, it's a host of different things.

Marge Berson: So the pump station is ours to maintain.

Mayor Bonaccorso: Pump stations along with collections. Even Marge and I'm very much in favor of the RVSA billing you, me and all of us like PSE&G does, like NJ American Water and everybody and which they should. We would still have to make some kind of business arrangement with them to say okay we need some of that money in the municipalities and I've talked about this with the Mayor of Rahway and Woodbridge, to fix and repair, maybe they will do the main trunk lines going down to their plant but the other lines going in the township will still have to be reimbursed for the work we do, because they don't do that down there, they process the wastewater and we do everything else. So it's really unfair and it's a burden like I said in 2006 that none of us need or want and you know we're doing this kind of work and spending professional time in answering good questions and we have no problem with that and they are down there collecting all the money and you know we are not getting anything out of it but grief unfortunately.

John Laezza: One last response. If we picked up the four million dollars in our regular budget for property taxes, it would be a six hundred dollar tax increase as a minimum that anybody had a hundred thousand dollars assessment. So the bill would go up six hundred dollars instead of two hundred twenty-five and #2 that four million dollars would be three million eight hundred thousand dollars over the 2% cap that the government is giving us to work on.

Marge Berson: I understand you can't do it now in this environment, I understand that.

Mayor Bonaccorso: And if they didn't do it what we did and a lot of these towns are screaming but I'm saying when we were in relativity in good shape considering the (tape inaudible) and you know I'm talking with Assemblyman Bramnick and Mayor Aschenbach and other Mayors (tape inaudible) we are not in that bad of shape because like Mayor Aschenbach asked on the talk show that if Cranford could exclude the sewerage fees from the 2% cap and like we said well then you would have to take out the gas, electric, and the water in town because it's a utility, so that's never going to happen and Cranford went to do it on an assessed valuation of the home values. So if you were living in a home that you know let's say has a market value of eight hundred thousand but its one or two people, you will literally be paying more than a family of six living in a Cape Cod style home which is crazy and that's so unfair it's unbelievable. At least under this rate you will be paying the minimum fee where two people wouldn't go over that number. So we hope we answered your questions.

Marge Berson: You answered them, thank you.

Mayor Bonaccorso: Thank you for your questions.

Seeing no one else come forward Councilman Kazanowski made a motion to close the Public Hearing on Ordinance 11-08, seconded by Councilman O'Connor

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, O'Connor, Toal, Whiting, Mazzarella

Motion to adopt made by Councilwoman Whiting, seconded by Councilman Barr

Further Discussion: None

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, O'Connor, Toal, Whiting, Mazzarella

Ordinance adopted

**RESOLUTIONS:**

**Resolution 11-43**

RESOLUTION OF THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, NEW JERSEY, PRESCRIBING THE DETAILS AND BOND FORM FOR \$2,426,000 GENERAL IMPROVEMENT REFUNDING BONDS (SERIES 2011), DATED MARCH 17, 2011, AUTHORIZING THE ACCEPTANCE OF AN OFFER TO PURCHASE SAID BONDS AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH

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WHEREAS, the refunding bond ordinance hereinafter described has been duly adopted and it is necessary to provide for the issuance of the refunding bonds authorized by such bond ordinance; NOW, THEREFORE,

BE IT RESOLVED by the Township Council of the Township of Clark, in the County of Union, New Jersey (the "Township"), as follows:

Section 1. There shall be issued at this time \$2,426,000 of the refunding bonds (the "Bonds") authorized pursuant to the refunding bond ordinance adopted by the Township Council of the

Township on January 18, 2011 (Ord. No. 11-01) (the "Bond Ordinance"). The Bonds are being issued to refund \$2,396,000 aggregate principal amount of the Township's outstanding General Improvement Bonds, dated September 15, 1997 and maturing in annual installments on September 15 of each year from 2011 to 2013, inclusive (the "Refunded Bonds"). The proceeds of the Bonds will be used to (A) redeem the Refunded Bonds on April 21, 2011 at the redemption price of 100% of the principal amount thereof, plus accrued interest to the redemption date, and (B) pay the costs of issuance of the Bonds. The Township Council hereby specifically and irrevocably elects to redeem the Refunded Bonds on April 21, 2011 at a redemption price of 100% of the principal amount thereof, plus accrued interest to the date of redemption.

