

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY  
WASHINGTON BOROUGH COUNCIL MINUTES – September 4, 2012**

The Regular Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 7:00 P.M.

Roll Call: Gleba, McDonald, Higgins, Boyle, Jewell, Torres  
Valentine- Arrived at 7:30 P.M.

Also Present: Kristine Blanchard, Manager/Borough Clerk  
Judy Kopen, Attorney

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:**

Heather Rick:	Jake Break Ordinance
Recreation Commission:	Evergreen Plants (Tabled)
Lawrence Cohen Esq.:	Washington Square/Jade Acquisition Development
Business Improvement District:	Town Wide Yard Sale

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

Ayes: 6, Nays: 0  
Motion Carried

Council Discussion:

Council requested he Borough Manager obtain a copy of Washington Township’s Ordinance and inquire as to how and if the Ordinance was being enforced.

Mayor McDonald stated that Larry Cohen will be appearing before Council later in the evening.

BID Request for Town Wide Yard Sale on September 15, 2012 with a rain date of September 16, 2012.

Motion made by Higgins, seconded by Jewell and approved.

Ayes: 6, Nays: 0  
Motion Carried

### **MINUTES:**

#### **Regular Meeting Minutes – August 21, 2012**

Motion made by Higgins, seconded by Torres to approve the minutes of August 21, 2012.

Ayes 5, Nays: 0  
Abstain: 1 (Jewell)  
Motion Carried

### **AUDIENCE:**

Susan Sloan – Grand Avenue

Mrs. Sloan commented on the amount of fireworks that people are setting off in the Borough; especially in the summer months. She is concerned for the safety of residents and for the safety of homes. She does not want to see a stray firework setting a home on fire. She also noted a car that has been parked at the corner of Rt. 57 and Grand with a trailer attached that has been there for quite some time.

Motion made by Higgins, seconded by Boyle, to close the audience portion of the meeting.

Ayes: 6, Nays: 0  
Motion Carried

**ORDINANCES:**

**Ordinance 6-2012 Amending Chapter 76 Shade Tree Commission of the Code of the Borough of Washington (public hearing/adoption)**

Motion made by Boyle seconded by Gleba to introduce Ordinance 6 – 2012 on final reading and have the Clerk read by title.

Ayes: 6, Nays 0  
Motion Carried

The Clerk read Ordinance 6-2012 Amending Chapter 76 Shade Tree Commission of the Code of the Borough of Washington.

Public Hearing

Hearing no comments from the public motion made by Torres, seconded by Gleba to close the public hearing.

Ayes: 6, Nays: 0  
Motion Carried

Council Discussion:

Hearing no comments motion made by Torres, seconded by Gleba to approve Ordinance 6-2012 on final reading.

Ayes: 6, Nays: 0  
Motion Carried

**ORDINANCE 6-2012  
AMENDING CHAPTER 76 SHADE TREE COMMISSION OF THE CODE OF  
THE BOROUGH OF WASHINGTON**

Chapter 76, SHADE TREE COMMISSION

[HISTORY: Adopted by the Borough Council of the Borough of Washington 3-13-79 as Ord. No. 6-79. Amendments noted where applicable.]

GENERAL REFERENCES

Trees -- See Ch. 83.

Weeds and obnoxious growths -- See Ch. 91.

Zoning and land development -- See Ch. 94.

§ 76-1. Purpose and Title.

Trees constitute natural resources contributing to the value of property throughout the Borough of Washington and promoting the general welfare of the citizens thereof.

The Borough Council deems essential the protection of trees from needless removal or destruction with resulting damage from soil erosion, loss of soil fertility, drainage problems and loss of air quality as well as water quality.

The preservation of trees will be advanced by the establishment of rules and regulations regarding their protection or removal.

§ 76-2. Establishment; composition; appointment; compensation.

The regulation, planting, care and control of shade trees upon or in the streets, highways, public places, parks or parkways of this municipality shall be exercised by and be under the authority of a Commission.

§ 76-3. Terms of office.

A Commission consisting of five (5) residents of this municipality, which Commission shall be known as the "Shade Tree Commission of Washington Borough, New Jersey". The term of the five persons to be appointed by the mayor shall serve without compensation. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The terms of office of said Commission shall be in accordance with N.J.S.A. 40:64-2.

§ 76-4. Powers.

The Shade Tree Commission of the Borough of Washington shall have the power to:

- A. Exercise full and exclusive control over the regulations, planting and care of shade and ornamental trees located in the right of way area, or which may hereafter be planted, in any public highway, park or parkway, including the planting, trimming, spraying, care and protection thereof.
- B. Regulate and control the use of the ground surrounding the same, as far as may be necessary for their proper growth, care and protection.
- C. Move or require the removal of any tree, or part thereof, dangerous to public safety.
- D. Care for and control such parks and parkways; encourage arboriculture; make, alter, amend and repeal, in the manner prescribed for the passage, alteration, amendment and repeal of ordinances by the governing body of the municipality, any and all ordinances necessary or proper for carrying out the provisions hereof.

E. Administer treatment to or remove any tree situated upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the municipality and enter upon private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by or on behalf of the Division of Parks and Forestry.

§ 76-4. Cost of trees and improvements; charge and lien on property; exceptions.

A. Except as hereinafter provided, the initial cost of all trees planted by the Commission, the cost of planting the same, the cost of the posts and boxes or guards used for the protection thereof and the cost of the removal of any tree or part thereof dangerous to public safety shall, if the Commission shall so determine in accordance with uniform rules and regulations promulgated for this purpose, be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof. Such cost, if it is so determined that it is to be paid by the owner, shall, unless paid directly to the Commission, be certified by it to the Collector of Taxes of the municipality, shall thereupon become and be a lien upon said real estate, shall be included in the next tax bill rendered to the owner or owners thereof and shall be collected in the same manner as other taxes against that property.

B. The provisions of this section shall not apply to:

- (1) A planting to replace a tree or trees theretofore planted by the Commission.
- (2) A planting in connection with Arbor Day exercises or other educational demonstration.

§ 76-5. Notices and hearings on plantings and removal of trees.

In every case where the property of an abutting owner will be chargeable with the cost of planting of any shade tree or trees, the Commission shall give notice of the meeting at which it is proposed to consider said planting by publishing the notice at least once, not less than twenty (20) days before the meeting, in a newspaper circulating in the municipality, or by personal service of a copy of the notice upon the abutting owner at least ten (10) days before the meeting. The notice shall specify the street, streets or portions thereof on which such planting is proposed and require all persons who may object thereto to present their objections in writing at the office of the Commission at or before the meeting. Before final action shall be taken, all objections so filed shall be considered. The Commission shall give reasonable notice of its intention to remove, or cause the removal of, a tree or part of a tree dangerous to public safety, unless public safety requires immediate removal, in which case no notice shall be necessary.

§ 76-6. Adjacent Landowner Responsibility.

No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place in the right of way area without writing a letter to the

Commission, stating their intent. The person receiving permission needs to hire a licensed professional tree service to carry out any action.

§ 76-7. Authority to prescribe penalties.

The Commission may prescribe a fine for the violation of each of its ordinances in a minimum amount not to exceed five hundred dollars (\$500.) for each violation, and the courts which now or hereafter shall have jurisdiction over actions for the violation of ordinances of the municipality shall have jurisdiction in actions for the violation of such ordinances as the Commission shall enact. Each violation will be individually evaluated, based on the circumstances. If, as a result of the violation of any provision of this ordinance, the injury, mutilation, or death of a tree in the right of way area is caused, the cost of repair or replacement, or the appraised dollar value of such tree shall be borne by the party in violation.

