

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – December 6, 2011**

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: Gleba, Torres, Higgins, Boyle - Present
Valentine, McDonald, Jewell - Absent

Also Present: Richard Phelan, Borough Manager
Kristine Blanchard, Borough Clerk

Deputy Mayor Boyle led everyone in the flag salute.

Deputy Mayor Boyle 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:

Motion made by Gleba, seconded by Higgins to approve the minutes of the regular meeting of November 14, 2011.

Ayes: 4, Nays: 0
Motion Carried

CORRESPONDENCE:

Proposed Lease Agreement – Norfolk Southern Railroad

Motion made buy Gleba, second by Higgins to receive and file the correspondence.

Ayes: 4, Nays: 0
Motion Carried

Manager Phelan noted that at the next Council meeting the Attorney will be providing his comments, including the pros and cons, of this agreement with the Railroad Company. He stated that Council will need to decide whether this is something they want to consider.

Council discussed several aspects of the lease agreement; however decided to consider this at the December 20, 2011 Council meeting with the Attorney present.

AUDIENCE:

Deputy Mayor Boyle opened up the audience portion of the meeting.

Rick Feldman – 19 Prosper Way

Mr. Feldman inquired about leaf pickup. He would like to know if Council would consider extending the leaf pickup as many leaves are still on the trees. The Governing Body determined it was too late to extend for this year due to budgetary concerns; however a motion was made by Gleba, seconded by Torres to obtain a quote from Blue Diamond to extend leaf pickup for 2012. All – yes.

Dave Desanto – 66 Cemetery Hill Rd

Mr. Desanto noted that recently he has been following a case in front of the Bd. of Adjustment. He indicated he had trouble locating a copy of The Star Gazette within the Borough. He stated he wanted Council to be aware that they are advertising in newspaper that does not seem to be sold in the Borough. Council will place this topic on the next agenda for discussion.

ORDINANCES:

None

REPORTS:

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

1. Managers Report
2. Municipal Court
3. CFO Report

Ayes: 4, Nays: 0
Motion Carried

COMMITTEE REPORTS:

Councilwoman Gleba stated the Ecode Webinar was very informative. She recommends the Council members who were not in attendance review Ecode if they can. This will be beneficial to everyone.

OLD BUSINESS:

None

NEW BUSINESS:

Approval of Raffle Application - Washington Borough PTO

Motion made by Higgins, seconded by Gleba and approved.

Snow Removal – Business Improvement District (Discussion)

Deputy Mayor Boyle stated that he had spoken with the Director of the BID and there was some concern about the snow piling up at the edge of the sidewalk near the street in the downtown. This would make it difficult for patrons to park and exit their vehicle. The BID was prepared to place the snow removal expense in their budget; however wanted to obtain the opinion of Council to see if they would be willing to remove the snow. Manager Phelan stated the BID paid for this service last year.

Councilman Higgins noted that in the minutes of the February 20, 2007 Council meeting, Attorney Cushing stated that if snow removal was something that the Borough historically provided in the downtown area; the Borough really wouldn't be able to charge the BID for it now. After some discussion a motion was made by Torres, seconded by Gleba to have the Borough remove the snow in the downtown area from the right of way in the downtown business district. Snow removal will be done from Lincoln Ave to School Street on both sides. Ayes: 4, Nays: 0 – Motion Carried.

Resolution 189-2011 Release of Escrow – Quelly

Resolution 189-2011 was moved on a motion made by Higgins, seconded by Torres and approved.

Ayes: 4, Nays: 0
Motion Carried

RESOLUTION #189-2011

**A RESOLUTION AUTHORIZING THE RELEASE OF FUNDS FROM
JULIA QUELLY ESCROW ACCOUNT HELD IN TRUST
BY THE BOROUGH OF WASHINGTON**

WHEREAS, Julia Quelly, 4 Cleveland Street, Washington, NJ 07882 has requested the return of the funds remaining in the escrow account #7760883269; and

WHEREAS, the Law Offices of Scholl, Whittlesley & Gruenberg, LLC was paid their

final invoice on November 2, 2011, and there are no outstanding engineering invoices, it has been determined 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 Julia Quelly for the actual account balance in the Julia Quelly escrow account.

