

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY  
WASHINGTON BOROUGH COUNCIL MINUTES – November 15, 2010**

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, Cioni, Housel, Gleba, Higgins, Valentine, Boyle - Present

Also Present: Richard Cushing, Esq. Municipal Attorney  
Richard Phelan Borough Manager  
Kristine Blanchard, 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.

**MINUTES:**

Mayor McDonald entertained a motion to approve the minutes of the Regular meeting of November 3, 2010.

Motion made by Boyle, seconded by Higgins and approved.

Roll Call: Higgins, Boyle, Gleba, McDonald, Housel, Valentine

Ayes: 6, Nays: 0  
Abstain: 1 (Cioni)  
Motion Carried

**CORRESPONDENCE**

None

**AUDIENCE**

Mayor McDonald opened the audience portion of the meeting.

**Penny Shaw 22 School Street**

Ms. Shaw stated that Washington Borough's Game Day was a success. Thirty five people throughout the day participated. The people who participated enjoyed the day and are looking to have another game day. Ms. Shaw will try to have another possibly during the Christmas vacation week. Mayor McDonald stated that she should reach out the library; they may wish to help.

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

Ayes: 7, Nays: 0  
Motion carried.

**EXECUTIVE SESSION**

At this time Mayor McDonald entertained a motion to enter Executive Session for: personnel. Motion made by Housel, seconded by Valentine and adopted.

Ayes: 6, Nays: 1 (Boyle)  
Motion Carried

**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; Real Estate Acquisitions

\_\_\_\_\_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: \_\_\_\_\_ 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.)

\_\_\_\_\_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 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.

Mayor McDonald excused himself from Executive Session due to a conflict.

Council resumed regular session at 8:30 p.m.

### **ORDINANCES**

Ordinance 14-2010 AN ORDINANCE CEATING ARTICLE XII ENTITLED  
“MAINTENANCE ON CERTAIN PRIVATE ROADS” WITHIN CHPATER 75 OF  
THE CODE OF THE BOROUGH OF WASHINGTON (Public Hearing/Adoption)

Mayor McDonald entertained a motion to introduce Ordinance #14-2010 on final adoption and have the clerk read by title.

Motion made by Housel, seconded by Boyle to introduce on final reading and have the clerk read by title only.

The Clerk read Ordinance #14-2010 by title only and stated that this ordinance had been published in the Star Gazette as required by law; a copy was posted on the bulletin board and copies available upon request from the Clerk’s office.

Roll Call: Valentine, McDonald, Cioni, Gleba, Higgins, Boyle, Housel – Yes

Ayes: 7, Nays: 0  
Motion Carried

Public Hearing:

Question from the audience regarding access and maintenance of an easement located on a property near Gardner’s Court. Manager Phelan stated if it is an easement located on private property; they would need to address their concern to the property owner.

Hearing no further comments from the public motion made by Cioni, seconded by Boyle to close the public hearing.

Ayes: 7, Nays: 0  
Motion Carried

Motion made by Housel, seconded by Boyle to adopt Ordinance 14-2010 on final passage.

Roll Call: Housel, Boyle, Cioni, Valentine, Gleba, McDonald  
Higgins – Abstain

Ayes: 6, Nays: 0  
Abstain: 1  
Motion Carried

**ORDINANCE # 14 -2010**  
**BOROUGH OF WASHINGTON**  
**WARREN COUNTY, NEW JERSEY**

**AN ORDINANCE CREATING ARTICLE XII ENTITLED “MAINTENANCE ON CERTAIN PRIVATE ROADS” WITHIN CHAPTER 75 OF THE CODE OF THE BOROUGH OF WASHINGTON**

**WHEREAS**, *N.J.S.A. 40:67-23.1* authorizes a municipality to repair, maintain, or provide for the removal of snow, ice or other obstructions from roads that have not been dedicated to and accepted as public roads by adopting an ordinance providing for such activities if the governing body finds that travel on such roads is sufficient to justify the expense; and

**WHEREAS**, the Mayor and Council have identified certain private roads within the Borough which have sufficient travel to justify the expense of snow and ice removal;

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

1. A new Article XII entitled “Maintenance on Certain Private Roads” is hereby created within Chapter 75 entitled “Streets and Sidewalks” of the Code of the Borough of Washington to read as follows:

**Section 75-74. Definitions.**

For purposes of this Article, the terms used herein are defined as follows:

ALLEY – A developed or undeveloped passage, as through a continuous row of houses, permitting access from the street to backyards, garages, and the like.