#### Chapter 83, TREES

[HISTORY: Adopted by the Borough Council of the Borough of Washington 1-8-74 as Ord. No. 28-73. Amendments noted where applicable.]

#### GENERAL REFERENCES

Administration of government -- See Ch. 3.

Building construction -- See Ch. 29.

Streets and sidewalks -- See Ch. 75.

Weeds and obnoxious growths -- See Ch. 91.

§ 83-1. Rules and regulations. [Amended 10-14-80 by Ord. No. 15-80]

A. No person, firm, corporation or individual connected with such firm or corporation shall do or cause to be done by others to any tree, in the right of way area, public highway or place, either purposely, carelessly or negligently, without the written permission of the Shade Tree Commission, any of the following acts:

- (1) Cut, prune, climb with spikes, break, damage or remove.
- (2) Cut, disturb or interfere in any way with any root.
- (3) Fasten any rope, wire, sign or other device.
- (4) Remove or damage any guard or device placed to protect any tree.

(5) Nothing herein shall prevent any governmental agency from tying a temporary public notice upon a tree in connection with administering governmental affairs.

B. Excavations.

(1) Shovels and all other implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, in any public highway or location in the right of way area.

(2) Where in authorized excavations it becomes necessary to expose or cut roots more than one (1) inch in diameter, it shall be the duty of the contractor to protect such roots under advice from the Shade Tree Commission.

C. Utility wires.

(1) Every person, firm or corporation having or maintaining any electric, telephone, telegraph or other wires running through a public highway shall securely fasten and maintain such wires in such a manner as will safeguard the trees against any damage there from and shall make periodic adjustments whenever necessary to prevent damage to trees growing in any public highway or place.

(2) No person, firm or corporation shall, without written permission of the Shade Tree Commission, attach or fasten any wire, insulator or other device for holding any wire to any tree in any public highway or location in the right of way area.

(3) Any utility company or its agents may, with prior permission from the Shade Tree Commission, prune and remove trees for line clearance of utility wires.

D. Landscaping.

(1) In new subdivisions or when the development of commercial property occurs, the Washington Borough Shade Tree Commission shall review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

§ 83-2. Specifications for planting trees.

A. No variety of tree other than nursery-grown trees listed in the Shade Tree Federation of New Jersey publication "Trees for New Jersey Streets" shall be planted in or upon the public highways and parks of the Borough of Washington unless the prior

approval of the Borough of Washington Shade Tree Commission has been obtained to deviate.

B. Notice must be given to a member of the Shade Tree Commission two (2) weeks prior to the start of planting in order that the Commission may inspect the stock for variety, condition, size and quality. Each case will be determined on an individual basis. All work shall be subject to the general supervision and approval of the Borough of Washington Shade Tree Commission.

C. No such trees shall be planted unless the same shall be not less than two and one-half (2 1/2) inches caliper measured three (3) feet above the ground nor less than ten (10) feet high. Such trees shall be well branched, branches to start not less than six (6) feet from the crown of the root system.

D. Where authorized for placement, flowering decorative trees may be of smaller size than shade varieties. Such trees shall be not less than one and two (2) inches caliper measured three (3) feet above the ground, nor less than eight (8) feet high. They shall be well branched, branches to start not less than five (5) feet from the crown of the root system.

E. All such trees must be planted within the right-of-way of the street or highway. The exact location of such trees shall be determined by the Shade Tree Commission but shall be at least thirty (30) feet from intercepting curbs at street corners. Such trees shall be approximately fifty (50) feet apart.

F. No trees coming within the jurisdiction of the Washington Borough Shade Tree Commission shall be planted between May 15 and the following October 1.

G. According to the New Jersey Department of Environmental Protection- Division of Parks and Forestry, the following steps are recommended for planting trees. Dig a hole at least one (1) to two (2) feet wider than the root ball. Using a tape measure, stick or a shovel, measure the height of the root ball and then measure the depth of the hole. Add or remove soil in the hole so the top of the root ball will be flush with the ground. If the root ball has a wire basket, remove the bottom third (1/3) of the basket. Gently roll the root ball in the hole. Do not move the tree by its trunk. Look at the tree from a few angles making sure that the tree is straight. If needed, add soil under the root ball. Once the tree is straight, remove the rest of the wire basket. If the tree was balled in burlap, pull the burlap away from the trunk or remove the burlap completely. Slightly compact the soil as you fill the hole. Proceed to mulch around the tree in a donut shape and water thoroughly. Continue to water the tree as needed. When planting a tree, keep in mind its adult size. In order to avoid interference with electrical wires and cables, smaller trees ranging in height from 20 to 30 feet are a suitable choice. Larger trees should intentionally be planted away from any overhead wires.

These recommendations must be followed to the best of the landscapers' ability.



H. All stakes for such trees shall be of white or red cedar and must be eight (8) feet long and not less than two (2) inches in minimum diameter. Stakes must be driven into the ground to a depth of twelve (12) inches below the excavation before planting the tree and are to be placed preferably on the northwest side of the tree trunk. Trees shall be guyed to the stakes, using No. 10 wire in a piece of rubber hose. The wire shall be stapled to the stake in such a manner that the wire will not slip nor come in contact with the tree trunk.

I. After planting of such trees, removal of all debris in the disturbed area shall be made immediately. The property where such planting is made must be left in a neat and orderly condition in accordance with good and accepted planting and tree surgery practice.

J. All trees which fail to survive for a period of one (1) calendar year following planting shall be replaced by the developer at no cost or expense to the borough. Said replacement shall be made within sixty (60) days following written demand for such replacement from the Borough Council or other designated official or within such more extended period as may be specified.

§ 83-3. Securing approval. [Amended 10-14-80 by Ord. No. 15-80]

Where permission, consent or approval of the Shade Tree Commission is required by the provisions of this chapter, any person, firm or corporation required to obtain such permission, consent or approval shall first make application therefor, in writing, to the Secretary, Shade Tree Commission, Borough of Washington. County of Warren and State of New Jersey.

§ 83-4. Violations and penalties.

Any person, group of persons, partnership, association or corporation, individually or collectively, who shall violate or aid in, take part in or assist in the violation of this chapter, shall be subject, upon conviction, to a fine of not more than five hundred dollars (\$500.) or to imprisonment for a period not to exceed ninety (90) days, or to both. Each and every day that such violation occurs or continues to exist shall be considered a separate and specific violation.

§ 94-38. Apartments and townhouses.

Apartments and townhouses shall have site plan approval and public or private central water supply and a central sanitary sewer system approved by appropriate state and local agencies.

A. Each overall development shall have a compatible architectural and landscaping theme.

B. No complete dwelling unit shall have its entire living area level lower than the finished grade along the front of the structure, except that on side hill locations the

number of stories above ground on the uphill side shall not exceed two (2) stories, with a third story permitted above ground on the downhill side. The height of the building measured from the foundation on the downhill side shall not exceed forty (40) feet.

