

Agenda
Town Council Regular Meeting
Wednesday, December 2, 2020 at 8:00 AM
Via GoToMeeting Teleconference

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1. Pledge
2. Visitors
3. Approval of Minutes – November 18, 2020
4. Appointments/Reappointments
Appointment
Peter Mezzetti (D) Cable TV Advisory Board Town Representative until 6/30/22
5. Morgan High School Yearbook
6. Line Item Transfer Request from the Building Department
7. Adjustment to Planning & Zoning Fees for 9-15 John Street
8. Chairman's Report
9. Town Manager's Report
10. Town Council Committee Liaison Reports
11. Executive Session – Personnel, pursuant to CGS 1-200(6)(A)
12. Appointment to Public Works Truck Driver Vacancy
13. Adjourn

The Morgan School

Morgan High School Yearbook

Please consider taking your Fall Sports and/or Winter Sports sponsorships (if cancelled) and replacing it with a donation for the

2020/2021 High School Yearbook

YOUR BUSINESS AD WILL BE SEEN FOR YEARS AND YEARS!!

Make the High School Yearbook more affordable for students, especially the Senior class, and their parents! Please!

Morgan's yearbook costs \$80.
CT's average cost of a yearbook is \$68

With 15-25% of all students at Morgan having a hard time even paying for a school lunch **(over 50% nationally and this fact JUST made the national news actually)**, students who want a yearbook are being denied the full impact of the High School Yearbook experience when they graduate because their families cannot afford it.

Remember your high school yearbook? Remember gathering signatures from your friends, classmates, teachers and mentors? Do you recall how you look back at those pictures disbelieving that you ever were involved with that fashion and those hair trends?

Our goal is to get a yearbook into the hands of every student who wants one, yet face financial hardship, through the generous support of individuals and businesses...ESPECIALLY the senior class!

**Help us with a business card size ad in the
yearbook
to help offset the price.**

Next time you think about YOUR yearbook, you'll be able to smile and think of those for whom you have helped!

PROFESSIONAL LISTING – \$75

BUSINESS CARD – \$100 – most popular!!

QUARTER PAGE – \$175

HALF PAGE – \$275

FULL PAGE - \$375

Please inform me and then, please, mail your checks directly into the high school this year. I will let the other organizers know to expect a check from you and your business. **Morgan School, 71 Killingworth Tpke., Clinton, CT., 06413, attn: Shannon Robinson re: Yearbook**


Due to safety concerns we will not be assigning anyone to pick up your donation this school year, unless special attention is required, which continues to be so important to us. Thank you for your continued and renewed support of this important program.

**TOWN OF CLINTON
TRANSFER OF FUNDS REQUEST FORM**

DATE OF REQUEST:	November 23, 2020
DEPARTMENT OF REQUEST:	Building Department
FISCAL YEAR OF REQUEST:	FY20/21
REASON FOR REQUEST:	Consulting services utilized by department not budgeted for John Street apartments

INCREASE ACCOUNT(S)	DESCRIPTION	AMOUNT
014213-53300	Other Professional/Tech Serv	\$700.00
	(Building Dept)	

DECREASE ACCOUNT(S)	DESCRIPTION	AMOUNT
014213-56290	Other (Building Dept)	\$700.00

1) Department Head Signature*:  Date: 11/23/2020

Comments: _____

**when completed forward to Director of Finance for review*

2) Director of Finance:  Funds are available: Yes ☒ No ☐
 Date Approved: 11/23/20 Denied: _____

3) Town Manager: Date Approved: _____ Denied: _____

4) Town Council: Date Approved: _____ Denied: _____

5) Finance Dept: Date Transfer made: _____

INVOICE

AR Consulting, LLC

487 Fort Hale Road
New Haven, CT 06512
(203) 668-4943
andrew.rizzo@att.net

Invoice No.: 20-101
Invoice Date: November 22, 2020
Payment Terms: Net 30 days
Service For: Code Compliance

Bill To: Edward Smith
Building Official
Town of Clinton
54 E, Main St
Clinton, CT

esmith@clintonct.org

9-15 John St

Date(s) of Service	Service Description	Hours Worked	Rate	Amount
August – November, 2020	Plan Review	8	150	\$ 1,200.00

Total Hours: 8

*CT Sales Tax, if Applicable @ 6.35%

Total Due: \$ 1,200.00

Please make checks payable to:
AR Consulting, LLC., 487 Fort Hale Rd., New Haven, CT 06512

THANK YOU FOR YOUR BUSINESS

TOWN MANAGER'S REPORT

TO: Honorable Town Council Members

FROM: Karl F. Kilduff, Town Manager

DATE: December 3, 2020

Please find my report concerning various items of interest to the Town Council and community.