IMPROVED ROAD – A road that has been surfaced with asphalt.

SNOW REMOVAL – The act of removing snow and/or controlling ice by plowing, salting or other means.

PRIVATE ROADS – A right-of-way, improved or unimproved, which has not been dedicated to and accepted by the Borough of Washington and over which there is a private right of passage.

PUBLIC ROAD - A right-of-way, improved or unimproved, over which there is a public right of passage

### **Section 75-76. Findings**

The Borough hereby determines that in its opinion the travel on the Private Roads or alleys delineated in this ordinance is sufficient to warrant the expenditure of municipal funds for Snow Removal.

### **Section 75-77. Extent of Borough's obligation.**

Nothing in this article shall be deemed or interpreted to constitute either a dedication of the roads designated in this article to the public or an acceptance by the Borough of the roads as a public road. The purpose of this article is to permit the Borough voluntarily to remove snow and ice from the roads without any further obligation on the Borough's part either to maintain the roads or to continue Snow Removal services.

### **Section 77-78. Basic maintenance/repair work not provided.**

The Borough will not provide any basic maintenance/repair work to any Private Roads in the Borough.

### **Section 77-79. Designated streets for Snow Removal.**

The Supervisor of Streets and Roads is authorized to conduct Snow Removal services as required only on the following private roads or streets in the Borough:

1. Catelle Court
  - a. Unimproved road located on the perimeter of Block 37, Lot 8
2. Rear of North Jackson Avenue
  - a. Unimproved road parallel to the railroad tracks located on Block 300, Lot 1.04.
3. Improved road off of Independent Street
  - a. Alley located 160' off of Belvidere Ave, and runs parallel to Rush Avenue for approximately 140'.

4. Unimproved road #1 off of Cornish Street
  - a. Alley located approximately 95' off of South Prospect Street.
  - b. Alley runs parallel to South Prospect Street to which the dimensions are 38" x 327'.
5. Unimproved road #2 off of Cornish Street
  - a. Alley located approximately 233' off of South Prospect Street.
  - b. Alley runs parallel to South Prospect Street to which the dimensions are 25" x 327'.
6. Improved road between Broad Street and South Lincoln Avenue
  - a. Located on a portion of Block 301, Lot 2.

**Section 77-80. Consent of Property Owner.**

No Snow Removal services will be provided on Private Roads unless the Borough has received written consent from the owner(s) of the Private Road. Said consent shall be in the form provided by the Borough.

2. All ordinances and resolutions inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies.

In accordance with Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington, this Ordinance shall become effective 20 days after final passage unless the Council, by an affirmative vote of five (5) Council Members, shall adopt a resolution declaring the Ordinance to be an emergency upon which said Ordinance will take effect upon final passage.

**ORDINANCE 15-2010 AN ORDINANCE RESTRICTING THE AWARD OF CONTRACTS EXEMPT FROM PUBLIC BIDDING (Introduction)**

Mayor McDonald entertained a motion to introduce Ordinance #15-2010.

Ordinance 15-2010 was introduced by Councilman Higgins, seconded by Councilman Valentine.

It was further moved by Housel, seconded by Boyle that the Clerk read Ordinance #15-2010 by title only.

Roll Call: Cioni, Higgins, Boyle, Gleba, Housel, Valentine, McDonald

Ayes: 7, Nays: 0

Abstain: 0

Motion Carried

The Clerk read Ordinance #15-2010 entitled, "AN ORDINANCE RESTRICTING THE AWARD OF CONTRACTS EXPEMPT FROM PUBLIC BIDDING"

Motion made by Higgins, seconded by Housel to adopt Ordinance 15-2010 on first reading.