C. Usable recreation areas. For any garden apartment building or group of such buildings containing a total of more than twenty-four (24) dwelling units, there shall be reserved and improved within the Borough of Washington, in addition to the minimum space between buildings and the off-street parking space herein required, a minimum open space equivalent to fifteen percent (15%) of the total land area in the Borough of Washington within the garden apartment house site for usable recreation space, provided that no single contiguous usable recreation space shall be smaller than one (1) acre, except where a smaller area shall be approved for limited purposes by the Planning Board, and no building containing dwelling units shall be more than five hundred (500) feet from the nearest usable recreation space. Usable recreation space shall be approved for such use by the Planning Board incidental to site plan approval as hereinafter provided. In no case shall swampy or poorly drained land be approved for such purpose, nor shall any part of any recreation area to be devoted to and used for baseball or football fields, swimming pools, children's playground and the like be within two hundred (200) feet of any public street line or within one hundred (100) feet of the boundary of any abutting property zoned for residential use, Swimming pools, ball fields, play courts and other recreation facilities shall be confined to these approved recreation areas. All lighting fixtures shall be so designed, located and shielded that light radiating therefrom shall be reasonably confined to the recreation areas.

D. Approved bedrooms. Where the number of bedrooms per unit has been approved as part of the site plan, no other room shall be used for sleeping purposes.

#### § 94-39. Bikeways.

Bikeways may be required depending on the development's location in relation to schools, recreation areas, shopping facilities and other populated areas. Bicycle traffic shall be separated from motor vehicle and pedestrian traffic as much as possible. Bikeways shall generally not exceed a grade of three percent (3%), except for short distances, and shall be a minimum of eight (8) feet wide, Bikeways shall have a minimum four-inch bituminous stabilized base course and a two-inch FABC surface course. Where bike paths intersect a street, the curbing shall be ramped for access to the street grade.

#### § 94-40. Buffers.

Within any zone where a nonresidential development abuts a residential zone or where off-street parking and loading for six (6) or more vehicles abuts a street or residential zone, the following buffer area and landscaping requirements shall apply:

A. A strip of land twenty percent (20%) of the average width and depth of the property when a nonresidential use abuts a residential zone on the side or rear, respectively, shall be designated as a buffer area and so indicated on the plat. Buffer areas shall be located along residential property lines and shall be of uniform width. In no case should the width of the buffer exceed fifty (50) feet. If the buffer is less than twenty (20) feet wide, the applicant may be required to erect and landscape a six-foot high stockade fence within the buffer area parallel to the lot line of the abutting residential lot and set

back a distance appropriate for the landscaping treatment in the buffer area. Buffer areas between parking and loading areas and streets shall be at least fifteen (15) feet wide.

B. Buffer areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass. Any screen planting shall be maintained permanently, and any plant material which does not live shall be replaced within one (1) year or one (1) growing season.

C. No structure, activity, storage of materials or parking of vehicles shall be permitted in the buffer area, except access drives from public streets, one (1) unlighted directional sign per each direction of traffic per access drive and permitted signs as specified in the district regulations.

D. Requirements for planting in the buffer area.

(1) A solid and continuous landscaped screen shall be planted and maintained to conceal the parking and loading areas, eliminate the glare of vehicle lights throughout the year and camouflage the building from the abutting residential areas. The landscape screen shall consist of evergreen trees, such as hemlock, Douglas fir, Norway spruce, etc. Trees shall be planted in an area five (5) to twenty (20) feet from the residential line in a zigzag pattern and not more than ten (10) feet apart, except where otherwise authorized by the approving authority. Evergreen trees shall not be less than five (5) feet high when planted, and the lowest branches shall be not more than one (1) foot above the ground.

(2) In addition to the landscaped screen, shade trees, such as sugar maples, scarlet oaks, pin oaks, willow oaks, Norway maples, sweet gum, ash, etc., shall be planted by the applicant at a distance of not more than forty (40) feet from each other.

(3) The height of the landscaped screen shall be measured in relation to the elevation of the edge of the parking and loading area. Where the landscaped screen is lower than the elevation of the parking or loading area, either the required height of the screen shall be increased equal to the difference in elevation, or the parking or loading area shall be moved to allow the plantings to be located in an area with a similar elevation as the parking or loading area.

(4) If the buffer area includes existing growth of evergreen and deciduous trees and shrubbery, but not enough to provide a suitable screen as required above, existing trees and shrubbery may remain and shall be supplemented by additional evergreen plantings to provide the required landscape screen. In the event that the approving authority finds that further planting of evergreens will not grow satisfactorily in said buffer areas, stockade fence(s) six feet high shall be erected in the buffer area.

E. The approving authority shall have the power to waive any of the buffer requirements if it determines that an adequate buffer can be provided in less than 20 feet while maintaining the purposes of this section. The approving authority shall review the proposed plat and the standards and purposes for buffers, considering the location of buildings, parking areas, outdoor illumination and topographic features of the area and existing features such as trees; streams; the efficiency, adequacy and safety of the proposed layout of driveways, streets, sidewalks and paths; the adequacy and location of existing green areas and buffer areas; the adequacy and location of screening and parking areas; structures and uses; and similar features.

F. Notwithstanding any of the provisions contained herein to the contrary, where a nonresidential development abuts the Age-Restricted Residential Zone District created by

Ordinance No. 14-2005, EN the buffer area shall be 10 feet in width. [Added 6-6-2006 by Ord. No. 12-2006]

§ 94-41. Effect on previously approved actions.

Nothing in this chapter shall require any change in a building permit, site plan or zoning variance which was approved before the enactment of this chapter, provided that construction shall have been started within six months from the effective date of this chapter and the project shall be continuously pursued to completion, otherwise said approvals and permits shall be void.

§ 94-42. Cluster developments.

A. The purpose of this section is to provide flexibility in design options, aid in reducing development costs and a method of preserving land for open spaces, common property, conservation areas, floodplains, school sites, recreation areas, parks and/or land for other public purposes by permitting a reduction in lot size without increasing the number of lots or permitted number of dwelling units.

B. Cluster developments may be approved in accordance with the following standards, provided that the tract size is at least 25 acres:

(1) All dwelling units shall be connected to approved and functioning central water and central sanitary sewer systems.

(2) The maximum number of lots or dwelling units shall be as set forth in Article VII.

(3) Land area equal to a minimum of 20% of the total tract's land area shall be set aside for open space, conservation areas, floodplains, school sites, recreation and park areas, common property or lands for other public purposes, singularly or in combination, except that land utilized for street(s) shall not be included as part of the above 20%. Land with slopes exceeding 30%, swamps and floodplains shall be computed at 1/2 their acreage in determining whether sufficient acreage has been set aside for common property, open space, conservation areas, floodplains, school sites, recreation and park areas or land for other public purposes. No more than 1/3 of the required areas to be set aside may be lands in excess of 20% slopes, floodplains or swamps. Lands to be set aside that are not offered to the borough shall be dedicated to a homeowners' association as outlined below.

C. Lands offered to the borough shall meet the following requirements:

(1) The minimum size shall be five (5) acres.

(2) Lands for public recreation purposes shall be improved by the developer, including equipment, walkways and landscaping, in order to qualify for acceptance by the borough.

(3) It shall be an integral part of the development and designed, improved and located to best suit the purpose(s) for which it is intended.

(4) Every parcel accepted by the borough shall be conveyed by deed at the time final plat approval is granted.

D. Concurrence of governing body procedure. A copy of the proposal to dedicate land to the borough shall be transmitted to the governing body. The acceptability of the land shall be subject to the approval of the approving authority and the governing body. Both shall be guided by the Master Plan, the ability to assemble and relate such lands to an overall plan, the accessibility and potential utility of such lands to serve the intended

purpose and such existing features as topography, soils, wetlands and tree cover as these features may enhance or detract from the intended use of the land.

