

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY  
WASHINGTON BOROUGH COUNCIL MINUTES – December 20, 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: Torres, Higgins, Boyle, Valentine, McDonald, Jewell  
Gleba - Absent

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.”

**CORRESPONDENCE:**

Washington Township – Proposed Secondhand Jewelry Ordinance  
Senator Doherty – Proposed Resolution  
Sutherland Associates – Proposed Water Storage Tank NJ American Water  
Schneider and Co. – Forensic Audit Invoices

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

Ayes: 6, Nays: 0  
Motion Carried

Washington Township – Proposed Ordinance

A motion was made by Councilman Higgins, seconded by Councilman Jewell to inform the Washington Township Police Chief that the Borough is not interested at this time.

Ayes: 6, Nays: 0  
Motion Carried

Senator Doherty – Proposed Resolution

Motion made by Jewell, seconded by Torres to draft the Resolution and place on the agenda for the next meeting.

Ayes: 6, Nays: 0  
Motion Carried

Sutherland Associates – Water Tank Proposal

It was suggested by Attorney Cushing to invite Sutherland Associates in to present to Council so that more information may be obtained. Council concurred.

**COUNCIL APPEARANCE:**

Ray Rice – Jade Acquisition

Mr. Rice stated that he is the current developer for the Washington Square Town Homes that are being developed on Rt. 57 in Washington. He explained that currently the Planning Board Resolution states he will need to set aside 20% of the units as affordable housing units. He stated that the Planning Board and he both agree (as outlined in the Planning Board Resolution) that if COAH gives approval, it would be preferred that he give a donation to the Borough in lieu of constructing the affordable housing units.

Mr. Rice stated to date; COAH has not approved or denied the request. Mr. Rice stated he is before Council this evening to ascertain whether or not Council would be agreeable to him constructing market rate units on the Washington Square property and rather than a donation; moving the affordable units downtown. Mr. Rice stated that he is interested in rehabbing buildings in the downtown area and sees this as a perfect opportunity.

Council determined they are interested in Mr. Rice's proposal they suggested he speak with the Planning Board Planner and review the downtown redevelopment plan. They would like to see a concept as well. Council informed Mr. Rice that he will need to seek approval from the Planning Board to amend the Resolution.

**AUDIENCE:**

Mayor McDonald opened up the audience portion of the meeting.

Mrs. Susan Sloan – 89 Grand Avenue

Mrs. Sloan noted that a property owner is placing leaves on the street on Grand Ave. Manager Phelan will inform the code officer.

**ORDINANCES:**

None

## **REPORTS:**

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

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

Ayes: 6, Nays: 0  
Motion Carried

A motion was made by Higgins, seconded by Jewell to have the Manager obtain a breakdown of the 2011 Recreation Program fees and expenditures.

Ayes: 6, Nays: 0  
Motion Carried

## **COMMITTEE REPORTS:**

None.

## **OLD BUSINESS:**

None

## **NEW BUSINESS:**

Official Newspaper – Discussion

Borough Clerk, Kristine Blanchard informed Council that at the last Council meeting a resident had voiced his concerns regarding the availability of the Star Gazette. After doing some research on the advertising costs associated with the Express Times and the Star Gazette it is much more cost effective to continue advertising in the Star Gazette. Ms. Blanchard stated that the cost to advertise in the Express Times is \$3.40 per line; the Star Gazette is .6669 per line. The Star Gazette is available on-line and at the Municipal Library. She has spoken with a sales representative from the Star Gazette and the representative will be reaching out to Quick Check to begin carrying the paper.

Council agreed to continue advertising in the Star Gazette.

Resolution 198-2011 Void and Replace Check

Resolution 198-2011 was approved on a motion made by Higgins, seconded by Jewell and adopted.

Ayes: 6, Nays: 0  
Motion Carried

**RESOLUTION # 198 -2011**

**A RESOLUTION TO VOID AND REPLACE A CHECK ISSUED  
FROM THE DEVELOPER'S ESCROW ACCOUNT APPROVED  
FOR PAYMENT ON DECEMBER 6, 2011.**

WHEREAS, the Mayor and Council approved a total payment from the Developer's Escrow account due to Gebhardt & Kiefer in the amount of \$5,001.18 and Check #1908 was subsequently issued in that amount;

WHEREAS, a review of the invoices paid by check #1908 revealed that one invoice in the amount of \$230.00 should have been paid to Suburban Consulting Engineers;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey hereby approves the void of check number 1908 and the reissuance of the payment due to Gebhardt & Kiefer by check #1925 in the amount of \$4,771.18.

Resolution 199-2011 Release of Street Opening Escrow

Resolution 199-2011 was approved on a motion made by Higgins, seconded by Jewell and adopted.