Roll Call: Cioni, Higgins, Boyle, Gleba, Housel, Valentine, McDonald – Yes

Ayes: 7, Nays: 0

Abstain: 0

Motion Carried

**ORDINANCE # 15 -2010**  
**BOROUGH OF WASHINGTON**  
**WARREN COUNTY, NEW JERSEY**

AN ORDINANCE RESTRICTING THE AWARD  
OF CONTRACTS EXEMPT FROM PUBLIC  
BIDDING (CONTRACTOR PAY-TO-PLAY  
REFORM ORDINANCE)

**WHEREAS**, certain contracts are exempt from public bidding under the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.*; and

**WHEREAS**, there is the potential for business entities whose contracts are exempt from public bidding to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding contracts to such business entities; and

**WHEREAS**, permitting substantial local political contributions from business entities receiving discretionary contracts from the elected officials who receive such contributions raises reasonable concerns on the part of taxpayers as to the influence of those contributions on the process of local government as well as the quality or cost of services received; and

**WHEREAS**, pursuant to *N.J.S.A. 40A:11-51* a municipality is authorized to adopt by ordinance, measures limiting the award of public contracts to business entities that have made contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

**WHEREAS**, in the interest of good government, the Mayor and Council of the Borough of Washington desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Washington as follows:



**Section 1.** Chapter 3 entitled “Administration of Government” of the Code of the Borough of Washington is hereby amended to add a new Section 3-26A entitled “Restrictions on Award of Contracts Exempt from Public Bidding” to read as follows

**§3-26A.1 Purpose.** It shall be the purpose of this section to foster competition in the contracting process that is exempt from public bidding and thereby to avoid the appearance of improper influence in public contracting through unregulated contributions to public officials who award contracts by business entities who seek public contracts.

**§3-26A.2 Definitions.** As used in this section 3-26A, the following terms shall have the meanings set forth below:

“Candidate” means and includes (1) every candidate for Borough of Washington elective municipal office; (2) every candidate committee established by or for the benefit of a candidate for Borough of Washington elective municipal office; (3) every joint candidate committee established in whole or in part by or for the benefit of a candidate for Borough of Washington elective municipal office; (4) every political party committee of the Borough of Washington; (5) every political party committee of the County of Warren; and (6) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the Borough of Washington municipal or Warren County elective offices or Borough of Washington municipal or Warren County political parties or political party committees. The terms in the foregoing paragraph have the meaning set forth in *N.J.A.C. 19:25-1.7*.

“Contribution” has the meaning set forth in *N.J.A.C. 19:25-1.7*. By way of illustration, and not limitation, this definition includes gifts, pledges, loans, and in-kind contributions.

“Contract for Professional or Extraordinary Services” means all contracts for “Professional Services” and/or “Extraordinary Unspecifiable Services” as such terms are used in the Local Public Contracts Law at *N.J.S.A. 40A:11-5*.

“Business Entity” means an individual person; firm; corporation; professional corporation; partnership; organization; or association. When a Business Entity is a natural person, a contribution by that person’s spouse or any child living at home shall be deemed to be a contribution by the Business Entity. When a Business Entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the entity or their spouses; any subsidiaries directly or indirectly controlled by the entity; or any political organization organized under Section 527 of the Internal revenue code that is directly or indirectly controlled by the entity shall be deemed to be a contribution by the Business Entity.

**§3-26A.3 Prohibition on Awarding Public Contracts to Certain Business Entities.**

- A. To the extent that it is not inconsistent with state or federal law, the Borough of Washington and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise procure a Contract for Professional or Extraordinary Services from any Business Entity if such Business Entity has solicited or made any Contribution to (1) a Candidate or (2) a holder of public office in the Borough of Washington having ultimate responsibility for the award of a contract in excess of the thresholds specified in subsection C below within one calendar year immediately preceding the date of the contract or agreement.
- B. No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the Borough of Washington or any of its departments or instrumentalities, for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution to a Candidate or a holder of public office in the Borough of Washington having ultimate responsibility for the award of a contract between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- C. The maximum Contributions permitted are: (1) \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the Borough of Washington; (2) \$500 per calendar year to a Warren County political committee or political party committee; and (3) \$500 per calendar year to any PAC. However, a Business Entity may not annually contribute for any purpose in excess of \$2,500 to all (1) Candidates and (2) holders of public office in the borough of Washington having ultimate responsibility for the award of a contract.
- D. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (1) the Borough of Washington Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing body, or (2) the Mayor of the Borough of Washington if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- E. No person may be awarded a subcontract to perform under a contract subject to §3-26A.3, if the subcontractor would be disqualified by paragraph (A) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph

(A) from receiving the contract perform substantially all of the obligations described in a Contract for Professional or Extraordinary Services that is subject to §3-26A.3.