§ 94-43. Curbs and gutters.

Concrete curb shall be installed along all streets. The standard curb section shall be ten (10) feet in length with preformed expansion joint material on not more than twenty-foot centers and shall be set in accordance with approved lines and grades, and radial curbs shall be formed in a smooth curve. The finish shall be a smooth float finish with corners rounded. Curbing shall meet the design standards of the New Jersey Department of Transportation, as amended. The curbing shall be designed to provide barrier-free curb ramps constructed in accordance with the Design Standards for Curb Ramps for the Physically Handicapped of the New Jersey Department of Transportation.

§ 94-44. Drainage.

All storm drainage systems shall be designed to meet the standards set forth in the Management of Surface Water as adopted in Chapter 57 of the borough's Code.

§ 94-45. Easements.

Easements shall be along side and/or rear property lines where possible, shall not be less than fifteen (15) feet wide, shall be dimensioned on the plat and shall be identified as follows: "\_\_\_\_\_ easement granted to the Borough of Washington as provided for in the Washington Development Regulations Ordinance."

§ 94-46. Environmental impact report.

This report shall accompany all preliminary site plan and subdivision plats:

- A. A description of the development specifying what and how is to be done during construction and operation and practical alternate plans to achieve the objective(s).
- B. An inventory of on-site environmental conditions and an assessment of the probable impact of the development upon them: water supply; geology; soils and properties thereof, including capabilities and limitations; sewerage; topography; vegetation; noise characteristics and levels; land use; aesthetics and history. Air and water quality shall be described with reference to standards of the Department of Environmental Protection of the State of New Jersey, and soils shall be described with reference to Soil Conservation Service categories and characteristics.
- C. A list and the status of the approvals needed from federal, state or county agencies, including comments of these governmental agencies.
- D. An evaluation of any adverse environmental impacts which cannot be avoided, including air and water pollution, noise, sedimentation and siltation, increase in borough services and consequences to the borough tax structure.
- E. A description of steps to be taken to avoid or minimize adverse environmental impacts during construction and operation, including maps, schedules and other explanatory data.
- F. Notwithstanding the foregoing, the approving authority may waive all or part of an environmental impact report if sufficient evidence is submitted to support a conclusion that the development will have a slight or negligible environmental impact or that the complete report need not be prepared to evaluate the environmental impact of the development.

§ 94-47. Fences and walls.

Fences and walls shall not be located in any required sight triangle and shall not exceed four (4) feet in height in the front yard nor six (6) feet in height behind the front yard setback line. Fences or walls located in the front yard shall be at least fifty percent (50%) open.

§ 94-48. Homeowners' associations.

A homeowners' association may be established when allowed by law. A membership of at least one hundred (100) is recommended. The organization shall incorporate the following provisions, which shall be submitted and approved prior to final plat approval:

- A. Membership by all owners of property or interests in the project shall be mandatory. Required membership and their responsibilities shall be in writing between the organization and each member in the form of a covenant, with each agreeing to liability for his pro rata share of the organization's costs.
- B. The organization shall be responsible for liability insurance (with the municipality carried as a named insured), taxes, maintenance and any other obligations assumed by the organization and shall hold the municipality harmless from any liability. The organization shall not be dissolved and shall not dispose of any common open space or common property by sale or otherwise, except to an organization conceived and established to own and maintain such open space or property for the benefit of such development. Thereafter such organization shall not be dissolved or dispose of any of its open space or property without first offering to dedicate the same to the borough.
- C. The organization shall be allowed to adjust the assessment to meet changing needs.
- D. The organization shall clearly describe in its bylaws all the rights and obligations of each tenant and owner, including a copy of its covenants, model deeds and articles of incorporation. The master deed shall state that every tenant and property owner shall have the right to use all common properties.
- E. The articles of incorporation, covenants, bylaws, model deeds and other legal instruments shall ensure that control of the organization shall be transferred to the members based on a percentage of the dwelling units sold and/or occupied and shall clearly indicate that in the event that such organization shall fail to maintain the common open space or common property in reasonable order and condition, the borough may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the common open space or common property in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty-five (35) days thereof and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice. At such hearing, the designated borough body or officer, as the case may be, may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed sixty-five (65) days within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said thirty-five (35) days or any permitted extension thereof, the borough, in order to preserve the common open space and common property and maintain the same for a period of one (1) year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the

common open space and common property except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the Borough Council shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space and common property, call a public hearing upon fifteen (15) days' written notice to such organization and to the owners of the development, to be held by the Borough Council, at which hearing such organization and the owners of the development shall show cause why such maintenance by the borough shall not, at the election of the Borough Council, continue for a succeeding year. If the Borough Council shall determine that such organization is ready and able to maintain said open space and property in reasonable condition, the borough shall cease to maintain said open space and property at the end of said year. If the Borough Council shall determine that such organization is not ready and able to maintain said open space and property in a reasonable condition, the Borough Council may, in its discretion, have the borough continue to maintain said open space and property during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Borough Council in any such case shall constitute a final administrative decision subject to judicial review.

F. The cost of such maintenance by the borough shall be assessed pro rata against the properties within the development that have a right of enjoyment of the common open space and common property in accordance with assessed value at the time of imposition of the lien and shall become a lien and tax on said properties and be added to and be a part of the taxes to be levied and assessed thereon and enforced and collected with interest by the same officers and in the same manner as other taxes.

#### § 94-49. Lighting.

The objective is to minimize undesirable off-site effects. All area lighting in places such as parking lots or for security shall provide translucent fixtures with shields around the light source. The light intensity at ground level shall be a maximum of one and zero-tenths (1.0) footcandle. The total quantity of light radiated above a horizontal plane passing through the light source shall not exceed seven and five-tenths percent (7.5%). For recreation purposes, more intense lighting may be permitted. In all instances, no lighting source shall shine or reflect into windows or onto streets and driveways. No lighting shall be a yellow, red, green or blue beam nor be a rotating, pulsating or other intermittent frequency.

#### § 94-50. Lots.

A. Insofar as is practical, lots shall be rectangular, lot lines shall be straight and side lot lines shall be either at right angles or radial to street lines.

B. Each lot must front upon an approved, paved street.

C. Through lots with frontage on two (2) streets are permitted, provided that access shall be to the street with the lower traffic function.

D. Extra width for street widening in accordance with an adopted Master Plan or Official Map shall either be dedicated or, if not dedicated, shall be anticipated by increasing the lot size in anticipation of future right-of-way.

E. Where there is a question as to the suitability of a lot(s) due to rock formations, flood conditions or high water table, the approving authority may, after adequate investigation, withhold approval of such lots.

F. The transfer of title to one (1) or more adjoining lots, tracts or parcels of land owned by the same person or persons shall not constitute a subdivision of land when such lots, tracts or parcels all conform to the requirements of this chapter and are shown and designated as separate lots, tracts or parcels on the Tax map or atlas of the municipality.

G. (Reserved)EN

H. Whenever land has been dedicated to the borough in order to meet the minimum street width requirements or to implement the Official Map or Master Plan, the Construction Official shall not withhold a building and/or occupancy permit when the lot depth and/or area was rendered substandard due to such dedication and where the owner has no adjacent lands to meet the minimum requirements.

§ 94-51. Monuments.

Monuments shall be the size and shape required by N.J.S.A. 46:23-9.12 (the Map Filing Law, as amended), shall be placed in accordance with said statute and indicated on the final plat.

