

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – January 20, 2009**

The Regular 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: McDonald, Higgins, Woykowski, Boyle, Valentine - Present
Cioni, Housel - Absent

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

Mayor McDonald led everyone in the flag salute.

Mayor McDonald 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.

EXECUTIVE SESSION

Motion made by Higgins, seconded by Woykowski to enter executive session for the purpose of interviewing risk managers.

Ayes: 5, Nays 0
Motion Carried

RESOLUTION 35-2009

RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Mayor and Council find it necessary to conduct an executive session

closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Mayor and Council will reconvene in public session at the conclusion of the executive session;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

_____A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public (Provision relied upon:

_____);

_____A matter where the release of information would impair a right to receive funds from the federal government;

_____A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

_____A collective bargaining agreement, or the terms and conditions thereof (Specify contract: _____);

_____A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed;

_____Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____Investigations of violations or possible violations of the law;

_____Pending or anticipated litigation or contract negotiation in which the public body is or may become a party; (The general nature of the litigation or contract negotiations is: OR the public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.) Combe Landfill

_____Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: _____

_____ OR _____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.);

 X Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any

specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is: Personnel – Risk Managers

OR _____ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.;

_____ Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Mayor and Council hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Borough Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough or any other entity with respect to said discussion. That time is currently estimated to be: ___**SIX MONTHS** estimated length of time) OR upon the occurrence of _____

_____;

BE IT FURTHER RESOLVED that the Mayor and Council, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

Council returned from Executive Session at 8:30 p.m.

COUNCIL APPEARANCE

None

MINUTES:

Mayor McDonald entertained additions or corrections to the minutes of the regular meeting of December 16, 2008.

Hearing no comments it was moved by Higgins, seconded by Woykowski that the minutes be approved.

Roll Call: Woykowski, Higgins – Yes
McDonald, Boyle, Valentine - Abstain

Ayes: 2, Nays: 0
Abstain: 3
Motion Carried.

COMMUNICATIONS:

The following communications were entered into the record:

1. Washington Business Improvement District Re: Annual Business Awards Reception
2. State of New Jersey Re: COAH

It was moved by Higgins, seconded by Woykowski that the communications be acknowledged, received and filed.

Ayes: 5, Nays: 0.
Motion carried.

AUDIENCE:

Hearing no comments from the audience a motion was made by Higgins, seconded by Boyle to close the audience portion of the meeting.

Ayes: 5, Nays: 0
Motion Carried

ORDINANCES:

None

REPORTS:

It was moved by Higgins, seconded by Woykowski, to receive and file the following reports.

1. Highway Department December 2008
2. Police Activity Report
3. Municipal Court December 2008
4. Zoning/Code Enforcement December 2008
5. Issues/Details Report
6. Treasurers Revenue and Expenditure Reports October-December 2008

Ayes: 5, Nays: 0
Motion Carried

COMMITTEE REPORTS:

Redevelopment Committee: No Report

DPW Garage: No Report

Sewer Committee: No Report

Streets Committee: No Report

Finance Committee: No Report

Shared Services Committee: No Report

Senior Services: No Report

Website Committee: - No Report

Curfew Committee: No Report

Concession Stand Committee – No Report

Pedophile Ordinance Committee: No Report

BID: No Report

Recreation Report – No Report

Parking Lot Committee – No Report

Borough Manager Search Committee – No Report

Security Camera –

VOUCHERS AND CLAIMS

Mayor McDonald 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 Woykowski to pay the vouchers and claims in the amount of \$395,563.50.

Ayes: 5, Nays: 0
Motion Carried

OLD BUSINESS:

Applied Water - Steve Curtis

Mr. Curtis stated he is appearing before Council to discuss the issue of installing a temporary and permanent meter at the Port Colden Mall. Mr. Curtis stated that field conditions do not allow for a temporary flow meter. He indicated that his company has been attempting to install the temporary meter and has continued to have an active and open dialogue with the Borough Engineer. He respectfully asked Council if another temporary arrangement could be agreed on. He stated that Applied Water did provide water data for 12 months of 2008. We have also taken steps to accelerate the installation of the permanent meter. We can deliver the permanent meter well within the March 29 deadline. He proposed that the Borough impose a surcharge as an alternative to shutting off the water.