**§3-26A.4 Contributions Made Prior to Effective Date.** No Contribution or solicitation of a Contribution made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of §3-26A.3.

**§3-26A.5. Contract Renewal.** No contract subject to this Ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of §3-26A.3 if it were an initial contract.

**§3-26A.6. Contribution Statement by Business Entity.**

- A. Prior to awarding any Contract for Professional or Extraordinary Services to any Business Entity, the Borough of Washington or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he / she / it has not made a Contribution in violation of §3-26A.3. The Borough of Washington, its purchasing agents and departments shall be responsible for informing the Borough Council that the aforementioned sworn statement has been received and that the Business Entity is not in violation of §3-26A.3, prior to awarding the contract or agreement.
- B. A Business Entity shall have a continuing duty to report to the Borough of Washington any Contribution that constitutes a violation of §3-26A.3 made during the negotiation, proposal process or the duration of a contract. The Borough of Washington, its purchasing agents and departments shall be responsible for informing the governing body within (10) business days after receipt of said report from the Business Entity, or at the next Borough Council meeting following receipt of said report from the Business Entity, whichever comes first.
- C. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Borough of Washington, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

**§3-26A.7. Return of Excess Contributions.** A Business Entity that is a party to a Contract for Professional or Extraordinary Services may cure a violation of §3-26A, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and received reimbursement of the Contribution from the recipient of such Contribution.

**§3-26A.8. Exemption—“Fair and Open” Contracts Not Exempt.** The contribution limitations prior to entering into a contract in §3-26A.3 do not apply to contracts which (1) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefore within the meaning of *N.J.S.A. 40A:11-4*, or (2) are awarded in the case of emergency under *N.J.S.A. 40A:11-6*. There is no exemption for contracts awarded pursuant to a “Fair and Open Process” under *N.J.S.A. 19:44A-20 et seq.*

**§3-26A.9. Indexing.** The monetary thresholds in §3-26A.3(C) shall be increased effective March 1 of each calendar year by the percentage increase, in the prior calendar year, of the consumer price index for all urban consumers (CPI-U) for New York-Northern N.J.-Long Island region, rounded to the nearest \$10.00. The Clerk of the Borough of Washington shall, by no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in an official municipal newspaper.

**§3-26A.10. Penalties.**

- A. It shall be material breach of the terms of a Borough of Washington Contract for Professional or Extraordinary Services if a Business Entity that is a party to such agreement or contract has: (1) made or solicited a Contribution in violation of this Ordinance; (2) knowingly concealed or misrepresented a Contribution given or received; (3) made or solicited Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (4) made or solicited any Contribution on the condition or with the agreement that it will be re-contributed to a Candidate or holder of public office having ultimate responsibility for the award of a contract; (5) engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by the Business Entity itself, would subject the Business Entity to the restrictions of this Ordinance; (6) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (7) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (8) directly or indirectly, through or by any other person or means, done any act which if done directly would subject the Business Entity to the restrictions of this Ordinance.
- B. Any Business Entity that violates §3-26A.7(A) shall be disqualified from eligibility for future Borough of Washington contracts for a period of four (4) calendar years from the date of violation.
- C. Notwithstanding the foregoing, any Business Entity who violates any provision of §3-26A.3-7 shall, upon conviction, be liable for the penalties set forth in Chapter 1, Article II, General Penalty, of the Code of the Borough of Washington.

**Section 2.** If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

**Section 3.** All ordinances and resolutions inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies.

**Section 4.** In accordance with Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington, this Ordinance shall become effective 20 days after final passage unless the Council, by an affirmative vote of five (5) Council Members, shall adopt a resolution declaring the Ordinance to be an emergency upon which said Ordinance will take effect upon final passage.

### **REPORTS:**

Motion was made by Higgins, seconded by Housel to receive and file the following reports:

Managers Report  
CFO Report  
Tax Collector Report

Councilman Higgins noted the wrong date on the Tax Collectors Report. Manager Phelan stated he will have this corrected.