§ 94-52. (Reserved) EN

§ 94-53. Off-street parking and loading.

A. Access to and from lots. Drives shall be limited to two (2) to any street, except when the frontage exceeds five hundred (500) feet, the number of drives may be based on one (1) drive for each two hundred fifty (250) feet of property frontage. The center lines of access points of drives shall be spaced at least sixty-five (65) feet apart. Each drive shall handle no more than two (2) lanes of traffic, be at least fifty (50) feet from the street line of any intersecting street and be at least twenty (20) feet from any property line. Curbing shall be either depressed at the driveway or have the curbing rounded at the corners, with the access drive connected to the street in the same manner as another street. This subsection shall not govern one- or two-family residences, which are covered by § 94-53K. [Amended 11-6-1989 by Ord. No. 15-89]

B. Access to parking and loading spaces shall be by on-site aisles to permit each vehicle to proceed to and from each space without moving another vehicle. Parking spaces shall not be an extension of any street right-of-way.

C. Buffers. Parking and loading areas for six (6) or more vehicles shall be buffered from adjoining streets and single-family residential uses meeting the objectives of § 94-40.

D. Curbing. Off-street parking areas containing six (6) or more spaces and all off-street loading areas shall have concrete curbing around the perimeter located in conjunction with an overall drainage plan. Curbing shall be ramped in accordance with the Design Standards for Curb Ramps for the Physically Handicapped of the New Jersey Department of Transportation, with ramps opposite each aisle.

E. Dimensions.

(1) Off-street parking spaces shall be ten (10) feet wide and nineteen (19) feet in length. Parking spaces which allow vehicles to overhang curbing may be reduced by two and five-tenths (2.5) feet to a total length of sixteen and five-tenths (16.5) feet. In parking lots containing more than ten (10) spaces, a minimum of one (1) space shall be at least twelve (12) feet wide; and for parking lots with more than twenty (20) spaces, five percent (5%) of all spaces, but not more than ten (10) spaces, shall be twelve (12) feet wide. These wider spaces shall be located in one (1) area and designated as parking for



the handicapped. Parking spaces shall not exceed a grade of four percent (4%), and interior access drives shall not exceed six and five-tenths percent (6.5%). The following aisle widths are required:

Angle of Parking Space (degrees)	One-Way Aisle	
(feet)	Two-Way Aisle	
(feet)		
90	22	23
60	18	20
45	15	20
30	12	18
Parallel	12	18

(2) Off-street loading spaces shall have fifteen (15) feet of vertical clearance and be designed as follows:

Loading Space Length	Apron Length		
(feet)	Width		
(feet)	90°		
(feet)	60°		
(feet)			
60	10	72	66
60	12	63	57
60	14	60	54

F. Drainage facilities shall be installed in accordance with good engineering practice as approved by the Municipal Engineer and in accordance with the drainage provisions of § 94-44 and Chapter 57 of the borough's Code.

G. Surfacing shall be approved as part of the plan approval. Areas to experience heavy traffic shall be paved with not less than five (5) inches of compacted plant-mixed bituminous stabilized base course and a minimum two-inch thick compacted wearing surface of bituminous concrete (FABC), or equivalent. All shall be constructed in accordance with the most current Standard Specifications of the New Jersey Department of Transportation.

H. Landscaping in parking and loading areas shall be shown on the site plan. Trees shall be spaced so as not to interfere with driver vision, have branches no lower than six (6) feet and placed at the rate of at least one (1) tree for every ten (10) parking spaces. All areas between the parking area and the building shall be landscaped with trees, shrubs and ground cover. Any plantings which do not live shall be replaced within one (1) year or one (1) season. A majority of the parking areas for more than fifty (50) cars shall be

obscured from streets by buildings, landscaped berms, natural ground elevation or plantings, singly or in combination.

I. Minimum parking requirements. The number of spaces shall be based on the following schedule:

Assembly operations: one (1) space per eight hundred (800) square feet of gross floor area.

Auto sales: one (1) space per three hundred (300) square feet of showroom area and sales office.

Bar: one (1) space per two (2) seats.

Bowling alley: four (4) spaces per alley.

Car wash: ten (10) spaces per washing lane.

Church: one (1) space per three (3) seats.

Dwelling unit: one and five-tenths (1.5) spaces per efficiency unit; one and seventy-five hundredths (1.75) spaces per one-bedroom unit; two and zero-tenths (2.0) spaces per unit larger than one (1) bedroom. For purposes of determining compliance with this subsection, a maximum of one (1) parking space per unit may be located within a garage or carport. [Amended 8-23-1983 by Ord. No. 18-83]

Financial institutions: one (1) space per two hundred fifty (250) square feet of gross floor area.

Finishing operations: one (1) space per eight hundred (800) square feet of gross floor area.

Golf course: four (4) spaces per hole.

Hospital: one and five-tenths (1.5) spaces per bed.

Industrial: one (1) space per eight hundred (800) square feet of gross floor area.

Manufacturing: one (1) space per eight hundred (800) square feet of gross floor area.

Medical center: one (1) space per one hundred fifty (150) square feet of gross floor area, minimum of ten (10) spaces.

Mortuary: ten (10) spaces per viewing room and chapel, minimum thirty (30) spaces.

Neighborhood convenience center: same as shopping center.

Nightclub: one (1) space per two (2) seats.

Offices: one (1) space per two hundred seventy-five (275) square feet of gross floor area.

Receiving: one (1) space per one thousand (1,000) square feet of gross floor area.

Research: one (1) space per one thousand (1,000) square feet of gross floor area.

Restaurant: one (1) space per three (3) seats; one (1) space per thirty (30) square feet of gross floor area in quick food establishments.

Retail store: one (1) space per two hundred (200) square feet of gross floor area.

Service station: four (4) spaces per bay and work area.

Shipping: one (1) space per five thousand (5,000) square feet of gross floor area.

Shopping center: five and five-tenths (5.5) spaces per one thousand (1,000) square feet of gross floor area.\* excluding theaters.

Storage areas: one (1) space per five thousand (5,000) square feet of gross floor area.

Tennis courts: three (3) spaces per court.

Theater: one (1) space per three (3) seats; one (1) space per four (4) seats in shopping centers.

Utilities: one (1) space.

Veterinarian hospital: six (6) spaces per examining room or doctor, whichever is greater.

Warehouse: one (1) space per five thousand (5,000) square feet of gross floor area.

\* NOTE: Maximum twenty percent (20%) of gross floor area can be office use without additional parking for the office use. Office use above twenty percent (20%) shall require parking at the appropriate rate.

J. Location of parking and loading areas.

(1) Loading spaces shall be located on the same lot as the use being served. No off-street parking or loading space shall have direct access from a street.

(2) No loading and parking space shall be located in any required buffer area, and all spaces shall be set back a sufficient distance to prevent any part of a vehicle from overhanging the street right-of-way or property line.

(3) Parking spaces located to serve residential uses shall be within one hundred fifty (150) feet of the entrance of the building and within three hundred (300) feet of commercial/industrial uses.

(4) No parking shall be permitted in fire lanes, streets, driveways, aisles, sidewalks or turning areas.

(5) No parking shall be permitted within an established front yard setback, except on an approved driveway or parking space, or where otherwise specifically permitted by this chapter. [Added 11-6-1989 by Ord. No. 15-89]

K. Parking standards for one- and two-family dwellings. The following standards apply to all one- and two-family dwellings in any zone district: [Added 11-6-1989 by Ord. No. 15-89]

(1) There shall be no parking in the front yard, except in an approved parking space or on an approved driveway.

