

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – December 29, 2008**

The Special Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 7:30 P.M.

Roll Call: Cioni, Van Deursen, Higgins, Woykowski, Turner, - Present
Housel – 7: 35 p.m.
Oakley - Absent

Also Present: John Corica, Borough Manager
Richard Cushing, Esq. Municipal Attorney
Kristine Blanchard, RMC Borough Clerk

Mayor Van Deursen led everyone in the flag salute.

Mayor Van Deursen read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law, 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of Borough Hall stating the time, place, and purpose of the meeting as required by law.

VOUCHERS AND CLAIMS

Mayor Van Deursen entertained questions or additions to the vouchers and claims for payments that were not previously addressed before the meeting. Motion made by Higgins, seconded by Turner to pay the vouchers and claims in the amount of \$ 270,061.28.

Ayes: 5, Nays: 0
Motion Carried

NEW BUSINESS

Resolution 251-2008 Sewer Refund

Resolution 251-2008 was moved on a motion made by Turner, seconded by Higgins and adopted.

RESOLUTION #251-2008

A RESOLUTION AUTHORIZING THE REFUNDING OF
AN OVERPAYMENT OF THE BOROUGH'S
SEWER SERVICE CHARGE

WHEREAS, according to the Treasurer's records, there is an overpayment showing on the following property; and

<u>BLOCK/LOT</u>	<u>PROPERTY OWNER/ PROPERTY LOCATION</u>	<u>TO REFUNDED</u>
101/13.23	Burke Hammonds 39 Lenape Trail	\$ 45.00

The former owner made an overpayment during the closing procedures on the above property location. A refund of \$45.00 should be mailed to:

Burke Hammonds
16 Bountiful Drive
Independence, NJ 07840

WHEREAS, the Borough Treasurer's office has received a written request that the above amount be refunded.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to refund the above overpayment amount.

Roll Call: Turner, Higgins, Woykowski, Cioni, Van Deursen.

Ayes: 5, Nays: 0
Motion Carried

Resolution 252-2008 Redemption of Tax Sale Certificate

Resolution 252-2008 was moved on a motion made by Higgins, seconded by Turner and adopted.

RESOLUTION # 252-2008

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE
As per N.J.S.A.54:5

KNOW ALL MEN BY THESE PRESENTS, THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on December 4, 2008 to CCTS Capital LLC, 1415 Route 70 East, Suite 504, Cherry Hill, NJ 08034, in the amount of \$6,053.32 for taxes or other municipal liens assessed for the year 2007 in the name of Jimenez, Segundo P/Buzatto, Angela V, as supposed owners, and in said assessment and sale were described as 10 Marble Street, Block 100 Lot 43.01, which sale was evidenced by Certificate #08-00457; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 12-18-08 and before the right to redeem was cut off, as provided by law, Wilshire Credit Corporation/LandAmerica, claiming to have an interest in said lands, did redeem said lands claimed by CCTS Capital LLC, by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$6,371.12, which is the amount necessary to redeem Tax Sale Certificate #08-00457.

NOW THEREFORE BE IT RESOLVED, on this 29th day of December, 2008 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to CCTS Capital LLC, 1415 Route 70 East, Suite 504, Cherry Hill, NJ 08034 in the amount of \$6,371.12.

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 100 Lot 43.01 from the tax office records.

Roll Call: Higgins, Turner, Woykowski, Van Deursen, and Cioni.

Ayes: 5
Nays: 0

Motion Carried

Resolution 253-2008 Budget Transfer

Resolution 253-2008 was moved on a motion made by Higgins, seconded by Turner and adopted.

Roll Call: Higgins, Turner, Woykowski, Housel, Cioni, Van Deursen.