Andrew Holt, Borough Engineer stated that he has reviewed the situation and the field conditions are different than originally observed. It is not feasible to install a temporary meter. He also stated he is confident in the water usage data provided.

Councilman Higgins stated that Applied Water was asked to install a meter two years ago. It is now January of 2009. We have repeatedly asked for an installation of a flow meter and did not receive one and attempts to receive flow data were not forthcoming. We can't run a sewer plant without timely information. Councilman Boyle indicated that he supports Councilman Higgins frustration.

The possibility of the Borough implementing a surcharge to Applied Water was discussed. This will be discussed in Executive Session later in the meeting.

Coffee and Associates - Mr. Greg Coffee

Mr. Coffee indicated that Selective Insurance Company will pay the entire amount of the Combe Landfill settlement. There is an agreement on the agenda this evening for Council's consideration. He highly recommends entering into it as this is a fair settlement.

Chuck Latini, Heyer, Gruel, and Associates Redevelopment Plan

Mr. Latini stated that a formal presentation of the redevelopment plan with a public hearing will be made at the Planning Board. Mr. Latini briefly outlined the plan for the new Council members. The study area consisted of six sub areas. The goals and objectives of the 2002 downtown revitalization plan served as the backbone for the final plan before you this evening. These are concepts and apply the principles of the redevelopment plan. Mr. Latini stated that sub area one consists of CYA and some frontage on Washington Avenue. Sub area two incorporates the north side of Washington Avenue, School Street and Belvidere Ave including Quick Chek. Sub area three includes the intersection of Rt. 57 and Rt. 31. The concept for this area is to encourage walking and connecting both sides of town while calming traffic and creating a

gateway presence. Sub areas four and five include a public parking concept and an open air flea/farmers market. Sub area six includes parking. Mr. Latini encouraged Council to review the plan between now and the Planning Board meeting.

Resolution 40-2009 Referring the Downtown Redevelopment Plan to the Planning Board for Review

Resolution 40-2009 was moved on a motion made by Woykowski, seconded by Boyle and adopted.

Roll Call: Woykowski, Boyle, Higgins, Valentine, McDonald

Ayes: 5, Nays: 0
Motion Carried

RESOLUTION OF THE COUNCIL OF THE BOROUGH OF WASHINGTON,
COUNTY OF WARREN, NEW JERSEY REFERRING THE DOWNTOWN
REDEVELOPMENT PLAN TO THE PLANNING BOARD FOR REVIEW
PURSUANT TO *N.J.S.A.* 40A:12A-7(e)

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1, *et seq.*, authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, on April 4, 2006 the Borough of Washington (the “Borough”) Municipal Council adopted a resolution authorizing and directing the Planning Board to conduct an investigation pursuant to *N.J.S.A.* 40A:12A- 6 to determine whether certain properties located within the Borough could be designated as an “area in need of redevelopment” (the “Study Area”); and

WHEREAS, after a public hearing on October 23, 2006 in accordance with *N.J.S.A.* 40A:12A-6, on December 11, 2006, the Planning Board adopted a resolution recommending to the Borough Council that the Study Area be designated as an area in need of redevelopment pursuant to *N.J.S.A.* 40A:12A-6; and

WHEREAS, after a review of the Study Area and recommendations of the Planning Board on February 6, 2006, the Borough Council adopted a resolution designating the Study Area as an area in need or redevelopment pursuant to of *N.J.S.A.* 40A:12A-5 (the “Downtown Redevelopment Area”); and

WHEREAS, the Heyer, Gruel & Associates (the “Consultant Planner”) has prepared and submitted to the Borough Council a redevelopment plan entitled, “WASHINGTON BOROUGH DOWNTOWN REDEVELOPMENT PLAN”, dated January 15, 2009 (the “Downtown Redevelopment Plan”), outlining the planning, development and redevelopment of the Downtown Redevelopment Area in accordance with the provisions of *N.J.S.A.* 40A:12A-7; and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-7(e)*, the Borough Council seeks to refer to the Downtown Redevelopment Plan to the Planning Board for recommendations; and

NOW THEREFORE, BE IT RESOLVED by the Borough Council:

1. The Borough Council hereby refers the Downtown Redevelopment Plan attached hereto as *Exhibit A* to the Planning Board for review and recommendation in accordance with the requirements of *N.J.S.A. 40A:12A-7(e)*.