(2) No driveway shall be located less than five (5) feet from the perpendicular extension of the property line to the curb line.

(3) There shall be no plantings or structures more than thirty (30) inches in height within the street right-of-way or within ten (10) feet thereof.

(4) Where sidewalks exist, they shall be installed in accord with the sidewalk performance standards of this chapter.

(5) Each such driveway shall have a maximum grade of fifteen percent (15%).

- (6) The intersection angle between the driveway and the street from which access is made is to be perpendicular where possible and within fifteen degrees (15°) of perpendicular in all cases.
- (7) Macadam pavement shall be required on a six-inch soil aggregate 12 or 15 base, with a two-inch bituminous concrete surface course.
- (8) No drive is to be located within twenty (20) feet of the intersection of street right-of-way lines.
- (9) No more than one (1) driveway opening is to be permitted.
- (10) Maximum size of the drive apron shall be fifteen (15) feet.
- (11) Minimum driveway width shall be nine (9) feet.

§ 94-54. Performance standards.

A. Electricity. Electronic equipment shall be shielded so that there is no interference with any radio or television reception beyond the operator's property.

B. Air, water and environmental pollution. No use shall emit heat, odor, vibrations, noise or any other pollutant into the ground, water or air that exceeds the most stringent, applicable state and federal regulation. No permit shall be issued for any use where a state permit is required until the state has ascertained and approved the level and quality of emission, type and quality of emission control and level of monitoring to be conducted.

C. Storage and waste disposal. No materials shall be deposited so that they can be transferred off the lot, directly or indirectly, by natural forces, such as precipitation, surface water, evaporation or wind. All materials which might create a pollutant or be a safety and health hazard shall be stored indoors and/or be enclosed in appropriate containers to eliminate such pollutant or hazard. No flammable or explosive substance shall be stored on a property except under conditions approved by the Fire Department.

§ 94-55. (Reserved) EN

§ 94-56. Public utilities.

All public services shall be connected to approved public utilities systems where they exist.

A. The distribution supply lines and service connections shall be installed underground, except lots which abut streets with existing overhead electric or telephone lines may be supplied from those overhead lines, but the service connections shall be installed underground. Should a road widening or an extension of service occur as a result of the development, any replacement, relocation or extension of existing overhead lines shall be underground.

B. Where soil conditions, rock formations, woods or other special conditions exist, the developer may apply to the approving authority for an exception from the terms of this section. If overhead lines are permitted, pole locations shall avoid horizons, there shall be selective tree cutting and a staggered alignment and trees shall be planted in key locations to minimize the views of the poles and alignments, which poles shall follow rear lot lines and other interior locations and similar considerations to lessen the visual impact.

C. In the case of any subdivision of any existing multiple dwelling, there shall be individual sewage laterals, water services and utility services. There shall be no common sewage laterals, water lines or services or utility services or other utility appurtenances

between any separate points and the point of connection to the utility collection or distribution system. [Added 4-24-1979 by Ord. No. 9-79]

§ 94-56.1. Required improvable area. [Added 2-17-2004 by Ord. No. 4-2004]

Any subdivision proposed shall divide the tract comprising the subdivision in such a manner that each resulting lot created shall contain a required improvable area of not less than 10,625 square feet. This requirement shall apply independently of any minimum lot area requirement set forth in Article VII of this chapter.

§ 94-57. Sanitary sewers.

If a central sewage treatment and collection system is accessible, the developer shall connect to the system.

§ 94-58. Service stations.

A. All storage areas, trash facilities, pits, lifts and working areas shall be within a building. All lubrication, repair or similar activities shall be performed in an enclosed building, and no dismantled parts shall be placed outside.

B. Floor drains shall not be connected to the sanitary sewer system.

C. It is intended that service stations not be stripped along available highway frontage or at each quadrant of a convenient intersection, and that they be located within shopping centers and in office and industrial complexes as an integral part of the overall design. Ingress and egress shall be designed to recognize the turning movements generated. These access points shall be coordinated with the access points required for nearby uses, frequency of intersecting side streets, minimizing left turns off collector and arterial streets and maintaining building setbacks compatible with the required setbacks and landscaping. No service station shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street of any school, playground, church, hospital, public building or institution, except where such property is on another street which the lot in question does not abut.

§ 94-59. Shade trees.

All shade trees shall have a minimum diameter of two and five-tenths (2.5) inches measured three (3) feet above the ground and be of a species approved by the approving authority. Trees shall be planted fifty (50) feet apart along all new streets located twenty (20) feet from the curb line and shall be balled with burlap, nursery-grown, free from insects and disease and true to species and variety. Stripping trees or filling around trees in the yard portion of a lot shall not be permitted unless it can be shown that grading requirements or thinning necessitate removal of trees, in which case those lots shall be planted to reestablish the tone of the area and to conform to adjacent lots. Planted trees that do not live shall be replaced by the developer during the next planting season.

### **Ordinance 7-2012 Amending Chapter 13 New Employee Criminal Background Checks (public hearing/adoption)**

Motion made by Gleba, seconded by Torres to introduce on final reading and have the Clerk read by title.

Ayes: 6, Nays: 0  
Motion Carried

The Clerk read Ordinance 7-2012 Amending Chapter 13 New Employee Criminal Background Checks.

Public Hearing

Jeff Haines, Recreation; Vice Chair questioned why current employees are grandfathered in. Councilwoman Gleba stated current employees are exempt due to union policies.

Motion to close the public hearing moved by Torres, seconded by Gleba.

Ayes: 6, Nays: 0  
Motion Carried

Motion to adopt Ordinance 7-2012 was made by Torres, seconded by Gleba and adopted.

Ayes: 6, Nays:  
Motion Carried

**CHAPTER 13**

**Article III**

**NEW EMPLOYEE CRIMINAL HISTORY BACKGROUND CHECKS**

**§ \_\_\_\_-1 DEFINITIONS.**

As used in this chapter, the following terms shall have the meanings indicated:

**Criminal History Record Background Check**

A determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the State Bureau of Identification in the NJ Division of State Police.

**Borough Employees/Appointees**

All full-time, part-time and seasonal employees of the Borough of Washington.

**Appeals Committee**

For all Prospective Employees:

A three-member appeals committee consisting of the Borough Manager and Chief of Police or his designee and the Mayor or Council designee. The Committee shall be charged with the review of all appeals of any Borough employee whose criminal history background check reveals a disqualifying criminal conviction.

**State Bureau Of Identification (“SBI”)**

The entity located within the New Jersey State Police responsible for retrieving criminal background information on individuals as requested by state, local or private entities.