Ayes: 6, Nays: 0  
Motion Carried

**RESOLUTION 199# 2011**

**A RESOLUTION AUTHORIZING THE RELEASE OF STREET  
OPENING ESCROW**

WHEREAS, Dr. Richard Birkins, DDS applied for a street opening permit in 2010; and

WHEREAS, funds were posted in escrow to cover the cost of professional review of this application as well as funds to cover a maintenance bond; and

WHEREAS, Municipal Engineer Andrew S. Holt, P.E. has determined after reviewing

the site that the escrow account money and professional review 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 Treasurer is hereby authorized to issue a check to Dr. Richard Birkins, DDS of 137 Belvidere Ave in the amount of \$1040.00

Resolution 200-2011 Redemption of Tax Sale Certificate

Resolution 2002-2011 was moved on a motion made by Higgins, seconded by Jewell and adopted.

Ayes: 6, Nays: 0  
Motion Carried

**RESOLUTION # 200-2011**

**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 November 17, 2009 to Royal Tax Lien Services LLC, 115 West Avenue, Suite 300, Jenkintown, PA 19046, in the amount of \$13,821.49 for taxes or other municipal liens assessed for the year 2008 in the name of Roland, Madeline & Vincent as supposed owners, and in said assessment and sale were described as 33 Lambert Street, Block 2.11 Lot 33, which sale was evidenced by Certificate #09-00005; and

**WHEREAS**, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 11-15-11 and before the right to redeem was cut off, as provided by law, HSBC for the Rolands claiming to have an interest in said lands, did redeem said lands claimed by Royal Tax Lien Services LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$60,061.14, which is the amount necessary to redeem Tax Sale Certificate #09-00005.

**NOW THEREFORE BE IT RESOLVED**, on this 20<sup>th</sup> day of December, 2011 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Royal Tax Lien Services LLC, 115 West Avenue, Suite 300, Jenkintown, PA 19046 in the **amount of \$97,061.14 (\$60,061.14 principal and \$37,000.00 premium)**.

**BE IT FURTHER RESOLVED**, that the Tax Collector is authorized to cancel this lien on Block 2.11 Lot 33 from the tax office records.

Resolution 201-2011 Refund of Taxes – Veteran Deduction

Resolution 201-2011 was moved on a motion made by Higgins, seconded by Jewell and adopted.

Ayes: 6, Nays: 0  
Motion Carried

**RESOLUTION #201-2011**

**RESOLUTION TO REFUND VETERAN DEDUCTION ALLOWED**

**As per N.J.S.A. 54:4-8.40 Et seq**

**WHEREAS**, the Tax Assessor and Tax Collector has allowed the following Veterans' Deduction and wishes to refund this deduction; and

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>NAME OF OWNER/ PROPERTY LOCATION</u></b>	<b><u>EXPLANATION</u></b>	<b><u>AMOUNT</u></b>
44.01	14	Schultes, Raymond E 103 Sunrise Terrace Washington, NJ 07882	Veteran's Deduction Allowed in 2011	250.00

**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 Treasurer be authorized to refund the amount of \$250.00 to Raymond E Schultes.

Resolution 202-2011 Lease Agreement Norfolk Railway Block 300 Lot 1.04

No motion was made in support of Resolution 202-2011

Resolution 203-2011 Lease Agreement Norfolk Railway Block 301 Lot 2

Motion made by Valentine, seconded by Boyle for discussion.

Attorney Cushing stated that there are liability issues with the lease agreement. Councilman Boyle asked if this fails then it will not be plowed? Manager Phelan stated yes.

Ayes: 0, Nays: 5  
Abstain: 1 (Higgins)  
Motion Failed

Resolution 204-2011 Contract Extension with Veolia Water North America for the Operations and Maintenance of the Borough's Wastewater Treatment Plant

Resolution 204-2011 was moved on a motion made by Higgins, seconded by Torres and adopted.

Ayes: 6, Nays: 0  
Motion Carried

**RESOLUTION 204-2011**  
**AUTHORIZING A CONTRACT EXTENSION WITH VEOLIA WATER NORTH**  
**AMERICA FOR THE OPERATIONS AND MAINTENANCE OF THE BOROUGH'S**  
**WASTE WATER TREATMENT PLANT**

**WHEREAS**, on June 16, 1998, U.S. Filter Operating Services, now known as Veolia Water North America, was awarded a contract for the design, operations and maintenance of the Borough's Waste Water Treatment Plant; and

**WHEREAS**, according to Article XI, Section 11.1 of the Agreement, the initial contract term was for fifteen (15) years; and