Section 2. The Bonds shall be issued as a single issue of bonds, aggregating \$2,426,000 consisting of an issue of bonds of the minimum authorized denomination of \$100,000 each with integral multiples of \$5,000 in excess thereof (except for one odd piece in the final maturity), numbered in the order of their maturity. Said issue shall be payable in annual installments on September 15 in each year as follows:

\$810,000 in the year 2011,  
\$820,000 in the year 2012, and  
\$796,000 in the year 2013.

The Bonds shall be designated "General Improvement Refunding Bonds (Series 2011)". The indebtedness evidenced by each Bond shall be deemed to have been incurred for the purpose described in the Bond Ordinance and in this resolution.

Section 3. The Bonds shall be dated March 17, 2011, and shall bear interest from their date until their respective maturities at the rate of 1.85% per annum, payable on each March 15 and September 15, commencing September 15, 2011 (each, an "Interest Payment Date"), in each year until maturity. The Bonds shall not be subject to redemption prior to their stated maturities.

Section 4. The Bonds will be issued in fully registered form. Interest on the Bonds will be payable at the times stated in Section 3 of this resolution, and principal of the Bonds will be paid annually on September 15 as set forth in the maturity schedule hereinbefore stated, to the registered owners of the Bonds. Interest will be payable to owners of Bonds shown on the records of the Bond Registrar/Paying Agent (as hereinafter defined) as of the last business day of the month preceding the month in which such Interest Payment Date occurs.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

Section 5. The Bonds shall be signed by the Mayor by manual or facsimile signature and by the Director of Revenue and Finance by manual or facsimile signature, the corporate seal of the Township shall be imprinted, affixed or reproduced thereon, and such seal shall be attested by the Township Clerk or Deputy Township Clerk by manual or facsimile signature. The Bonds will be authenticated by the manual signature of the Bond Registrar/Paying Agent.

Section 6. Each of the Bonds shall be issued in substantially the following form:

[Form of Bond]

No. R-\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF NEW JERSEY  
COUNTY OF UNION  
TOWNSHIP OF CLARK  
GENERAL IMPROVEMENT REFUNDING BOND (SERIES 2011)

| <u>INTEREST RATE</u><br><u>PER ANNUM</u> | <u>MATURITY DATE</u> | <u>DATED DATE</u> |
|--|----------------------|-------------------|
| 1.85%                                    | SEPTEMBER 15, 201_   | MARCH 17, 2011    |

REGISTERED OWNER: BANK OF AMERICA, N.A.

PRINCIPAL SUM: -----DOLLARS

The Township of Clark, a municipal corporation of the State of New Jersey, located in the County of Union (hereinafter referred to as the "Township"), for value received, hereby acknowledges itself indebted and promises to pay to the REGISTERED OWNER named above, on the MATURITY DATE specified above, upon surrender hereof, the PRINCIPAL SUM stated above and to pay to the REGISTERED OWNER hereof interest thereon from the DATED DATE of this Bond until it shall mature at the INTEREST RATE PER ANNUM specified above, payable on each March 15 and September 15, commencing September 15, 2011 (each, an "Interest Payment Date"), of each year until maturity. This Bond is not subject to redemption prior to its stated maturity. The principal hereof is payable at the office of the Director of Revenue and Finance, Municipal Building, 430 Westfield Avenue, Clark, New

Jersey 07066 (the "Bond Registrar/Paying Agent"). The interest so payable on any such Interest Payment Date will be paid to the person in whose name this Bond is registered on the record date for such interest, which shall be the last business day of the month preceding the month in which such Interest Payment Date occurs. Both the principal of and interest on this Bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof.