Ayes: 7, Nays: 0  
Motion Carried

### **COMMITTEE REPORTS:**

**DPW:** No Report

**Streets Committee:** No Report

**Finance Committee:** No Report

**Shared Services Committee:** Councilman Boyle stated that on November 5<sup>th</sup>, this committee met with Washington Township Construction to discuss the possibility of a

shared service. Discussions will continue. Councilman Boyle stated he feels this is an opportunity for the Borough to improve services currently being offered by the State.

**Senior Services:** No Report

**Website Committee:** No Report

**Sewer:** Councilman Higgins reported the Pleasant Valley Dam paperwork has been submitted to the DEP. The Borough is seeking approval to remove the dam. The committee also reviewed the possibility of senior discount on sewer bills. Councilman Boyle noted the committee is currently reviewing numbers to see if this is feasible. At this point, this is in the research phase only. Councilwoman Gleba offered to reach to Greenwich Township to see how their plan is administered.

**Park Committee:** No Report

**Grant Committee:** Councilwoman Gleba noted that the two grants the Borough is currently pursuing have been sent to the Division of Community Affairs for their approval as per the Transitional Aid Agreement.

## **OLD BUSINESS**

### **Garbage Collection**

Manager Phelan noted this item of discussion was requested by Councilwoman Gleba. Manager Phelan asked Council what action they would like to take regarding garbage collection. Council agreed that discussion should continue with Hampton Borough regarding a shared service. Manager Phelan also noted that Council's other option is creating a separate line item for garbage collection; basically creating a garbage utility. The garbage collection fees will be removed from taxes and the residents would be billed separately for garbage collection. This also removes the garbage collection from the 2% Cap imposed by the State. Council asked the Manager to look into how a separate garbage utility would be billed and what is necessary to be modified in Edmunds to implement.

### **Borough Pool**

Rick Feldman – Recreation Chairperson

Mr. Feldman stated that he wanted to bring to Council's attention the value of Recreation to the community as a whole; not just the Borough Pool. Mr. Feldman discussed the small costs associated with the Recreation programs vs. the benefit to the community. Mr. Feldman also discussed the benefit of reinstating the Recreation Commission. Manager Phelan explained that this may be a benefit to the Borough due to the 2% budget cap instituted by the State of NJ. If the Borough had a Recreation

Commission the Recreation budget will be out of CAP. Council considered this option and may consider this for next year. Mayor McDonald asked Manager Phelan to obtain the necessary documents for Council.

Councilman Cioni stated regarding the Borough Pool; if Council closes the pool even for one year, it will never reopen. Councilman Cioni stated the Borough can work to eliminate the losses by whittling the loss down year by year. All of Council concurred with Councilman Cioni.

### **NEW BUSINESS**

ABC Approval for Catering Permit/Mediterranean Bistro – Business Improvement District’s Hometown Holiday.

Motion made by Valentine, seconded by Housel to approve. Borough Clerk, Kristine Blanchard noted the paperwork is in order.

Ayes 7: Nays: 0  
Motion Carried

Raffle License Approvals – Washington Woman’s Club

Motion made by Housel, seconded by Valentine to approve. Ms. Blanchard noted the paperwork is in order.

Ayes 7: Nays: 0  
Motion Carried

Approval of Courtney Jozowski and Robert Miller to the Washington Fire Department.

Motion made by Valentine, seconded by Gleba to approve.

Ayes 6, Nays: 0  
Abstain: 1 (Higgins)

Resolution 198-2010 Request for Legislators to Enact Stronger Legislation on Cyber-Bullying, Taunting, and Internet Harassment

Resolution 198-2010 was moved on a motion made by Higgins, seconded by Cioni and adopted.

Ayes: 7, Nays: 0  
Motion Carried

Resolution 198-2010

**RESOLUTION OF THE BOROUGH OF WASHINGTON, COUNTY OF  
WARREN, STATE OF NEW JERSEY REQUESTING THE STATE  
LEGISLATORS ENACT STRONGER LEGISLATION TO PROTECT CITIZENS  
OF NEW JERSEY FROM CYBER-BULLYING, TAUNTING, AND  
HARASSMENT AND TO PROVIDE FOR MORE STRINGENT INTERNET  
SAFETY**

WHEREAS, in recent years, cases of cyber-bullying, taunting, and harassment have become more prevalent in the age of technology and;

WHEREAS, cyber-bullying can lead to dire consequences for both the person who has been bullied and the bully. Pervasive technology use among young people and adults has shifted bullying behavior from face to face to technological interactions. Cyber-bullying can become extremely vicious, inescapable, anonymous; and

WHEREAS, cyber-bullying can take on many different online forms including vulgar and threatening messages or images, and sending private and sensitive information about another person. Cyber-bullying can occur through email, texting, instant messaging, chat rooms; and

WHEREAS, while the Borough of Washington supports the first amendment right of all citizens the Governing Body of the Borough of Washington seeks stronger legislation for the protection of all New Jersey citizens.