2. The Borough Planning Board is authorized and directed to prepare a report of its recommendations (the "Planning Board Report") to the Downtown Redevelopment Plan within forty-five (45) days of the date hereof.

3. The Planning Board Report shall identify any provisions within the Downtown Redevelopment Plan that are inconsistent with the Borough's Master Plan, the recommendations concerning those inconsistencies and any other matters the Planning Board deems appropriate.

4. If the Planning Board Report is not transmitted to the Borough Council within forty-five (45) days of the date hereof, the Borough Council shall be relieved of the requirements to obtain a Planning Board Report for the Downtown Redevelopment Plan in accordance with *N.J.S.A. 40A:12A-7(e)*.

5. The Clerk of the Borough shall forward a copy of this Resolution and the Downtown Redevelopment Plan to the Planning Board for review pursuant to *N.J.S.A. 40A:12A-7(e)*.

6. This Resolution shall take effect immediately.

NEW BUSINESS

Resolution 27-2009 Appointing an Engineer as a Professional Service without seeking Competitive Bids – HVAC

Resolution 27-2009 was moved on a motion made by Higgins, seconded by Boyle and adopted.

Roll Call: Higgins, Boyle, Woykowski, Valentine, McDonald.
Ayes: 5, Nays: 0
Motion Carried

RESOLUTION # 27 - 2009 **A RESOLUTION APPOINTING AN ENGINEER AS A PROFESSIONAL SERVICE WITHOUT SEEKING COMPETITIVE BIDS.**

WHEREAS, there exists a need for professional engineering services to design plans for

a new air conditioning system and to oversee the installation; 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, Suburban Consulting Engineers of Mt. Arlington, New Jersey has agreed to perform professional engineering services, as outlined in their proposal for Borough Hall Air Conditioning Chiller dated 30 December 2008 in an amount not to exceed \$6,613; and

WHEREAS, the services to be provided by, Suburban Consulting Engineers 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 is hereby authorized and directed to enter into a contract with Suburban Consulting Engineers to provide design, bid and construction engineering services for the Borough Hall Air Conditioning Chiller per the proposal submitted on 30 December 2008 and annexed hereto in an amount not to exceed \$6,613;
2. That said contract is awarded without competitive bidding as professional services in accordance with N.J.S.A. 40A: 11-5; and
3. A certification of funds by the Chief Financial Officer is attached hereto;
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 28-2009 Appointing Engineer as a Professional Service without seeking Competitive Bids

Resolution 28-2009 was moved on a motion made by Higgins, seconded by Woykowski and adopted.

Roll Call: Higgins, Woykowski, Boyle, Valentine, McDonald

Ayes: 5, Nays: 0
Motion Carried

RESOLUTION # 28 - 2009
A RESOLUTION APPOINTING AN ENGINEER AS A PROFESSIONAL SERVICE WITHOUT SEEKING COMPETITIVE BIDS.

WHEREAS, there exists a need for professional engineering services to provide surveying and stake out services for the construction of a municipal parking lot; 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, Suburban Consulting Engineers of Mt. Arlington, New Jersey has agreed to perform professional engineering services, as outlined in their proposal for Municipal Parking Lot Stake-Out Services dated 30 December 2008 in an amount not to exceed \$5,175; and

WHEREAS, the services to be provided by, Suburban Consulting Engineers 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 is hereby authorized and directed to enter into a contract with Suburban Consulting Engineers to provide engineering services for the Municipal Parking Lot Stake-Out Services per the proposal submitted on 30 December 2008 and annexed hereto in an amount not to exceed \$5,175;
2. That said contract is awarded without competitive bidding as professional services in accordance with N.J.S.A. 40A: 11-5; and
3. A certification of funds by the Chief Financial Officer is attached hereto;
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 29-2009 Inter-local Service Agreement with the Pollution Control and Financing Authority

Resolution 29-2009 was moved on a motion made by Higgins, seconded by Woykowski and adopted.

