

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – April 17, 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, Torres, Valentine, Jewell, Higgins, Boyle

Also Present: Judy Kopen, Esq. Municipal Attorney
Kristine Blanchard, Acting Manager/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.”

PROCLAMATION:

Mayor McDonald read the following proclamation in honor of Arbor Day.

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called **ARBOR DAY**, was first observed with the planting of a more than a million trees in Nebraska; and

WHEREAS, **Arbor Day** is observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our Borough increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees, wherever their planted, are a source of joy and spiritual renewal; and

NOW, THEREFORE, I, Scott McDonald, Mayor of the Borough of Washington do hereby proclaim Monday, **April 23 2012** as

ARBOR DAY

In the **BOROUGH OF WASHINGTON**, I urge all citizens to support efforts to protect our trees and woodlands to support our Borough's rural forestry program; and

FURTHER, I urge all citizens to plant trees to gladden hearts and promote the well-being of present and future generations.

COUNCIL APPEARANCE:

Washington H.O.P.E. – Dave DeSanto

Mr. DeSanto appeared before the Governing Body concerning a Charitable Conservancy Trust Fund Committee Application for the acquisition of 125 acres of open space in the Borough of Washington. Mr. DeSanto explained that Washington H.O.P.E is working to acquire and to preserve the land formerly known as the Baker tract, Block 1,2,3,4 Lot 97 and Block 1 Lot 97.01. Washington H.O.P.E has partnered with the Trust for Public Land which is a national non profit that supports local community priorities for land conservation. Mr. DeSanto explained that the Trust for Public Land has been in contact with the owners of the 125 acres and a purchase price has been agreed upon. Mr. DeSanto stated that this will not be able to move forward without support from the Borough.

Mr. DeSanto stated that Washington H.O.P.E is looking to the Borough for assistance in applying for Warren County Land Preservation funding and to also contribute funding for this conservation acquisition.

Several questions from the Governing Body were asked such as who will take ownership of the property if it is acquired, who will be responsible for maintaining this property, and what is the purchase price of the property? Mr. DeSanto explained that the Trust for Public Land would like to discuss these details with the Governing Body in an Executive Session if they are willing.

Council agreed to meet with the Trust for Public Land in an upcoming Executive Session.

CORRESPONDENCE:

1. Borough Engineer Re: Taft Terrace
2. Acting Manager Re: Municipal Parking Lot

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

Ayes: 7, Nays: 0
Motion Carried

Motion made by Higgins, seconded by Jewell to allow the homeowners at 111 and 113 Taft Terrace to connect to the storm drain system in order to alleviate the standing water on Taft Terrace.

Ayes: 7, Nays: 0
Motion Carried

MINUTES:

Motion made by Higgins, seconded by Jewell to approve the minutes of March 20, 2012.

Ayes: 7, Nays: 0
Motion Carried

AUDIENCE:

Mayor McDonald opened up the audience portion of the meeting.

Mike Franks – Nunn Avenue

Mr. Franks stated that at the last meeting he had presented to the Governing Body a request to consider various options for preserving the 125 acre tract previously known as the Baker tract. Mr. Franks stated that an opportunity had presented itself to Council with the request from Washington H.O.P.E. requesting the Borough's assistance in acquiring this land. He is hopeful that Council will assist Washington H.O.P.E. on its mission to acquire and preserve this land.

Ms. Blanchard also updated Mr. Franks on the process of vacating a portion of lower Nunn Avenue as requested by Mr. Franks in his previous letter to Council. Mr. Franks will keep this as an option as well.

Rudy Bescherer - Broad Street

Mr. Bescherer asked the Municipal Attorney what the specific statute is stating that a citizen can not assist the Governing Body in a search for a new Borough Manager. Ms. Kopen cited the Open Public Meetings Act and the Open Public Records Act.

Sandi Cerami – Business Improvement District

Ms. Cerami stated the BID is holding an Art Walk this Thursday from 5:00 p.m. to 8:00 p.m. as well as an Art Festival this Saturday afternoon. She also stated that a future Art Walk will include a Story Walk for children as well.