1. Council Business:

- a) FY21-22 Budget: Staff level budget preparation is underway. All budgeted departments were given a charge and expectation of tight budgeting going into FY21-22. Budget submittals will be due later in December to line-up with one-on-one meetings with the Town Manager during January to prepare a budget.

The Town Council should give consideration to the need to maintain the Capital Expenditure Committee. It is a purely advisory body to the Town Manager (previously advisory to the First Selectman).

Additionally, I have been in contact with staff at the Morgan School regarding a possible data science project. One of the possible deliverables that the students could deliver is a budget preference survey. I have used surveys of this nature in the past to gain insight in to public perceptions of services, budget priorities and preferences for changes. The project would require quick turnaround from the students to be used in advance of the FY21-22 budget process. Attached is a survey I used previously to give the Council some insight into the type of questions that are asked.

- b) Bonding Preparation: Work is on-going to prepare for additional bond issuance. Bond Anticipation Notes (BANs) were issued in February of this year. BANs can roll and be carried forward again before they need to be converted in actual bonds. At this point, our plan is to "roll" the BANs one more year and include additional funds to meet the anticipate needs for the Pleasant Valley River Bridge and Kelseytown Bridge. Pleasant Valley has a state contribution of 50% which is front loaded. Kelseytown has a 75% contribution but is a reimbursement program. Work needs to be done now to prepare of going to market again on the BANs in February 2021.

2. River COG:

The next meeting of the River COG will coincide with the Council meeting on December 2, 2020. I will follow-up with COG staff for any important matters that took place during the meeting.

3. CCM:

CCM will hold its next Legislative Committee meeting on December 3, 2020.

4. Miscellaneous:

- a) Insurance Resources: Our insurance broker has assigned one of its risk managers to Clinton. We are hoping to leverage his expertise to mitigate risks generally and employee safety specifically. The Risk Manager will connect with the employee Safety Committee at their next virtual meeting. The Risk Manager is also making connections with the Board of Education too.
- b) COVID: CRAHD is working on a COVID vaccination plan per the State's request. A great number of details need to be ironed out and any triage process for a vaccine really needs policy guidance from the State rather than left to local health departments or towns to determine. The process will likely look different than flu vaccinations.

**TOWN OF CLINTON
2021-22 FISCAL YEAR BUDGET SURVEY**

The Town of Clinton is undertaking a random resident survey on the upcoming Town budget, spending preferences, service quality, and taxes. As the Town faces tough choices, I invite you to share your views with the Town Administration and Town Council.

Please return the survey in the included postage paid envelope by December XX, 2020.

Your survey reply will be kept anonymous and only summary information will be provided to the Town Council in a formal report. Please take advantage of this new opportunity to share your thoughts and participate in the Town's Annual Budget process.

Thank you in advance of taking part in this survey.

Sincerely,

Karl F. Kilduff
Town Manager

SPENDING PRIORITIES 2021-22

Indicate your spending preferences for the following services by checking the appropriate box:

Service	Increase Spending	No Change	Decrease Spending	No Opinion
Education				
Police Protection				
Fire Protection				
Libraries				
Parks & Rec.				
Public Works				
Youth Services				
Town Hall Services				

Indicate your feelings on the quality of the following services:

Service	Very Good	Neutral	Poor	No Opinion
Education				
Police Protection				
Fire Protection				
Libraries				
Parks & Rec.				
Public Works				
Youth Services				
Town Hall Services				

Rank the following services for their importance to you:

Service	Important	Neutral	Not Important	Least Important
Education				
Police Protection				
Fire Protection				
Libraries				
Parks & Rec.				
Public Works				
Youth Services				
Town Hall Service				