Roll Call: Higgins, Woykowski, Boyle, Valentine, McDonald

Ayes: 5, Nays: 0
Motion Carried

RESOLUTION # 29 -2009
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
WASHINGTON, WARREN COUNTY, NJ TO ENTER INTO AN
INTERLOCAL SERVICE AGREEMENT WITH THE POLLUTION
CONTROL FINANCING AUTHORITY OF WARREN COUNTY

WHEREAS, the Borough has participated in an interlocal services agreement with the Pollution Control Financing Authority of Warren County for bulk solid waste disposal which expired on 31 December 2008; and

WHEREAS, the Pollution Control Financing Authority of Warren County has proposed to renew the interlocal service agreement for bulk solid waste disposal for the year 2009, per the attached; and

WHEREAS, the Mayor and Council believe that it is in the best interest of the Borough to renew the agreement with the Pollution Control Financing Authority of Warren County; and

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 Mayor and Municipal Clerk are hereby authorized and directed to execute the interlocal services agreement with the Pollution Control Financing Authority of Warren County for the disposal of bulk solid waste for the year 2009.

Resolution 30-2009 Appointment of Municipal Bond Attorney

Resolution 30-2009 was moved on a motion made by Higgins, seconded by Valentine and adopted.

Roll Call: Higgins, Valentine, Woykowski, Boyle, McDonald

Ayes: 5, Nays: 0

Motion Carried

RESOLUTION 30-2009

MUNICIPAL BOND ATTORNEY

WHEREAS, there exists a need for municipal bond services to be rendered to the Borough of Washington, Warren County, New Jersey; 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 bidding must be publicly advertised.

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

1. That the Mayor and Common Council are hereby authorized to execute the appointment of Robert H. Beinfield of the firm of Hawkins, Delafield & Wood LLP; as Municipal Bond Attorney.
2. This appointment is made without competitive bidding as professional service under the provisions of the Local Public Contracts Law because:

“The service to be rendered by the Bond Counsel can only be rendered by a person that meets the qualification standards of the New Jersey State Bar and is further subject to the rules and procedures of the courts of the State of New Jersey; and further, the services which are of such a qualitative nature as will not reasonably permit the drawing of specifications for the receipt of competitive bids.”

3. A Copy of this Resolution shall be published in the Star Gazette as required by law within ten days of its passage.

Resolution 31-2009 Budget Appropriations

Resolution 31-2009 was moved on a motion made by Higgins, seconded by Woykowski and adopted.

Roll Call: Higgins, Woykowski, Boyle, Valentine, McDonald

Ayes: 5, Nays: 0
Motion Carried

RESOLUTION # 31 – 2009
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
WASHINGTON, WARREN COUNTY, NJ AUTHORIZING
THE TRANSFER OF APPROPRIATIONS IN THE 2008
BUDGET

WHEREAS, N.J.S.A. 40A: 4-59 provides for the transfer of excess appropriations by not less than 2/3 vote of the full membership of the governing body during the first three 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>
Roads SW	Roads OE	\$1,100.00
Roads SW	Solid Waste Disposal	\$7,000.00
TOTAL OF ALL TRANSFERS		\$8,100.00

Be It Further Resolved that a copy of this resolution be forwarded to the Chief Financial

Officer for implementation.

Resolution 32-2009 Atlantic Salt

Resolution 32-2009 was moved on a motion made by Higgins, seconded by Valentine and adopted.