Ayes: 6, Nays: 0
Motion Carried

RESOLUTION # 253 - 2008

A RESOLUTION AUTHORIZING THE TRANSFER OF APPROPRIATIONS

WHEREAS, N.J.S.A. 40A: 4-58 provides for the transfer of excess appropriations by not

less than 2/3 vote of the full membership of the governing body during the last two months of the fiscal year; and

WHEREAS, the Borough Manager and the Chief Financial Officer have determined that excess appropriations do exist in some accounts and there is a need for supplemental appropriations in other accounts.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, that the following appropriation transfers are hereby approved:

<u>Transfer From</u>	<u>Transfer To</u>	<u>Amount</u>
Municipal Clerk SW	Mayor and Council OE	\$1,300
Administrative and Executive SW	Mayor and Council OE	\$113
Tax Collection SW	Tax Assessment OE	\$3,256
Tax Assessment SW	Tax Assessment OE	\$2,726
Gasoline OE	Traffic Lights OE	\$4,400
TOTALS OF ALL TRANSFERS		\$11,795

Resolution 254-2008 Professional Service Agreement Heyer and Gruel

Resolution 254-2008 was moved on a motion made by Turner, Seconded by Higgins and adopted.

Roll Call: Turner, Higgins, Woykowski, Van Deursen, Cioni – Yes
Housel – No

Ayes: 5
Nays: 1 (Housel)
Motion Carried

RESOLUTION # 254 - 2008

A RESOLUTION APPOINTING A PLANNER AS A PROFESSIONAL SERVICE WITHOUT SEEKING COMPETITIVE BIDS.

WHEREAS, there exists a need for professional planning services to conduct a Transfer of Development Rights Feasibility Study (TDR); and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A: 11-1 et. seq.) requires that the resolution authorizing the award of contracts for "Professional Services" without competitive bids must be publicly advertised; and

WHEREAS, Heyer, Gruel & Associates of New Brunswick, New Jersey has agreed to perform professional planning services, as outlined in the grant application to the Highlands Council that they prepared on behalf of the Borough in an amount not to exceed \$25,000; and

WHEREAS, the Highlands Council has awarded a TDR study grant number 08-033-008-2121 to the Borough for \$25,000; and

WHEREAS, the Borough has filed a Chapter 159 with the Division of Local Government Services to include the \$25,000 as an additional item of revenue in the 2008 municipal budget; and

WHEREAS, the services to be provided by, Heyer, Gruel & Associates constitutes professional services that need not be bid pursuant to the Public Contract Law (N.J.S.A. 40A: 11-1 et. seq.).

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey as follows:

1. The Manager and Clerk are hereby authorized and directed to enter into a contract with Heryer, Gruel & Associates to prepare a TDR Feasibility Study as outlined in the Highlands Council Grant Application annexed hereto in an amount not to exceed \$25,000;
2. That said contract is awarded without competitive bidding as professional services in accordance with N.J.S.A. 40A: 11-5; and
3. That said contract shall be contingent upon approval of the Chapter 159 request by the Division of Local Government Services; and
4. Notification of the contract award shall be printed in the Star Gazette.
5. That an executed copy of the contract between the parties be on file with the Office of the Clerk and be available for public inspection in accordance with the law.

Resolution 255-2008 Resolution to Void Checks

Resolution 255-2008 was moved on a motion made by Higgins, seconded by Turner and adopted.

Roll Call: Higgins, Turner, Woykowski, Cioni, Housel, Van Deursen

Ayes: 6, Nays: 0
Motion Carried

RESOLUTION #255-2008

A RESOLUTION TO VOID CHECKS

WHEREAS, check #005145 was written October 8, 2008 in the amount of \$99.75 and check #005170 was written November 6, 2008 in the amount of \$66.50 on Washington Borough's Recreation Fund #8103008888; both checks payable to State of NJ – State Police for criminal history reports; and

WHEREAS, the Treasurer has been advised by the Recreation Secretary that the State Police have changed the procedure for the above reports and these checks are not needed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington that the Treasurer be authorized to void checks #005145 and #005170.

Resolution 256-2008 Agreement – Port Colden Mall

Resolution 256-2008 was moved on a motion made by Higgins, seconded by Turner and adopted.