NOW, THEREFORE, BE IT RESOLVED, by copy of this Resolution to each Warren County Municipality, the Warren County Freeholder Board, our elected state officials, the Assembly Speaker, the Senate President, and the Governor of the State of New Jersey requesting the State of New Jersey enact stronger legislation regarding cyber-bullying, and internet taunting and harassment.

BE IT FURTHER RESOLVED, that the Governing Body of the Borough of Washington will assist the New Jersey Legislators in developing this legislation as necessary.

Resolution 199-2010 Escrow Release T Ratliff Sewer Bond

Motion made by Cioni, seconded by Housel and adopted.

Roll Call: Cioni, Housel, Gleba, McDonald, Boyle, Higgins, Valentine

Ayes: 7, Nays: 0  
Motion Carried



**RESOLUTION 199# 2010**

**A RESOLUTION AUTHORIZING THE RELEASE OF  
FUNDS FROM AN ESCROW ACCOUNT ESTABLISHED  
IN THE NAME OF T. RATLIFF EXCAVATING LLC IN  
TRUST BY THE BOROUGH OF WASHINGTON**

**WHEREAS**, T Ratliff Excavating LLC applied for a sewer opening permit at 20 Madison Avenue; and

**WHEREAS**, funds were posted in escrow to cover the cost of professional review of this application; and

**WHEREAS**, Municipal Engineer Andrew S. Holt, P.E. has determined after reviewing the site that the escrow account money can be released.

**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 Municipal Treasurer is hereby authorized to issue a check to T. Ratliff Excavating LLC for \$500.00 for the release of the maintenance bond.

Resolution 200-2010 Redemption of Tax Certificate

Resolution 200-2010 was moved on a motion made by Cioni, seconded by Housel and adopted.

Roll Call: Cioni, Housel, Valentine, McDonald, Gleba, Boyle, Higgins

Ayes: 7, Nays: 0

Motion Carried

**RESOLUTION # 200-2010**

**A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE**

**As per N.J.S.A.54:5**

**KNOW ALL PERSONS 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 Arthur Frustaci, 1178 Fifth Avenue, Alpha, NJ 08865, in the amount of \$646.12 for taxes or other municipal liens assessed for the year 2007 in the name of Reynoso, Silvia, Jorge, Matilde & Jason, as supposed owners, and in said assessment and sale were described as 61 West Stewart Street, Block 12.01 Lot 2, which sale was evidenced by Certificate #08-00440; and

**WHEREAS**, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of

Washington, do certify that on 11-03-10 and before the right to redeem was cut off, as provided by law, SunTrust claiming to have an interest in said lands, did redeem said lands claimed by Arthur Frustaci by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$2,747.72, which is the amount necessary to redeem Tax Sale Certificate #08-00440.

**NOW THEREFORE BE IT RESOLVED**, on this 15<sup>th</sup> day of November 2010 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Arthur Frustaci, 1178 Fifth Avenue, Alpha, NJ 08865 in the **amount of \$2,747.72**.

**BE IT FURTHER RESOLVED**, that the Tax Collector is authorized to cancel this lien on Block 12.01 Lot 2 from the tax office records.

#### Resolution 201-2010 Cancellation of Capital Bond Ordinances

Resolution 201-2010 was moved on a motion made by Housel, seconded by Cioni and adopted.