This Bond is one of an issue of Bonds of like date and tenor, except as to number, denomination and maturity, issued pursuant to the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes, as amended) and pursuant to a refunding bond ordinance adopted by the Township Council of the Township on January 18, 2011 (Ord. No. 11-01) and a resolution adopted by the Township Council of the Township on March 7, 2011. The Bonds are issued in minimum authorized denominations of \$100,000 each with integral multiples of \$5,000 in excess thereof (except for one odd piece in the final maturity).

The Bond Registrar/Paying Agent shall keep at its office the books of the Township for the registration of transfer of Bonds. The transfer of this Bond may be registered only upon such books and as otherwise provided in the hereinabove mentioned resolution upon the surrender hereof to the Bond

Registrar/Paying Agent together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar/Paying Agent. Upon any such registration of transfer, the Bond Registrar/Paying Agent shall deliver in exchange for this Bond a new bonds or bonds, registered in the name of the transferee, of authorized denomination, in an aggregate principal amount equal to the unredeemed principal amount of this Bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of New Jersey to exist, be performed or happen precedent to or in the issuance of this Bond exist, have been performed and have happened, and that this Bond, together with all other indebtedness of the Township, is within every debt and other limit prescribed by the Constitution or statutes of said State.

The full faith and credit of the Township are hereby pledged irrevocably to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond shall not be valid or become obligatory for any purpose until the Certification of Authentication hereon shall have been signed by the Bond Registrar/Paying Agent.

IN WITNESS WHEREOF, the Township has caused this Bond to be signed by its Mayor by manual or facsimile signature and by its Director of Revenue and Finance by manual or facsimile signature and its seal to be impressed, affixed or reproduced hereon, and said seal to be attested by its Township Clerk by manual or facsimile signature, and this Bond to be dated March 17, 2011.

[SEAL]

(manual or facsimile signature)  
Mayor

ATTEST:

(manual or facsimile signature)  
Township Clerk

(manual or facsimile signature)  
Director of Revenue and Finance

AUTHENTICATION DATE: MARCH 17, 2011

CERTIFICATION OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned resolution, and is one of the General Improvement Refunding Bonds (Series 2011), dated March 17, 2011 of the Township of Clark, in the County of Union, State of New Jersey.

Director of Revenue and Finance,  
as Bond Registrar/Paying Agent

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_,'  
the within Bond, and irrevocably appoints

\_\_\_\_\_,'  
attorney-in-fact, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without any alteration whatsoever.

Signature Guaranteed:

Section 7. Bonds may, upon surrender thereof at the office of the Bond Registrar/Paying Agent together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar/Paying Agent, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the Township upon the surrender thereof to the Bond Registrar/Paying Agent together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar/Paying Agent. Upon any such registration of transfer, the Bond Registrar/Paying Agent shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar/Paying Agent shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Bond Registrar/Paying Agent. The Township or the Bond Registrar/Paying Agent may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made for exchanging or registering the transfer of Bonds under this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such

Bond, including interest thereon, to the extent of the sum or sums so paid.

The Township shall appoint such registrars, transfer agents, depositories or other agents and make such other arrangements as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to the then commercial standards for the timely payment of principal and interest with respect to the Bonds. The Director of Revenue and Finance is hereby appointed registrar and paying agent for the Bonds (the "Bond Registrar/Paying Agent") subject to the right of the Township Council to appoint another Bond Registrar/Paying Agent, and, as such, shall keep at the Municipal Building, 430 Westfield Avenue, Clark, New Jersey 07066, the books of the Township for the registration, registration of transfer, exchange and payment of the Bonds.

Section 8. The Mayor, the Director of Revenue and Finance and the Township Clerk are hereby authorized and directed to cause the Bonds to be prepared and to execute and deliver the Bonds upon payment of the purchase price therefore.