Roll Call: Higgins, Turner Van Deursen, Cioni, Housel, Woykowski

Ayes: 6, Nays: 0
Motion Carried

RESOLUTION # 256-2008
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
WASHINGTON, WARREN COUNTY, NJ

WHEREAS, the Borough of Washington (“Borough”), Applied Wastewater Management, Inc. (“AWMI”), and Heights Equities entered into an Agreement, effective as of August 17, 2004, for the purpose of providing wastewater services to the Port Colden Mall (“the Mall”) by connecting to the Borough’s sewer system; and

WHEREAS, AWMI was required by the terms of the Agreement to install a Wastewater Flow Meter at or near the Mall to monitor wastewater flow from the Mall to the Borough’s sewer system (“Wastewater Flow Meter”); and

WHEREAS, AWMI failed to install a Wastewater Flow Meter at or near the Mall; and

WHEREAS, the Borough has determined that it will no longer accept wastewater from the Mall unless AWMI and Heights Equities install a Wastewater Flow Meter by a date certain; and

WHEREAS, an Agreement has been proposed among the Borough, Heights Equities and AWMI to amend the 2004 Agreement to provide for the installation of a Wastewater Flow Meter by no later than June 30, 2009 and for the reimbursement of all reasonable engineering and legal fees incurred by the Borough in connection with the installation of the flow meter; and

WHEREAS, the Mayor and Council have reviewed the Amendment to the 2004 Agreement and have determined that it is not in the best interests of the Borough to approve the Amendment because the Mayor and Council have concluded that Heights Equities and AWMI have had more than adequate time to install the Wastewater Flow Meter, that a temporary Wastewater Flow Meter can easily be installed within 14 days, and the Wastewater Flow Meter itself can be installed within 90 days according to the Borough Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, as follows:

1. The Mayor and Council decline to execute the proposed Agreement because it is not in the best interest of the Borough since unmetered sewer flows are being delivered to the Borough and sewer capacity is a vital resource in the Borough.
2. The Manager is hereby directed to terminate sewer service to Heights Equities or the then current owner of the Port Colden Mall if the following conditions are not met:
 - A. Within 14 days of December 29, 2008, a temporary Wastewater Flow Meter is installed which meter must be approved by the Borough Engineer as to type, location, method of installation, and any other reasonable requirements of the Engineer.
 - B. Within 90 days of December 29, 2008, the Wastewater Flow Meter required by the August 17, 2004 Agreement between the Borough, AWMI and Heights Equities is installed in accordance with said Agreement and the reasonable requirements of the Borough Engineer.

Resolution 257-2008 Award of Fire Truck Bid

Councilman Housel stated he has some concerns regarding a possible challenge to the award of the bid based on the comments in Attorney Cushing's letter.

Attorney Cushing stated the issue was raised regarding the alternate bid that is contained within the truck bid received from Pierce. The bid specifications did not permit the acceptance of an alternate bid. Attorney Cushing stated that if Council wishes to award the bid; they must do so for the full amount of the bid. The issue would then be having the CFO determine whether or not there are sufficient funds to award for the full amount of the bid.

Manager Corica stated that the Borough does not have adequate funding available to

cover the entire cost of the bid. The funds are short approximately \$20,000.00. Manager Corica outlined several options for Council. One is to reject the bid and re-bid the truck in January. The second alternative is to take no action and defer until January and place the additional funds into the temporary capital budget. The third option is to adopt a supplemental bond ordinance to raise the additional funds next year.

Mayor Van Deursen asked if it would be possible to hold off until January and appeal to Pierce to honor the discount. Several concerns were raised by the fire department regarding new fire truck regulations beginning in 2009. Council discussed authorizing an emergency appropriation this evening and calling the DCA to see if it would be possible to obtain authorization from them immediately. This would allow for a special meeting to be scheduled for December 31 to pass the resolution to award the fire truck bid before the end of the year.