**§ \_\_\_\_-2 BOROUGH EMPLOYEES CRIMINAL BACKGROUND CHECKS, COSTS.**

- A. All prospective Borough Employees, 18 years of age or older, shall arrange for a Criminal History Record Background Check in accordance with N.J.A.C. 13:59-1.1 et seq. and with the procedures and guidelines adopted and set forth by the State Bureau of Identification and the Borough of Washington. Borough Employees currently in their positions at the effective date of this chapter shall not be required to undergo a Criminal History Record Background Check.
- B. Any prospective Borough Employee who refuses to provide a Criminal History Record Background Check shall not be employed by the Borough.
- C. The Borough Manager may set forth policies and procedures for documenting compliance with this section which shall not be inconsistent with this chapter.
- D. The Borough Manager will provide information to a prospective Borough Employee concerning how to apply for a Criminal History Record Background Check in accordance with state guidelines. Costs for the same shall be borne by the prospective Borough Employee. The prospective Borough Employee shall execute a consent form authorizing the results of the Criminal History Record Background Check to be sent directly to the Washington Township Chief of Police or his designee. All information received by the Washington Township Police Department shall be and remain confidential.
- E. Upon receipt of the results of the Criminal History Record Background Check for a prospective Borough Employee, the Washington Township Chief of Police or his designee shall advise the Borough Manager whether the individual received a letter of recommendation or non-recommendation from the SBI.
- F. If the Criminal History Record Background Check results in a letter of recommendation from the SBI, the Borough shall bear the costs associated with obtaining the Criminal History Background Check and the cost of said check will be reimbursed to the prospective Borough Employee directly by the Borough.

**§ \_\_\_\_-4 CONDITIONS UNDER WHICH A PERSON IS DISQUALIFIED FROM SERVICE OR EMPLOYMENT.**

- A. A person shall be disqualified from serving as a Borough employee if that person's Criminal History Record Background Check results in a letter of non-recommendation from the SBI, subject to correction of the criminal history record or appeal in accordance with N.J.A.C 15A:3A-1 et seq and as provided in §\_\_6\_\_ below.
- B. In any other state or jurisdiction, conduct which, if committed in New Jersey, would result in a letter of nonrecommendation from the SBI shall also constitute grounds for disqualification, subject to correction of the criminal history record or appeal in accordance with N.J.A.C 15A:3A-1 et seq and as provided in §\_\_6\_\_ below.

**§ \_\_\_\_-5 LIMITATIONS ON ACCESS AND USE OF CRIMINAL HISTORY RECORD INFORMATION.**

- A. The Washington Township Police Department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting a Criminal History Record Background Check pursuant to this chapter. The Washington Township Police Department shall keep written notifications of the results of a Criminal History Record Background Check on file for three years from the date it was issued as is necessary to serve their intended and authorized purpose. The Chief of Police shall take appropriate steps to safeguard such records. The records shall be exempt from public disclosure under the common law or the New Jersey Open Public Records Act.
- B. The Borough Manager may request the Washington Township Police Department to review its files to determine if there is written notification on file stating whether a Criminal History Record Background Check of a prospective Borough Employee reveals a letter of non-recommendation from the SBI or whether the person has affirmatively demonstrated rehabilitation.
- C. Access to the results of a Criminal History Record Background Check for non-criminal justice purposes, including licensing and employment, is restricted to the members of the Appeals Committee, as authorized by federal or state statute, rule or regulations, executive order, administrative code, local ordinance or resolution regarding obtaining and disseminating of criminal history record information obtained under this chapter.
- D. The Appeals Committee shall limit its use of information from a Criminal History Record Background Check solely to the authorized person for which it was obtained, and the information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. Use of a Criminal History Record Background Check record shall be limited solely to the authorized purpose for which it was given, and it shall not be disseminated to any unauthorized persons. Any person violating federal or state regulations



governing access to the results of a Criminal History Background Record Check may be subject to criminal and/or civil penalties.

- E. No person or entity shall be held liable in any civil or criminal action brought by any party based on any written notification on file with the Washington Township Police Department pursuant to the provisions of this chapter.

**§ \_\_\_\_-6 DETERMINATION BY APPEALS COMMITTEE; CORRECTION OF RECORD; APPEAL PROCESS.**

- A. The Borough Manager shall promptly notify an individual whom the Washington Township Chief of Police or his designee identifies as having received a letter of nonrecommendation from the SBI in accordance with N.J.A.C 15A:3A-1 et seq. The individual may obtain a copy of his or her criminal history record by contacting the SBI in writing. The individual shall have 30 days from the receipt of notification from the Borough Manager to correct or complete the criminal history record or to petition the Appeals Committee in writing for a review. The letter of petition shall identify reasons why the review is required and provide any supporting documentation. Individuals who receive a letter of nonrecommendation from the SBI will not be permitted to be employed by the Borough pending correction of the criminal history record or the results of an appeal to the Appeals Committee.
- B. Upon receipt of a petition for review of a letter of nonrecommendation, the Appeals Committee shall review the petition and any supporting documentation. The Appeals Committee, in its discretion, may request additional information in writing from the petitioner and/or interview the petitioner.
- C. The Appeals Committee shall permit an individual who corrects or completes his or her criminal history record to be hired by the Borough if the correction or completion of the criminal history record results in a letter of recommendation from the SBI.
- D. The Appeals Committee may permit an individual who receives a letter of non-recommendation from the SBI to be hired by the Borough if it determines that the petition and supporting documentation provided by the individual demonstrate clear and convincing evidence of rehabilitation. In determining whether a person has provided clear and convincing evidence of rehabilitation, the Appeals Committee may consider the following factors in conjunction with the provisions of N.J.S.A. 15A:3A-1 et seq.:
  - 1. The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
  - 2. The nature and seriousness of the offense;

3. The circumstance under which the offense occurred;
  4. The date of the offense;
  5. The age of the person when the offense was committed;
  6. Whether the offense was an isolated or repeated incident;
  7. Any social conditions which may have contributed to the offense; and
  8. Any evidence of rehabilitation, including good conduct in prison or the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs or the recommendation of those who have had the person under their supervision.
- E. In all instances, the final determination of whether an individual will be permitted to be hired by the Borough will lie in the sole discretion of the Appeals Committee.
- F. Following its review, the Appeals Committee shall promptly advise the individual whether he or she is eligible to be hired by the Borough.

### **REPORTS:**

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

1. Borough Managers Report

Ayes: 6, Nays: 0

Motion Carried

### **COUNCIL COMMITTEE REPORTS**

#### Streets Committee

Borough Manager Blanchard, on behalf of the streets committee, reported that the State of NJ DOT Grant Program for the year 2013 is beginning to accept grant applications in September. The Committee would like to resubmit the Green Street grant

application again this year. Manager Blanchard stated she has confirmed with the Engineer the grant can be reassembled and repackaged at a minimal cost; under \$500.00.

Motion made by Jewell, seconded by Gleba to resubmit the Green St.grant application for 2013.

Ayes: 6, Nays: 0  
Motion Carried

At this time, Councilman Valentine arrived at the meeting.

**OLD BUSINESS:**

Volunteer Background Checks

Vic Cioni – Chair Recreation Commission

Chair Cioni stated he was speaking on behalf of the Recreation Commission. The Commission 100% supports some level of background checks. The problem with the Ordinance is the implementation of the Ordinance. Chair Cioni stated he would list some of the issues they have. The one thing Recreation struggles with is finding volunteers. There are times when coaches and volunteers are found at the last minute. The volunteers would be required to go to a morphotrack site to be fingerprinted. The closest one is in Annandale. This is going to be difficult with the amount of parents that work full time. He noted that the only other morphotrack center is in Sparta. The other concern for the Commission is the cost. He noted that even though we would be using the grant this year; at some point all volunteers would need to be checked again. This cost could be upwards of \$2,800.00. This would cause the Recreation Commission to raise the rates. This would put the Borough's Recreation Commission at a competitive disadvantage.

Chairman Cioni proposed an alternative to the Governing Body. He proposed the Commission use an online firm called US Search. This will enable the Commission to receive 50+ checks for \$10.00 each. This check will go back seven to ten years. This background check system is instant. There is no fingerprinting and no third party site for volunteers to make an appointment to go to. The Commission would not have to raise revenues in order to use this site.