Resolution 190-2011 Authorizing an Award of Contract for the Supply of Renewable Energy Based Electricity to the Borough's Wastewater Treatment Plant and DPW Garage

Resolution 190-2011 was moved on a motion made by Gleba, seconded by Boyle and adopted.

Ayes: 4, Nays: 0
Motion Carried

RESOLUTION 190-2011

RESOLUTION AUTHORIZING AN AWARD OF CONTRACT FOR THE SUPPLY OF RENEWABLE-ENERGY-BASED ELECTRICITY TO THE BOROUGH'S WASTEWATER TREATMENT PLANT AND DEPARTMENT OF PUBLIC WORKS GARAGE

WHEREAS, bids were accepted by the Borough Purchasing Agent for the supply of renewable-energy-based electricity to the Borough's Wastewater Treatment Plant and Department of Public Works Garage located on Block 101, Lot 1 in the Borough of Washington through a Power Purchase Agreement on Thursday, November 10, 2011 at 10:00AM; and

WHEREAS, only one bid was received from Washington Community Solar, LLC

WHEREAS, the Chief Financial Officer has certified to the Borough Clerk that funds will be made available during the preparation of the 2012 Temporary Budget and subsequent 2012 final budget when adopted.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Washington hereby authorizes award of a contract for the supply of renewable-energy-based electricity to the Borough's Wastewater Treatment Plant and Department of Public Works Garage located on Block 101, Lot 1 in the Borough of Washington to Washington Community Solar, LLC in accordance with all of the terms and conditions set forth in the Power Purchase Agreement that was made part of the bid specifications.

BE IT FURTHER RESOLVED that a certified copy of the within Resolution be forwarded to the Chief Financial Officer, Purchasing Agent and Washington Community Solar, LLC.

Resolution 191-2011 Absence from Meeting Policy

Resolution 191-2011 was moved on a motion made by Higgins, seconded by Torres and adopted.

Ayes: 4, Nays: 0
Motion Carried

Resolution 191-2011

RESOLUTION ESTABLISHING AN ABSENCE FROM MEETING POLICY FOR ALL ELECTED AND APPOINTED OFFICIALS AND VOLUNTEERS

WHEREAS, the Department of Community Affairs, Division of Local Government Services has issued the 2011 Best Practices Checklists for all municipalities in the State; and

WHEREAS, one of the State's recommendations was for municipalities to establish an "Absence from Meetings Policy" for elected officials and appointed board members; and

WHEREAS, the Borough of Washington desires to be compliant with all recommendations listed in the Best Practices Checklist, which includes adopting a policy as stated above.

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Washington hereby creates an Absence from Meetings Policy in accordance with the State statutes as follows:

Policy for Elected Officials

In accordance with N.J.S.A. 40A:16-3(g), as amended, the office of a Mayor or a member of the governing body shall be deemed vacant whenever the Mayor or a member of the governing body fails to attend and participate in any meetings of the governing body for a period of 8 consecutive weeks without being excused from attendance by a majority of the members of the governing body, at the conclusion of such period; provided, however, that the governing body may refuse to excuse only with respect to those failure to attend and participate which are not due to legitimate illness;

Policy for Appointed Officials and Volunteers

In accordance with N.J.S.A 40A:9-12.1(g), as amended, the office of any person appointed to a specified term, with or without compensation, by the governing body or Manager including persons appointed to any board, committee, commission, authority or other agency of one or more local units, shall be deemed vacant if a member of a board, committee, commission, authority or other agency, whenever the member, without being excused by a majority of the authorized members of such body, fails to attend and participate at meetings of such body for a period of 8 consecutive weeks, or for four consecutive regular meetings, whichever shall be of

longer duration, at the conclusion of such period, provided that such body shall notify the appointing authority in writing of such determination.

BE IT FURTHER RESOLVED, that copies of this resolution be provided to elected officials, appointed officials and volunteers within the Borough of Washington.

Resolution 192-2011 Budget Transfers for the Year 2011 Appropriations

Resolution 192-2011 was moved on a motion by Higgins, seconded by Gleba and adopted.