Roll Call: Higgins, Valentine, Woykowski, Boyle, McDonald

Ayes: 5, Nays: 0
Motion Carried

RESOLUTION # 32 - 2009
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF
WASHINGTON, WARREN COUNTY, TO AWARD A
CONTRACT TO ATLANTIC SALT

WHEREAS, the Borough of Washington is a participant in the Warren County Purchasing Co-Operative (Co-Op); and

WHEREAS, the Co-Op has awarded a contract number WCO847 for delivery of rock salt to International Salt Company, 655 Northern Blvd., Clarks Summit, PA August, 2009 in the amount of \$67.39 per ton; and

WHEREAS, it is likely that the Borough will purchase more than \$19,000 of salt under this contract during the year 2008; and

WHEREAS, N.J.S.A. 40A:11, et seq, the Local Public Contracts Law, requires that any expenditures in excess of the bidding threshold be awarded by a resolution of the governing body.

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 a contract for delivery of rock salt under the terms of the Warren County Purchasing Co-Operative contract number WCO847 is hereby awarded to International Salt.

Resolution 33-2009 Appointment of Adam Fitting to Planning Board

Resolution 33-2009 was moved on a motion made by Higgins, seconded by Woykowski and adopted.

Roll Call: Higgins, Woykowski, Boyle, Valentine, McDonald

Ayes: 5, Nays: 0
Motion Carried

RESOLUTION 33-2009

PLANNING BOARD – CITIZEN MEMBER

CLASS IV MEMBER

WHEREAS, the Borough of Washington, Warren County, New Jersey is now governed by Plan “E” of Municipal Charter Law; and

WHEREAS, under this plan the Mayor is directed and authorized to appoint certain members of the **Planning Board**.

I do hereby appoint the following named person as a **Class IV Member** to the **Planning Board**, term to expire **January 1, 2011**.

Adam Fitting
Name

Resolution 34-2009 Appointment of Adam Zimmer to Recreation Committee

Resolution 34-2009 was moved on a motion made by Higgins, seconded by Woykowski and adopted.

Roll Call: Higgins, Woykowski, Boyle, Valentine, McDonald

Ayes: 5, Nays: 0
Motion Carried

RESOLUTION 34-2009
RECREATION COMMITTEE

WHEREAS, the Borough of Washington, Warren County, New Jersey is governed by Plan “E” of Municipal Charter Law; and

WHEREAS, under this plan the Mayor of the Borough is to appoint members of the Recreation Committee with the advice and consent of the Council and;

WHEREAS, the Mayor has designated the following person his re- appointment to the Recreation Committee:

Adam Zimmer

Term Expires 12/31/2013

WHEREAS, The Council does approve of this appointment.

NOW, THEREFORE, BE IT RESOLVED, that the above mentioned appointments shall take effect immediately.

Resolution 36-2009 Void Check

Resolution 36-2009 was moved on a motion made by Higgins, seconded by Woykowski and adopted.

Roll Call: Higgins, Woykowski, Boyle, Valentine, McDonald

Ayes: 5, Nays: 0

Motion Carried

RESOLUTION #36-2009

A RESOLUTION TO VOID AND REPLACE A CHECK

WHEREAS, check #1182 was written February 20, 2008 in the amount of \$98.87 on Washington Borough's Special Police Services Master Account #11168 for Sub-Account #7200020946 and payable to Washington Theater Enterprise, LLC; and

WHEREAS, the manager Marco Matteo, has contacted the Treasurer's office in writing that the check was lost and needs to be replaced.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington that the Treasurer be authorized to void check #1182 and issue a check in the amount of \$98.87 from the Special Police Services Sub-Account #7200020946 to Washington Theater Enterprise, LLC, 105 East Washington Avenue, Washington, NJ 07882

Resolution 37-2009 E Filing Taxes

Resolution 37-2009 was tabled for further discussion with the Tax Collector.

Resolution 38-2009 Consent Decree Combe Landfill

Resolution 38-2009 was moved on a motion made by Higgins, seconded by Woykowski and adopted.