Rank the priority of the following: (1=high priority, 9=lowest priority):

Rank	
	Education
	Police Protection
	Fire Protection
	Libraries
	Parks & Recreation
	Public Works
	Youth Services
	Town Hall Services

If the Town Council had to make significant changes to the budget, please indicate your preferences for the following types of budget changes:

	Support	Neutral	Opposed	No Opinion
Reduce the number of personnel				
Cut services benefiting a few				
Reduce the number of services				
Increase fees for services				
Increase taxes and other revenues				
Reduce capital project spending				

Rank the priority of the following budget options from highest to lowest:
(1=high priority, 6 = lowest priority):

Rank	
	Reduce the number of personnel
	Cut services benefiting a few
	Reduce the number of services
	Increase fees for services
	Increase taxes and other revenues
	Reduce capital project spending

TAXES 2021-22

Of the following statements, check the ONE statement that most closely reflects your preference.

- ☐ I would like to see services reduced in order to prevent any tax increase.
- ☐ I would like to see a tax increase at or below inflation if necessary to allow current services to be maintained.
- ☐ I would be willing to pay slightly higher taxes for service improvements.

How would you and your family be affected by a tax increase slightly in excess of inflation? Please check the ONE statement that most closely reflects your situation

- ☐ We could not pay
- ☐ It would have a major negative effect on our life styles
- ☐ It would have a minor negative impact on our life styles
- ☐ It would make little difference

PLEASE TELL US A LITTLE BIT ABOUT YOURSELF:

Do you have children in the school system?
☐ YES ☐ NO

Are you
☐ Employed ☐ Retired
☐ Not presently employed

How many years have you lived in town?
☐ 0-5 ☐ 6-10
☐ 11-15 ☐ 16-20
☐ 21+ ☐

THANK YOU FOR YOUR TIME IN COMPLETING THIS SURVEY!

SUGGESTED MOTION:

That the Town Council, acting as the legislative authority that adopted zoning regulations by ordinance, hereby grants relief to the developer of 9-15 John Street to reduce the land use fees for the development application to the amount equal to the actual costs incurred by the Town to review and process said application.

Town Incurred Charges for 9-15 John Street (Former Unilever)

Vendor:	Invoice Date	Invoice Number	Amount
DTC	January-May 2020	Multiple invoices	1,360.00
Total DTC			1,360.00
CME	January-May 2020	Multiple invoices	
	15 hours @\$175 per Hour	Total CME	2,625.00
Shoreline Publishing			127.00
Special Exception Fee			100.00
State Surcharge			60.00
Total Reimbursable			4,272.00

For the 9-15 John Street project, it would be $\$0.15/\text{sf} \times 60,000 \text{ sf} = \$9,000$ plus $\$5/\text{parking spot} \times 92 \text{ spots} = \460 plus $\$160$ base fee. TOTAL: \$9,620.

That fee is not a whole order-of-magnitude off from our proposed fee of \$4254, but that's just on the smaller Unilever building (9-15 John Street). They ultimately withdrew the re-use Special Exception proposal for 1 John Street, which would propose to re-use over 250,000 square feet of factory with something like 600 parking spaces. That re-use application would start at around \$40,000.

John P. Guskowski, AICP, LEED-AP, ENV-SP
Project Manager – Planning & Landscape Architecture Group
CHA

Certificate of Special Exception

GRANTED BY THE PLANNING AND ZONING COMMISSION
CLINTON, CONNECTICUT

This is to certify that at a Regular Meeting held on **Monday, May 11, 2020**, the Planning and Zoning Commission of the Town of Clinton voted to approve the following:

- Application Number: **SE/CAM 20-004**
- Owner of Record: **9-15 John Street, LLC & R&R Clinton Ventures II, LLC
301 North High Street
East Haven, CT 06512**
- Applicant: **1 John Street Clinton, LLC
301 North High Street
East Haven, CT 06512**
- Applicants Agent: **Christopher Gagnon, P.E., BL Companies, LLC**
- Description of Premises: **9-15 John Street; Map 44, Block 27, Lot 15, Zone TODO**
- Nature of Special Exception: **Multi-tenant Commercial Development**
- Approved Under Section Number: **23, Transit Oriented Development Overlay (TODO)**
- Approved On: **May 11, 2020**
- Conditions:

RESOLVED:

Whereas, the Planning and Zoning Commission of the Town of Clinton, Connecticut, finds that Application SE/CAM 20-004 changing the use of 9-15 John Street from office to multifamily residential meets applicable Zoning Regulations and is harmonious with the goals of the Plan of Conservation & Development and the intent of the Transit-Oriented Development Overlay zoning district;

The Commission hereby approves this application subject to the following findings and conditions:

- 1) The Commission determines that a Shopping Cart Management Plan of Section 4.12.2 is waived as immaterial to determining compliance with the Zoning Regulations;

2) The Commission hereby recommends that the Town Council set an application fee at an amount equal to the cost of review and processing of this application, including legal, engineering, and planning consultant costs, as determined by the Land Use Office. That fee shall be paid prior to filing of final mylars;

3) The applicant shall submit a copy of the representative lease agreement for residential tenants prior to filing of the final mylars;

4) Any increase to the currently proposed 49 bedrooms that would require modifications to parking or wastewater management capacity will require review and approval by this Commission as well as by the relevant State environmental health agency;

5) The applicant shall submit to the Land Use Office any future correspondence with the Office of State Traffic Authority (OSTA) concerning review, modifications, conditions, or approval of the Traffic Study submitted in support of this application; and

6) All of the stipulations made in the May 4, 2020 letter from Robert W. Scully, PE, Supervising Sanitary Engineer, Environmental Engineering Program, Department of Public Health, State of Connecticut, to Ryan T. Grenon, MPA, RS, of the CT River Area Health District, are hereby incorporated as conditions of this approval.

- Notice of the Special Exception Published on: **May 11, 2020**
- A Copy of this Decision has been filed in the Town Clerk's Office.

By



Michael Rossi, Chairman

M. Ellen Dahlgren, Vice Chairman

Mike Knudsen, Secretary

GOULD, LARSON, BENNET, McDONNELL & QUILLIAM, P.C.

ATTORNEYS AT LAW
30 PLAINS ROAD
ESSEX, CONNECTICUT 06426
www.gould-larson.com

JOHN S. BENNET
KENNETH J. McDONNELL*
*Board Certified Trial Lawyer
PAIGE S. QUILLIAM

TELEPHONE
(860) 767-9055
(860) 388-4655

FACSIMILE
(860) 767-2742

March 16, 2020

JAMES H. GOULD (1911-1985)
JOHN E. LARSON (1924-2016)

Mr. Karl Kilduff, Town Manager
Clinton Town Hall
54 East Main Street
Clinton CT 06413

Re: Administrative review fees applicable to
Morgan School site redevelopment

Dear Karl,

You have asked me to consider the matter of the application and review fees applicable to the application before the Planning & Zoning Commission to review the redevelopment of the Morgan School site. You have indicated that according to the Fee Schedule set forth in our Ordinances at Article 2 of Chapter 296, it could amount to approximately \$30,000. You have also indicated the expectation is the actual costs of review and administrative oversight would be substantially below that sum. I would offer the following comments.

By way of background, the authority for such fees is contained in CGS §8-1c, which provides that "Any municipality may, by Ordinance, establish a schedule of reasonable fees for the processing of applications by... municipal land use agencies". I would particularly note the expression "reasonable fees". Our Supreme Court has recognized, for example in Pollio v. Planning Commission of Sommers, 232 Conn.44 (1995) that a municipality has the statutory authority to establish fees not only for basic administrative processing of applications, but also such things as engineering review of constructions plans and inspection during construction. While acknowledging that a town has broad authority under the Act to define processing fees by Ordinance, it is subject to a "reasonableness standard".