Ayes: 4, Nays: 0
Motion Carried

RESOLUTION 192-2011

AUTHORIZING BUDGET TRANSFERS
FOR FISCAL YEAR 2011 APPROPRIATIONS

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriations transfers during the last two (2) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in the excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over and above the amount deemed to be necessary to fulfill the purpose of such appropriation.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Washington, County of Warren, State of New Jersey, the Chief Financial Officer Natasha S. Turchan, be and the same is hereby authorized to make transfers among the Fiscal Year 2011 Budget as follows:

Transfer From:		Transfer To;	
Code Enforcement:		Engineering:	
Salaries/Wages	20,500	Other Exp.	2,000
Heating Oil	5,000	Shade Tree	
		Other Exp.	12,000
Tax Assessor		Utilities	
Salaries/Wages	1,000	Gasoline	7,000
		Planning	
		Other Exp.	5,500
	26,500		26,500

Resolution 193-2011 Cancel Receivable Balances and Corresponding Reserve Balances for Various Grants

Resolution 193-2011 was moved on a motion made by Higgins, seconded by Torres and adopted.

Ayes: 4, Nays: 0
Motion Carried

Resolution 193-2011
TO CANCEL RECEIVABLE BALANCES AND CORRESPONDING RESERVE BALANCES
FOR VARIOUS GRANTS

WHEREAS, receivable balances of various grants from the State of New Jersey which remains on the Grant Fund balance sheet have expired, and

WHEREAS, it is necessary to formally cancel the receivable balance and various appropriated reserve balance;

NOW, THEREFORE, BE IT RESOLVED that the following grant receivable and appropriated reserve balances be cancelled:

2005 Summer Recreation Program-receivable		\$ 500.00
2006 Summer Recreation Program-receivable		\$ 500.00
COPS and More	- receivable	\$ 610.30
NJ Site Remediation	- receivable	\$116,545.00
Bulletproof Vest Program	-receivable	\$ 2,725.58
Domestic Violence training	- reserve	\$ 3,580.88
Cool Cities Community Grant	- reserve	\$ 3,860.00
Small Cities Grant	- reserve	\$ 21.71
SLAHEOP	- reserve	\$ 867.35
Planning Assistance COAH	- reserve	\$ 2,732.39
Municipal Storm water regulations	- reserve	\$ 5,000.00
Storm Water Management Program-	reserve	\$ 528.80
NJ Site Remediation	reserve	\$55,213.62

Audience member Rick Feldman asked what the summer recreation programs were for. He does not recall any grants for recreation. Manager Phelan will look into this and send the information to Mr. Feldman and Council.

Resolution 194-2011 Release of Performance and Surety Bonds Park Hill Apartments

Resolution 194-2011 was moved on a motion made by Higgins, seconded by Torres and adopted.

Ayes: 4, Nays: 0
Motion Carried

RESOLUTION #194-2011

A RESOLUTION AUTHORIZING THE RELEASE OF PERFORMANCE
AND SURETY BONDS FOR THE PARK HILL APARTMENTS PROJECT
HELD IN TRUST BY THE BOROUGH OF WASHINGTON

WHEREAS, Andrew S. Holt, PE, PP, CME, Borough Engineer submitted a letter stating that the applicant had a final inspection on October 20, 2011. As the NJDEP close-out process is generally long, and due to the particular nature of this project and the License Site Remediation Professional involvement for this project, the Borough Engineer recommends that the Performance Bond posted with the Borough, in the amount of \$395,437.20 (10% CASH - \$39,543.72, plus interest) and the 90% Surety Bond \$355,893.48 be released; and

WHEREAS, Municipal Engineer Andrew S. Holt, P.E. of Suburban Consulting Engineers has determined that the final site work is acceptable and the bond can be released upon the receipt of two (2) signed and sealed As-Built plans and a copy of the filed Deed Notice showing restrictions as recommended by NJDEP; and

WHEREAS, the As-Built plans were delivered to the Municipal Clerk on November 17, 2011 and a copy of the Deed Notice reflecting the required restrictions as recommended by NJDEP was received on November 18, 2011;

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 Park Hill Apartments for the 10% of the Performance Bond, plus interest, from their escrow account #7760883228.

BE IT FURTHER RESOLVED, that the Borough Clerk is authorized to release the 90% Surety Bond in the amount of \$355,893.48.

Resolution 195-2011 Refund of Tax Overpayment

Resolution 195-2011 was moved on a motion made by Higgins, seconded by Torres and adopted.