**WHEREAS**, Article XI, Section 11.2 of the Agreement states in part that "The Borough shall have the option in its sole discretion to renew this Agreement for an additional term or terms aggregating five (5) years on the same conditions as are applicable during the initial term."; and

**WHEREAS**, Article VIII, Section 8.3 of the Agreement states in part, "The parties acknowledge that it may be necessary or desirable from time to time during the Term hereof to modify, alter or improve the Wastewater Treatment System" to which the Borough has undertaken the inception of this Agreement at our own expense; and

**WHEREAS**, in accordance with Article IX, "Service Fee", Section 9.2, "Post-Acceptance Service Fee", Sub-Section F, "Pass Through Costs", electricity usage payments for the Waste Water Treatment Plant have been paid by Veolia Water North America and reimbursed in full by the Borough on a monthly basis; and

**WHEREAS**, the Mayor and Council have decided that granting the contract extension and making certain contractual changes in accordance with the Articles stated above would be in the best interest of the Borough.

**NOW, THEREFORE BE IT RESOLVED**, that the Borough Council of the Borough of Washington, authorize all actions listed in the attached amendment.

**BE IT FURTHER RESOLVED**, that a copy of this resolution be forwarded to the Borough Manager, Chief Financial Officer, and Veolia Water North America.

Resolution 205-2011 Authorizing System Modification to the Borough's Waste Water Treatment Plant by Veolia Water North America

Resolution 205-2011 was moved on a motion made by Valentine, seconded by Jewell and adopted.

Ayes: 5, Nays: 1 (Higgins)

Motion Carried

**RESOLUTION 205-2011**

**AUTHORIZING SYSTEM MODIFICATION TO THE BOROUGH'S WASTEWATER  
TREATMENT PLANT BY VEOLIA WATER NORTH AMERICA**

**WHEREAS**, on June 16, 1998, U.S. Filter Operating Services, now known as Veolia Water North America, was awarded a contract for the design, operations and maintenance of the Borough's Waste Water Treatment Plant; and

**WHEREAS**, according to Article VIII, Section 8.5(D) of the Agreement, the Borough may authorize modifications to the Waste Water Treatment System and "May require Veolia Water North America to finance such costs, provided that Veolia Water North America shall be entitled to a substantiated adjustment to the Service Fee to account for such financing." And that "The parties shall negotiate in good faith to determine the structure and terms of any such financing."; and

**WHEREAS**, such negotiations have occurred to the satisfaction of both parties in order to make certain modifications to the Borough's Waste Water Treatment System; and

**WHEREAS**, the Mayor and Council have decided that authorizing such modifications would be in the best interest of the Borough.

**NOW, THEREFORE BE IT RESOLVED**, that the Borough Council of the Borough of Washington, authorize certain modifications to the Waste Water Treatment System in accordance with the attached Amendment.

**BE IT FURTHER RESOLVED**, that a copy of this resolution be forwarded to the Borough Manager, Chief Financial Officer, and Veolia Water North America.

**VOUCHERS**

Mayor McDonald entertained a motion to approve the vouchers and claims in the amount of \$ 408,228.54.

Roll Call: Boyle, Higgins, McDonald, Torres, Jewell, Valentine

Ayes: 6, Nays: 0

Abstain: Higgins (Fire Department)  
Jewell (EMS and Fire Department)



## **RECAP**

Manager Phelan will inform Washington Township we are not interested in the proposed second hand jewelry ordinance at this time. He will reach out to Sutherland and Associates to schedule an appearance. He will also provide the breakdown of revenue and expenditures for the Recreation Department.

## **COUNCIL REMARKS:**

Councilman Valentine wished everyone a happy holiday season

Councilman Torres wished everyone a happy holiday season as well.

Councilman Higgins wished everyone a Merry Christmas and inquired about an update from the forensic auditor. Manager Phelan stated he provided Council with correspondence however when the auditor has completed his audit he will schedule time with Council.

Councilman Jewell also wished everyone a Merry Christmas. He stated since we have not heard from the Chief of Police regarding the red light cameras he would like to make a motion to reach out to Chief McDonald to get the process started. This was seconded by Councilman Boyle.  
Ayes – 5, Nays: 1 (Higgins.)

Councilman Boyle stated we should reach out to the railroad company to see if they will place a private property sign on their property to avoid confusion.

Mayor McDonald wished everyone a Merry Christmas.

Resolution 206-2011 Executive Session

I        Motion made by Higgins, seconded by Torres to enter Executive Session at 9:10 p.m.

Ayes: 6, Nays: 0  
Motion Carried

## **206-2011**

### **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: DPW Garage 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.

\_\_\_\_\_  
Mayor Scott McDonald

\_\_\_\_\_  
Kristine Blanchard, RMC Borough Clerk