RJ Sherman – Gardners Court

Stated that as a parent he supports the background check however; as a coach if he had to do this, he would not coach. This would just be one more thing as a working parent that he would have to take care of. He stated that Little League Baseball does a background check using Lexis Nexus. This is a federal and state check. This would be another cost for us on top of the checks the organization already does.

Terry Finnegan Youmans Ave

Mr. Finnegan stated he is not in favor of this Ordinance. The Ordinance is very cumbersome. He believes the Council should let the Recreation Commission adopt bylaws to allow for background checks. Mr. Finnegan stated if this Ordinance is adopted he will not be coaching soccer anymore. The Ordinance, as written, puts him on the line for guaranteeing the persons volunteering have passed a background check. He will not jeopardize his family for this.

After further discussion; Council agreed to have the Recreation Commission amend their current bylaws to include some form of background checks for volunteers.

Motion made by Higgins, seconded by Torres to have the Recreation Commission amend bylaws and present to Council on 9/18/12.

Ayes: 7, Nays: 0  
Motion Carried

**NEW BUSINESS:**

Resolution 138-2012 Katherine Finnegan Library Board Appointment

Resolution 138-2012 was moved on a motion made by Higgins, seconded by Jewell and adopted.

Ayes: 7, Nays: 0  
Motion Carried

**RESOLUTION # 138-2012**

**RESOLUTION APPOINTING A MEMBER TO THE  
LIBRARY BOARD OF TRUSTEES**

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

**WHEREAS**, under this plan the Mayor of the Borough is to appoint the members of the Library Board of Trustees for Washington with the consent of the Borough Council; and

**WHEREAS**, the Mayor has designated the following person as his appointee; and

**WHEREAS**, the Council does approve of this appointment.

**BE IT THEREFORE RESOLVED**, that the following named person is appointed to the Library Board of Trustees, for a term ending 12/31/2016.

**Katherine Finnegan**

***Name***

Resolution 139-2012 Recreation Commission Appointment – Adam Robinson

Resolution 139-2012 was moved on a motion made by Higgins, seconded by Jewell and adopted.

Ayes: 7, Nays: 0  
Motion Carried

**RESOLUTION 139-2012**

**RECREATION COMMISSION APPOINTMENTS**

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

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

**WHEREAS**, the Mayor has designated the following person his appointees;

**WHEREAS**, The Council does approve of this appointment.

**NOW, THEREFORE, BE IT RESOLVED**, that the following named person is appointed to the Recreation Commission:

<u>Commissioner</u>	<u>Term Ending</u>
Adam Robinson	12/31/16

Approval of Social Affair Permit – ABC License for Washington Fire Department

Motion made by Valentine, seconded by Torres and adopted.

Ayes: 5, Nays: 0  
Abstain: 2 (Higgins, Jewell)  
Motion Carried

Approval of Social Affair Permit – ABC License for Rotary of Washington

Motion made by Higgins, seconded by Jewell and adopted.

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

Approval of Catering Permit – ABC License for Mediterranean Bistro

Motion made by Jewell, seconded by Torres and adopted.

Ayes: 7, Nays: 0  
Motion Carried

**VOUCHERS:**

Mayor McDonald entertained a motion to approve the vouchers and claims in the amount of \$1,081,855.28

Motion made by Gleba, seconded by Jewell and approved.

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

Ayes: 7, Nays: 0  
Abstain: Higgins – Fire Dept.  
Jewell – Fire and EMS  
Gleba – Finelli Consulting Engineers

**RECAP:**

The Borough Manager will provide a sample jake breaking Ordinance to the Codebook Committee. She will inform the Engineer about the approval to move forward with Green St. grant application.

**COUNCIL REMARKS:**

Councilman Jewell noted the DPW should use the edger when mowing the Borough Hall lawn.

Council Higgins requested the Borough Engineer take a look at the standing water issue on Gardners Court/Prospect St. He requested the Borough Manager clarify the steps and the cost to either maintaining the Mill Pond Dam or decommissioning the Dam.

## **JADE ACQUISITION LLC**

Ray Rice/Larry Cohen Esq. representing Jade Acquisition

Mr. Rice explained this application at Washington Square was originally perfected as an Age Restricted Zone. Jade Acquisition sold the project to Toll Brothers; however purchased the property back in 2010. Jade then applied to the Planning Board to lift the age restriction under the conversion law. This was granted by the Planning Board; however one of the components of the conversion law is that the developer must build on site COAH housing units. Because of this, Jade received approval to build 72 market rate units and 18 COAH units. Mr. Rice explained that it was always the intent of Jade and the Planning Board to petition COAH on allowing an in lieu of contribution to the Borough instead of building on site COAH units. The Borough does not need any more units built; however the most important item for Borough right now is to have money to rehab units. As of right now; Jade as made a contribution to the Borough of a little over \$400,000 for rehab. This is based on Jade making a payment to the Borough every time a CO is issued as is outlined in the Planning Board Resolution of approval.

In July of 2012, Jade received a letter from the Planning Board Planner. The letter was written in 2010 but Jade did not receive the letter until 2012. The letter was an opinion from COAH stating the units should be built on site. The predicament is this, the town engineer advised us that he will no longer be issuing new building permits until the COAH requirement is met. Ryan Homes has been successful in selling homes and we are trying not to lose momentum on the job.

Judy Kopen further clarified that as per COAH, if the builder has reached a certain threshold within the development, than a portion of the COAH units must be built. This is why the town engineer will no longer allow new building permits to be issued; until the percentage required of COAH units is built.

Larry Cohen, Esq.

Mr. Cohen explained that there is a pending court case out of Absecon in Atlantic County. This case involved a conversion development. The Planning Board of Absecon allowed an in lieu of component as well contingent upon the Governing Body approving it as well. The Planning Board decision was appealed; however the law division of the superior court upheld the Planning Board decision.

Mr. Cohen stated that the plan as it stands right now is to appeal to the Planning Board to allow all market rate units be built on the site. An alternative to that plan is to amend the Zoning Ordinance to remove the Age Restriction which eliminates the need for onsite COAH units and allows for an in lieu of contribution.

Ms. Kopen stated that she had asked Mr. Cohen to draft an agreement with the Borough to allow for continuation of building while the COAH issues is resolved; either by a COAH ruling or by a Planning Board ruling.

Mr. Rice stated the main focus for appearing in front of the Governing Body this evening is to ask Council to allow for one new building permit to be issued. One building permit consists of four units. There are pending mortgage commitments on these units and we don't want to lose these sales. The Borough Engineer will allow for the permit to be issued with Governing Body approval. Mr. Rice stated the plan is to appear before the Planning Board at their next meeting on September 10 to further discuss this situation and to obtain a ruling from the Planning Board. If an agreement is still necessary with the Governing Body after the Planning Board meeting; we will appear at your next Council meeting on September 18.

Motion made by Higgins, seconded by Torres to allow for one new building permit to be issued (consisting of four units) until a determination is made by the Planning Board or an agreement is entered into with the Governing Body.

Ayes: 5, Nays: 1 – Valentine  
Abstain: 1 –Gleba

Motion Carried

Hearing no further business motion made by Higgins, seconded by Gleba to adjourn the meeting at 10:00 p.m.

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Mayor Scott McDonald

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Kristine Blanchard, RMC Borough Clerk