By the same token, the Superior Court in the matter of Avalon Properties, Inc., v. IWWC of Trumbull, CV-95-0326999-S, November 15, 1996, Steyens, J., sustained the appeal of a developer who requested a reduction of a \$5,000 application fee. The court found nothing in the record justified the amount of such a fee. The court held that "[W]hen the amount of the fee is contested or appealed, the Commission must be prepared to support the reasonableness of the fee with some evidence. Otherwise the fee would become an arbitrary charge imposed by administrative fiat with no bearing on the reasonableness requirement of [the statute]." In that case, the evidence showed the Commission's expenses were \$427.90 and the court concluded a fee above \$500 was unreasonable, arbitrary and capricious.

In light of decisions of this kind, it is important that whatever fee is charged be based in reality and on the expenses reasonably attributed to the processing of the application. That can include engineering and oversight during construction if reasonably related to the authorities of the Zoning Commission (for example, building code compliance is likely not within the Zoning Commission's authority). I would also note that our own Ordinance at Section 296-2 states that the purpose of the Fee Schedule is to "...establish a schedule of **reasonable fees** for the purpose of funding the **approximate actual** municipal administrative cost of reviewing, evaluating and processing applications....". Particularly note the phrase "actual municipal administrative cost".

Note, also, that Section 7 of the Zoning Regulations of the Town of Clinton repeats this limitation when it provides that any reviewing commission "... shall collect application fees for the purpose of funding the approximate actual administrative costs....".

Therefore, to the extent that the calculation of fees, for example, based on square footage, leads to an unreasonable result, any land use board or commission should consider some relief. In this regard, I would note that Section 296-7 of our Ordinances allows a commission to determine that base fees or a portion, are not required in a particular case, though limited to re-application. The ordinance should, perhaps, be amended to provide for adjustments by the Commission to stay within the reasonableness and actual expense standards.

Should there be a desire to amend the ordinance, it is a legislative act of the town as provided for in that statute and would, therefore, be up to the Town Council to enact an ordinance in the usual fashion as any other ordinance of the town is enacted.

Frequently Zoning Regulations have waiver provisions allowing the Commission to determine that certain requirements of the application process can be waived (See, for example, Section 4.6.6 of our Zoning Regulations, however fees are not mentioned in that section as waivable).

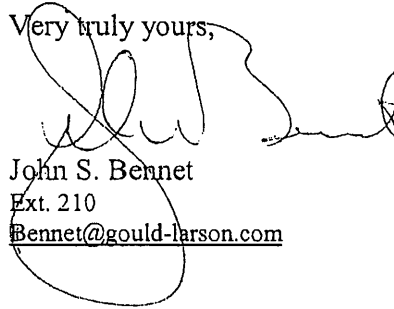
As to your question of who has the authority to amend the specific fee in this instance, there is no clear authority in either the Fee Ordinance or Zoning Regulations. The Ordinance was established by the selectmen who had the legislative authority to adopt regulations. That authority is now in the Town Council. Certainly, the Town Council, being the body to enact ordinances, has the authority to "amend it". It would be my opinion that the Town Council could, in this instance, grant the relief being sought. ←

I don't believe going to the Zoning Board of Appeals with an Application to Amend the Fee is particularly useful. This raises all sorts of questions about needing to establish a hardship, and hardships not being generally financial. There is one case, of which I am aware, in which the attempt was made to go to the Zoning Board of Appeals to get relief from Special Permit Regulations. The court denied that Application as there was no showing of hardship for the Variance. (See Gregorio v. Zoning Board of Appeals of Windsor, 155 Conn. App. 422 (1967))

I think there needs to be consultation with the Planning & Zoning Commission, perhaps, but if one is looking for the ultimate authority, it is the body that enacted the ordinance which can change it or amend it, even in a single instance to grant relief, if necessary. The possibility of litigation as a result of the charging of an excessive fee makes consideration of such relief reasonable.

I would add one other observation with respect to fees. There is nothing inappropriate about requiring a deposit of an amount to cover likely expenses. Some Regulations handle the matter in that fashion and, indeed, our Regulation speaks to that as well. However, there needs to be a process whereby the ultimate fee charge is based on actual expenses and an appropriate refund made if the deposited, or escrowed, sum exceeds actual expenses.

Very truly yours,

A handwritten signature in black ink, appearing to read "John S. Bennet", is written over the typed name and email address.

John S. Bennet

Ext. 210

Bennet@gould-larson.com

JSB/lm