A motion was made by Councilman Higgins, seconded by Councilman Turner for a five minute recess to contact the CFO in order to prepare the Emergency Appropriation Resolution this evening.

Ayes: 6, Nays: 0
Motion Carried

Council reconvened at 9:00 p.m. with all present.

Manager Corica stated he has left a message for the CFO and we should here back from him shortly.

Resolution 258-2008a – Resolution to Join Statewide Insurance

Resolution 258-2008a was moved on a motion made by Higgins, seconded by Woykowski and adopted.

RESOLUTION 258-2008a

STATEWIDE INSURANCE FUND

RESOLUTION TO JOIN (RENEW) THE FUND

WHEREAS, A number of local units have joined together to form the Statewide Insurance Fund (“FUND”), a joint insurance fund, as permitted by N.J.S.A. 40A:10-36, *et seq.*; and

WHEREAS, the statutes and regulations governing the creation and operation of joint insurance funds contain elaborate restrictions and safeguards concerning the safe and efficient administration of such funds; and

WHEREAS, the Borough of Washington (“LOCAL UNIT”) has determined that membership in the FUND is in the best interest of the LOCAL UNIT; and

WHEREAS, the LOCAL UNIT agrees to be a member of the FUND for a period of three (3) years, effective from **January 1, 2009** terminating on **January 1, 2012** at 12.01 a.m. standard time; and

WHEREAS, the LOCAL UNIT has never defaulted on claims, if self-insured, and has not been canceled for non-payment of insurance premiums for two (2) years prior to the date of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the LOCAL UNIT does hereby agree to join the Statewide Insurance Fund; and

BE IT FURTHER RESOLVED that the LOCAL UNIT will be afforded the following coverage (s) as marked "Yes":

YES NO

Workers' Compensation & Employer's Liability

Liability, Property, Crime-Faithful Performance and Fidelity,
Inland Marine, Boiler and Machinery, Comprehensive General
Liability, Auto Liability, Auto Physical Damages
and Professional Liability

Pollution Liability

BE IT FURTHER RESOLVED that John N. Corica, Manager of the Borough of Washington is hereby appointed as the LOCAL UNIT's Fund Commissioner and is authorized to execute the application for membership and the accompanying certification on behalf of the LOCAL UNIT; and

BE IT FURTHER RESOLVED that the LOCAL UNIT's Fund Commissioner is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying the membership in the FUND as required by the FUND's Bylaws and to deliver same to the Administrator of the FUND with the express reservation that said documents shall become effective only upon the LOCAL UNIT's admissions to the FUND following approval of the FUND by the New Jersey Department of Banking and Insurance.

Resolution 259-2008a Indemnity and Trust Statewide Insurance

Resolution 259-2008a was moved on a motion made by Housel, seconded by Turner and adopted.

Ayes: 6, Nays: 0
Motion Carried

RESOLUTION # 259-2008a

STATEWIDE INSURANCE FUND

INDEMNITY AND TRUST AGREEMENT

THIS AGREEMENT made this 29 day of December 2008, in the County of Morris, State of New Jersey, by and between the Statewide Insurance Fund (hereinafter "FUND"), and the Borough of Washington in the County of Warren a duly constituted local unit of government (hereinafter "LOCAL UNIT");

WHEREAS, two or more local units have collectively formed a joint insurance fund as such an entity is authorized and described in N.J. S. A. 40A:10-36 et seq.; and

WHEREAS, the LOCAL UNIT has agreed to become a member of the FUND in accordance with and to the extent provided for in the Bylaws of the FUND and in consideration of such obligations and benefits to be shared by the membership of the FUND; and

NOW, THEREFORE, it is agreed as follows:

1. The LOCAL UNIT, upon entering the FUND, agrees to be bound by and to accept and comply with each and every provision of the FUND's Bylaws, Risk Management Program, as it applies to the LOCAL UNIT and the applicable statutes and administrative regulations pertaining to joint insurance funds.
2. The LOCAL UNIT agrees to participate in the FUND with respect to those coverage listed in the LOCAL UNIT's "Resolution to Join" in accordance with the FUND'S Bylaws and Risk Management Program.
3. The LOCAL UNIT agrees to become a member of the FUND until January 1, 2012, at 12:01 a.m. eastern standard time. The commencement date shall be the effective date as established by the FUND's Bylaws and policies.
4. The LOCAL UNIT certifies that it has not been canceled for non-payment of insurance premiums for a period of at least two (2) years prior to the date hereof, or if self-insured, that it has never defaulted on any claims.
5. In consideration of membership in the FUND, the LOCAL UNIT agrees that it shall jointly and severally assume and discharge the liability of each and every member of the FUND in accordance with statute and regulation, and by execution hereof the full faith and credit of the LOCAL UNIT is pledged to the punctual payment of any sums which shall become due to the FUND in accordance with the Bylaws thereof, this Agreement or any applicable statute or regulation.
6. If the FUND, in the enforcement of any part of this Agreement, shall incur necessary expense or become obligated to pay attorney's fees and /or court costs, the LOCAL UNIT agrees to reimburse the FUND for all such reasonable expenses, fees, and costs on demand.

7. The LOCAL UNIT and the FUND agree that the FUND shall hold in trust all monies paid by the LOCAL UNIT to the FUND and those monies will be used in accordance with all applicable statutes, the FUND's Bylaws and the Risk Management Program.
8. If required by the Commissioner of Insurance or applicable statutes or regulations, the FUND shall establish separate trust fund accounts in accordance with N.J.S.A. 40A:10-36, et seq. and any other statutes or regulations that may be applicable. Said trust accounts shall be used solely for the payment of claims made against members of the FUND, excess insurance premiums and / or the administration of the FUND, or such other purposes as now or hereunder permitted by statute or regulation.

Each LOCAL UNIT which shall become a member of the FUND shall be obligated to execute an agreement similar in form to this Agreement.

Resolution 260-2008 Appointing a Risk Management Consultant

Motion made by Woykowski, seconded by Higgins to table Resolution 260-2008 to the Re-Organization meeting.

Ayes: 6, Nays: 0
Motion Carried

Resolution 261-2008 and 262-2008 will be considered at a later date.

Manager Corica indicated that he has heard back from the CFO and the Emergency Appropriation Resolution is certified.

Councilman Housel motioned to approve an Emergency Appropriation in the amount of \$20,000.00 for additional funds needed for the purchase of the Aerial Fire Truck, seconded by Woykowski and adopted.

Roll Call: Housel, Woykowski, Turner, Cioni, Van Deursen, Higgins

Ayes: 6, Nays: 0
Motion Carried

A motion was made by Councilman Housel, seconded by Councilman Turner to hold a special meeting on Wednesday December 31, 2008 at 9:00 a.m. to award the bid of the fire truck.

Ayes: 6, Nays: 0
Motion Carried

Manager Interview Dates

Formal interview dates for the Manager's position will be January 5, 12, and 13, 2009.

Approval of Firemen’s Application Ronald R. Smith

Motion made by Turner, seconded by Housel to approve the Firemen’s Application of Ronald R. Smith.

Ayes: 6, Nays: 0
Motion Carried

Council Comments

Councilwoman Woykowski – Wished everyone a Happy New Year and thanked the Mayor, Councilman Turner, and Councilwoman Oakley for their service to the community.

Councilman Cioni – Stated that it was a pleasure working with this Council.

Councilman Housel – Stated it was a pleasure to work with this Council and looks forward to the incoming Council.

Mayor Van Deursen – Thanked all of the Council members for their service and stated it was a privilege to serve with all of you. She also thanked the professionals for the assistance they have given her over the years.

Hearing no further business to come before Council, it was moved by Higgins, seconded by Cioni that the meeting be adjourned at 10:00 p.m.

Ayes: 6, Nays: 0.
Motion carried.

Mayor Marianne Van Deursen

Kristine Blanchard, RMC Borough Clerk