Section 9. The Bonds are hereby sold to Bank of America, N.A. (the "Purchaser") in accordance with its

proposal received on March 4, 2011 at an interest rate of 1.85% per annum and a purchase price equal to the par amount of \$2,426,000. The sale of the Bonds at private sale upon such terms and at such purchase price is hereby determined to be in the best interests of the Township. A proposal was also received from Columbia Bank to purchase the Bonds at par at an interest rate of 1.90% per annum.

Section 10. The Township Council hereby covenants on behalf of the Township, to the extent permitted by the Constitution and the laws of the State of New Jersey, to do and perform all acts and things permitted by law and necessary to assure that interest paid on bonds, notes or other obligations of the Township (including the Bonds) be and remain excluded from gross income of the owners thereof for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code").

Section 11. The Township hereby designates the Bonds as "qualified tax-exempt obligations" for the purpose of Section 265(b) (3) of the Code. It is hereby determined and stated that (1) the Bonds are not "private activity bonds" as defined in the Code and (2) the Township and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of new money tax-exempt obligations (other than private activity bonds) during the

calendar year 2011. The Township will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, the Township does not covenant to do so, and expressly states that a covenant is not made hereby.

Section 12. The Mayor, the Director of Revenue and Finance and the Township Clerk are hereby authorized and directed to execute and deliver such documents and to take such actions as they determine to be necessary or appropriate in order to effectuate the issuance and sale of the Bonds and the refunding of the Refunded Bonds, including, without limitation, the execution and delivery of all closing documents and certificates and any agreements concerning the investment of funds to be used to redeem the Refunded Bonds.

Section 13. The Director of Revenue and Finance is hereby authorized and directed to deliver the Bonds to the Purchaser upon receipt of the purchase price therefore.

Section 14. This resolution shall take effect immediately upon its adoption.

Moved by Councilman O'Connor, seconded by Councilwoman Whiting

John Laezza: Council President before we have a vote on this I would like to fill in the

public on what’s happening. We owed two million four hundred thousand dollars in bonds that were coming due in April 2011. September 2011 and September 2012 and September 2013 that had interest rates of 4.875%, 4.9% and 4.9%. We are refinancing like if you refinance your mortgage and we are getting 1.85% and we will generate a seventy-nine thousand dollar savings to your taxpayers.

Discussion: None

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, O’Connor, Toal, Whiting, Mazzarella

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**Resolution 11-44**

**WHEREAS** Resolution 11-38, adopted February 22, 2011 authorized refunds of overpayment of sewer fees in the amount of \$5,967.53; and

**WHEREAS** refund numbers 1 through 18 were authorized by prior Resolutions with the remaining refunds handled through the billing process resulting in duplicate authorization.

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of the Township of Clark that Resolution 11-38 is hereby rescinded in its entirety.

Moved by Councilwoman Whiting, seconded by Councilman Barr

Discussion: None

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, O’Connor, Toal, Whiting, Mazzarella

**PUBLIC COMMENTS:**

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

Council President Mazzarella opens the public portion of the meeting

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

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, O’Connor, Toal, Whiting, Mazzarella

**MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:**

Mayor Bonaccorso: No comment.

Councilwoman Albanese: I just want to thank Ms. Berson for her questions this evening.

Councilman Barr: To Ms. Berson I hope your questions were answered, thank you.

Councilman Kazanowski: No comment.

Councilman O'Connor: No comment.

Councilman Toal: No comment.

Councilwoman Whiting: No comment.

Council President Mazarella: No comment.

Attorney Triarsi: Nothing now.

Township Clerk: No comment, thank you.

Richard O'Connor: No comment.

**ADJOURNMENT:**

Motion to adjourn was made by Councilman Kazanowski, seconded by Councilwoman Albanese

Council President Mazarella directed roll call:

Aye: Albanese, Barr, Kazanowski, O'Connor, Toal, Whiting, Mazarella