Roll Call: Higgins, Woykowski, Boyle, Valentine, McDonald

RESOLUTION NO. 38-2009

**RESOLUTION AUTHORIZING EXECUTION OF THE
CONSENT DECREE AND ESCROW AGREEMENT FOR
THE SETTLEMENT WITH GOVERNMENT PLAINTIFFS IN
THE CONSOLIDATED ACTIONS ENTITLED UNITED
STATES OF AMERICA V. BECKMAN COULTER, ET ALS.
AND NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION, V. AMERICAN THERMOPLASTICS CORP.,
ET ALS.**

WHEREAS, certain claims have been asserted against the Borough of Washington (the “Borough”) in the consolidated actions entitled United States of America v. Beckman Coulter, Inc., et als., Civil Action No. 98-4812 (WHW) and New Jersey Department of Environmental Protection v. American Thermoplastics Corp., et als., Civil Action No. 98-4781 (WHW) pending in the United States District Court for the District of New Jersey (the “Litigation”) regarding alleged environmental contamination at the Combe Fill South Landfill in Chester, New Jersey (“Site”);

WHEREAS, certain Third-Party Defendant municipalities, school boards, school districts, colleges, parks commissions and housing authorities, including the Borough of Washington, are members of a group known as the Municipal Group in the Litigation;

WHEREAS, the Municipal Group on behalf of its members engaged in settlement negotiations with the United States Department of Justice and the State of New Jersey (“Governmental Plaintiffs”) under the supervision of the Honorable Esther Salas, United States Magistrate Judge;

WHEREAS, the parties have substantially settled the Litigation, and are presently negotiating the final details of the Consent Decree;

WHEREAS, the terms of the settlement require the Borough of Washington to execute a formal escrow agreement and sign off on the Consent Decree prior to the Consent Decree being lodged;

WHEREAS, the Borough of Washington has previously notified Selective Insurance Company (“Selective”) of its involvement in the Litigation and has requested that Selective defend and indemnify it in connection therewith under the insurance policies issued by Selective to the Borough;

WHEREAS, Selective has agreed to pay to the Governmental Plaintiffs on behalf of the Borough the total sum of six hundred thirty one thousand four hundred sixty five dollars and zero cents (\$631,465.00) which represents the Borough’s 100% share of the settlement proceeds in exchange for a full and complete release of all claims for coverage in connection with the Site;

WHEREAS, a copy of the Escrow Agreement and a copy of the Consent Decree are in the Clerk's office and are incorporated by reference hereto;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Washington as follows:

1. The Borough is hereby authorized and directed to sign the signature pages of the Escrow Agreement and the signature pages of the Consent Decree, which will be adopted in substantially the form contained in the draft copy on file, and thereafter immediately transmit the said signature pages to Gregory J. Coffey, Esq., Liaison Counsel for the Municipal Group.
2. The Borough is hereby authorized and directed to sign the signature pages of the Settlement Agreement and Release by and between the Borough of Washington and Selective Insurance Company.
3. This resolution shall take effect immediately.

Ayes: 5, Nays: 0
Motion Carried

Risk Manager

At this time a motion was made by Higgins, seconded by Boyle to appoint Wayne Dietz of D&H Alternative Risk Solutions as Risk Manager for the Borough of Washington.

Roll Call: Higgins, Boyle, Woykowski, McDonald – Yes
Valentine – Abstain

Interim Borough Manager

A motion was made by Higgins, seconded by Valentine to Appoint Kristine Blanchard as Interim Borough Manager. Resolution will be prepared for the February 3, 2009 Council meeting.

Roll Call: Higgins, Valentine, Boyle, Woykowski, McDonald

Ayes: 5, Nays: 0
Motion Carried

At this time, Mayor McDonald entertained a motion to re-enter executive session to discuss litigation: Port Colden Mall.

Motion made by Boyle, seconded by Higgins and adopted.

Council exited executive session at 10:30 p.m.

Hearing no further business to come before Council, it was moved by Higgins, seconded by Woykowski that the meeting be adjourned at 10:30 p.m.

Ayes: 5, Nays: 0.
Motion carried.

Mayor Scott McDonald

Kristine Blanchard, RMC Borough Clerk