Roll Call: Housel, Cioni, McDonald, Valentine, Gleba, Boyle, Higgins

Ayes: 7, Nays: 0

Motion Carried

### CANCELLATION OF CAPITAL BOND ORDINANCES

WHEREAS, certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Surplus, and unused debt authorization may be cancelled;

NOW THERFORE, BE IT RESOLVED, by the council of the Borough of Washington, that the following unexpended and dedicated balances of General Capital Appropriations be cancelled:

Ordinance No.	Description	Amount	Funded	Unfunded
15-2000	New DPW Garage	2,364.68	989.00	1,375.68
15-2004	Improvement of Municipal Swimming Pool	8,449.00	8,449.00	
01-2005	Improvement of Washington Avenue	398.51	392.51	6.00
08-2005	Various Improvements and Purposes	1,432.05	1,432.05	

07-2006	Various Improvements and Purposes	40,100.28	40,100.28	
07-2007	Various Improvements and Purposes	26,719.12		26,719.12
02-2008	Redevelopment Projects	1,556.79		1,556.79
05-2008	Various Improvements and Purposes	65,406.83		65,406.83
Total		146,427.26	51,362.84	95,064.42

#### Resolution 204-2010 Redemption of Tax Sale Certificate

Resolution 204-2010 was moved on a motion made by Cioni, seconded by Higgins and adopted.

Roll Call: Cioni, Higgins, Gleba, McDonald, Boyle, Valentine, Housel

Ayes: 7, Nays: 0

Motion Carried

#### **RESOLUTION # 204-2010**

#### **A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE**

**As per N.J.S.A.54:5**

**KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS**, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to Stonefield Inv Fund I, LLC, 21 Robert Pitt Drive #202, Monsey, NY 10952, in the amount of \$592.47 for taxes or other municipal liens assessed for the year 2009 in the name of Callahan, Michael, as supposed owners, and in said assessment and sale were described as 29 Kinnaman Avenue, Block 6 Lot 1.01, which sale was evidenced by Certificate #10-00005; and

**WHEREAS**, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 11-03-10 and before the right to redeem was cut off, as provided by law, USDA claiming to have an interest in said lands, did redeem said lands claimed by Stonefield Inv Fund I, LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,085.74, which is the amount necessary to redeem Tax Sale Certificate #10-00005.

**NOW THEREFORE BE IT RESOLVED**, on this 15<sup>th</sup> day of November 2010 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Stonefield Inv Fund I, LLC, 21 Robert Pitt Drive #202, Monsey, NY 10952 in the **amount of \$1,485.74**.

**BE IT FURTHER RESOLVED**, that the Tax Collector is authorized to cancel this lien on

Block 6 Lot 1.01 from the tax office records.

#### Resolution 205-2010 Redemption of Tax Sale Certificate

Resolution 205-2010 was moved on a motion made by Cioni, seconded by Higgins and adopted.

Roll Call: Cioni, Higgins, Gleba, McDonald, Boyle, Valentine, Housel

Ayes: 7, Nays: 0

Motion Carried

#### **RESOLUTION # 205-2010**

#### **A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE**

**As per N.J.S.A.54:5**

**KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS**, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to Stonefield Inv Fund I, LLC, 21 Robert Pitt Drive #202, Monsey, NY 10952, in the amount of \$592.47 for taxes or other municipal liens assessed for the year 2009 in the name of Piatt, Justin B and Lisa K, as supposed owners, and in said assessment and sale were described as 52 West Warren Street, Block 16.01 Lot 4, which sale was evidenced by Certificate #10-00012; and

**WHEREAS**, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 11-03-10 and before the right to redeem was cut off, as provided by law, USDA claiming to have an interest in said lands, did redeem said lands claimed by Stonefield Inv Fund I, LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,085.74, which is the amount necessary to redeem Tax Sale Certificate #10-00005.

**NOW THEREFORE BE IT RESOLVED**, on this 15<sup>th</sup> day of November 2010 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Stonefield Inv Fund I, LLC, 21 Robert Pitt Drive #202, Monsey, NY 10952 in the **amount of \$1,185.74.**

**BE IT FURTHER RESOLVED**, that the Tax Collector is authorized to cancel this lien on Block 6 Lot 1.01 from the tax office records.

#### Resolution 206-2010 Refund Tax Monies per County Appeal

Resolution 206-2010 was moved on a motion made by Cioni, seconded by Higgins and adopted.