Ayes: 4, Nays: 0
Motion Carried

RESOLUTION # 195-2011

A RESOLUTION TO REFUND OVERPAYMENT
ON PRIOR/CURRENT YEAR REAL ESTATE TAXES

WHEREAS, according to the Tax Collector's records, there are overpayments amounting to a total of \$34,330.88 paid on 85 properties located at 63-80 Washington Square Circle, also known as Block 73.01 Lot 14 through Block 73.02 Lot 40, and in the name of Jade Acquisition, LLC and

WHEREAS, Jade Acquisition, LLC received tax appeals and other assessment adjustments on the above properties causing the overpayment; and

WHEREAS, the Tax Collector was contacted by Ray Rice of Jade Acquisition, LLC concerning these tax overpayments and has received a letter requesting the refund.

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 amount of \$34,330.88 payable to:

Jade Acquisition, LLC
10 Peapack Road
Far Hills, NJ 07931

Resolution 196-2011 Refund of Overpayment

Resolution 196-2011 was moved on a motion made by Higgins, seconded by Torres and adopted.

Ayes: 4, Nays: 0
Motion Carried

RESOLUTION # 196-2011

A RESOLUTION TO REFUND OVERPAYMENT
ON 2010 PRIOR YEAR REAL ESTATE TAXES

WHEREAS, according to the Tax Collector's records, there is an overpayment of \$1,521.67 on 2010 4th Quarter Regular Taxes paid on property located at 26 McKinley Avenue, also known as Block 46 Lot 14, and in the name of Lugo, Eduardo G & La-Mandre, Cathy; and

WHEREAS, the BAC Tax Service paid taxes to the wrong municipality for a different homeowner than ours; and

WHEREAS, the Tax Collector has been resolving the matter of tax overpayments and has

received a request from BAC requesting the incorrect payment be refunded to them.

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 amount of \$1,521.67 payable to:

BAC Tax Services Corporation
CA6.913.LB.01
PO Box 10211
Van Nuys, CA 91499-6089

VOUCHERS

Deputy Mayor Boyle entertained a motion to approve the vouchers and claims in the amount of \$519,993.34.

Roll Call: Boyle, Higgins, Gleba, Torres

Ayes: 4, Nays: 0

Abstain: Higgins (Fire Department)
Gleba (Finelli Consulting)

RECAP

Manager Phelan will contact Diamond for an estimate on extending leaf pickup next year. He will inform the DPW Department about snow removal downtown and he will look into the Recreation Grant numbers for Council and Mr. Feldman.

COUNCIL REMARKS:

Councilwoman Gleba stated the BID did a great job at the Holiday Tree Lighting. She noted she will not be at the 12/20 meeting.

Councilman Torres asked how much the tree outside Borough Hall had costs to light in the past. Manager Phelan stated it was approximately between \$750 and \$900. Councilman Torres stated the article in the Express Times regarding the Recreation Fee Ordinance vote contained inaccurate statements and there was not an unwillingness to approve the Ordinance.

Councilman Higgins stated he had picked up information regarding bulk pickup from a vendor at the League Convention; he gave all of Council a copy. He will ask the Mayor to reach out to them for a presentation. He noted that he spoke to the DCA regarding the Pay to Play Ordinance. He stated the tree downtown decorated by the BID looks great and reminded everyone about the Toy Drive the Emergency Squad is having.

Deputy Mayor Boyle stated that he has asked the Manager to place the Recreation Fee Ordinance on the agenda again in January. Deputy Mayor Boyle stated that he spoke with the Recreation Director for a better understanding. He asked if there was any further information anyone needed prior to January regarding Recreation fees. Councilman Higgins stated he would like to see the Revenues vs. Expenses. Councilwoman Gleba noted the Recreation Committee just compiled all of the information and will forward to Council after their meeting tomorrow.

Resolution 197-2011 Executive Session

It was noted the manger's annual review will be postponed until January 17, 2012.

Motion made by Higgins, seconded by Torres to enter Executive Session at 9:05 p.m.

Ayes: 4, Nays: 0
Motion Carried

197-2011
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: **Veolia Water Contract**. 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.);

_____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: 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.

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 exited Executive Session at 9:15 p.m.

Hearing no further business Motion made by Torres, seconded by Higgins to adjourn the meeting at 9:15 p.m.

Deputy Mayor Patrick Boyle

Kristine Blanchard, RMC Borough Clerk