Roll Call: Cioni, Higgins, Gleba, McDonald, Boyle, Valentine, Housel

Ayes: 7, Nays: 0

Motion Carried

**RESOLUTION # 206-2010**

**A RESOLUTION TO REFUND TAX MONIES PER COUNTY TAX APPEAL**

**WHEREAS**, the Tax Collector has received a County Tax Appeal Judgment for the year 2010 for the property listed below:

<u>BLOCK</u>	<u>LOT</u>	<u>NAME OF OWNER/ PROPERTY LOCATION</u>	<u>YEAR</u>	<u>AMOUNT</u>
68	2	Warren County Habitat for Humanity, Inc 12 Prosper Way	2010 Taxes	1,352.94
			TOTAL	1,352.94

Refund payable to: Warren County Habitat for Humanity, Inc, 31 Belvidere Avenue, Washington, NJ 07882.

**WHEREAS**, due to the County Tax Appeal Judgment #21-10-09, the assessed value for the property has been reduced from 75,000 to 25,000 which changes the amount of taxes due thus creating this overpayment.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector and Treasurer to refund the above tax overpayment.

Resolution 207-2010 Refund Tax Monies per Tax Court Appeal

Resolution 207-2010 was moved on a motion made by Cioni, seconded by Higgins and adopted.

Roll Call: Cioni, Higgins, Gleba, McDonald, Boyle, Valentine, Housel

Ayes: 7, Nays: 0  
Motion Carried

**RESOLUTION # 207-2010**

**A RESOLUTION TO REFUND TAX MONIES PER TAX COURT APPEAL**

**WHEREAS**, the Tax Collector has received a Tax Court Judgment for the year 2009 for the property listed below:

<u>BLOCK</u>	<u>LOT</u>	<u>NAME OF OWNER/</u>	<u>YEAR</u>	<u>AMOUNT</u>
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### **PROPERTY LOCATION**

71.01	1	Schlegel, Charles A & Antoinette 47 Flower Avenue	2009 Taxes	337.57
			TOTAL	337.57

Refund payable to: Charles A Schlegel, 47 Flower Avenue, Washington, NJ 07882.

**WHEREAS**, due to the Tax Court Judgment Docket #015160-2009, the assessed value for the improvements has been reduced from 142,500 to 134,600 which changes the amount of taxes due thus creating this overpayment.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector and Treasurer to refund the above tax overpayment.

At this time Councilman Cioni excused himself from the remainder of the meeting.

### **VOUCHERS**

Motion made by Higgins, seconded by Valentine to approve the claims and vouchers in the amount of \$ 756,428.23.

Discussion: Councilman Higgins asked if the City Connections charge is an annual fee. Manager Phelan stated yes; this is the fee for website/email maintenance and updates.

Ayes: 5, Nays: 0

Abstain: 2 (Higgins – Fire Department Invoices, Gleba)

Motion Carried

### **RECAP**

Manager Phelan will look into what the possible amount for uncollected taxes would be reduced to if Garbage removal was removed from the Municipal Budget. Manager Phelan will follow up on whether or not donations to the municipality are tax write offs. He will provide information to Council on changing the Recreation Committee to a Recreation Commission.

### **COUNCIL REMARKS**

Councilman Higgins asked about the forensic audit proposals. Manager Phelan stated that this will begin in 2011 as part of the budget process.

Councilwoman Gleba inquired about the Comcast Franchise Agreement. Manager Phelan stated that it is still being reviewed by the BPU (Board of Public Utilities.) She also asked about the budget for police services for 2011. Manager Phelan stated he is waiting for numbers from the Washington Township.

### **EXECUTIVE SESSION**

A motion was made by Housel, seconded by Valentine, to enter into Executive Session to discuss Personnel at 10:20 pm.

Ayes: 5, Nays: 1 (Boyle)  
Motion carried.

Councilman Higgins excused himself from Executive Session.

### **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; Real Estate Acquisitions

\_\_\_\_\_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: \_\_\_\_\_ 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.)

\_\_\_\_\_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: OR Personnel – Manager Review \_\_\_\_\_ 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.

A motion was made by Housel, seconded by Boyle, to exit Executive Session at 11:00 p.m.

Ayes: 5, Nays: 0  
Motion carried.

Hearing no further business, a motion was made by Housel, seconded by Boyle, to adjourn the meeting at 11:00 pm.

Ayes: 5, Nays, 0  
Motion Carried.

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Mayor Scott McDonald

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Kristine Blanchard, Borough Clerk