Motion made by Jewell, seconded by Gleba to close the audience portion of the meeting.

Ayes: 7, Nays: 0
Motion Carried

ORDINANCES:

None

REPORTS:

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

1. Borough Managers Report
2. DPW March 2012
3. CFO Report
4. Tax Collectors Report

Ayes: 7, Nays: 0
Motion Carried

COMMITTEE REPORTS:

Manager Search Sub Committee

No report at this time.

OLD BUSINESS:

None

MUNICIPAL BUDGET PUBLIC HEARING

Mayor McDonald opened the public hearing.

Rudy Bescherer Broad Street

Mr. Bescherer questioned the police services contract for 2.2 million and asked what the Borough has saved in using a contracted police department. Councilman Torres provided Council and Mr. Bescherer with a spreadsheet he had prepared. Councilman Torres stated that he did this spreadsheet because he is concerned that this is costing the Borough more than anticipated. He stated that in 2005, 2006, and 2007 the police budget is 21% of the Municipal Budget. In 2008 it went up to 28%; in 2009, 2010, and 2011 the percent of the police budget is 30%. The CFO did note that Councilman Torres's information does not include pension costs which will make the percentages go down.

The CFO also explained the process for adopting the budget tonight. If the budget is not adopted this evening the Borough runs the risk of losing points on the Best Practices Checklist which is used for State Funding. Councilman Torres asked if the police budget could immediately to mediation and still move forward with the Budget.

The CFO stated that at this point; it is in the best interest of the Borough to move forward with the budget adoption and if Council wishes to move forward with negotiations with the Washington Township Police Department for 2013.

The CFO did point out that in her review of the actual numbers provided by Washington Township it would be a good idea to sit down and negotiate with them. If you remove the administrative costs; there is a savings that could be realized for the Borough.

Councilwoman Gleba would like to request that the CFO and the Acting Manager obtain the actual numbers from the Township for 2009 and 2010 which we still haven't received in order to do an analysis. Mayor McDonald stated that any savings would be based on a projection of what the police department would have cost us.

Mr. Bescherer also questioned the savings on the Municipal Court. The Acting Manager and CFO will review those numbers as well.

Hearing no further comments a motion made was by Valentine, seconded by Gleba close the public hearing.

Ayes: 7, Nays: 0
Motion Carried

Resolution 80-2012 Adoption of the 2012 Municipal Budget

Resolution 80-2012 was moved on a motion made by Valentine, seconded by Gleba and adopted.

Roll Call: Valentine, Gleba, Jewell, Boyle, Torres, McDonald – Yes
Higgins – No

RESOLUTION #80-2012

RESOLUTION ADOPTING 2012 MUNICIPAL BUDGET

BE IT RESOLVED, by the Mayor and Common Council of the Borough of Washington, County of Warren, State of New Jersey that the **2012 Municipal Budget** herein set forth is hereby adopted and shall constitute an appropriation for the purposes stated of the sums thereof set forth as appropriations and authorized of the amount of \$ 7,202,795.56 for Municipal purposes and \$2,748,227.30 for Sewer Utility.

At this time a motion was made by Torres, seconded by Valentine to open negotiations with Washington Township regarding the Shared Service Police Contract. The actual expenditures should be obtained for the years 2009 (Aug – Dec) and the year 2010. Mayor McDonald noted that he feels this is premature.

Ayes: 7, Nays: 0
Motion Carried

Motion made by Higgins, seconded by Torres to form a Police Services Sub Committee to review the Shared Service Police Contract, the police services budget and expenditures, and the costs associated with starting a new police department.

Mayor McDonald stated that we are going down a dangerous road and does not sit well with him. Councilman Jewell noted that every year our requests are not met and we should be taking a closer look at the police department budget.

Ayes: 5, Nays: 1 (McDonald)
Abstain: 1 (Gleba)

The Committee will consist of the Acting Manager and or the CFO, Councilman Higgins, Councilman Torres, and Councilman Jewell.

A request was made by Councilman Valentine for the quarterly expenditure reports regarding the police department budget. Council agreed the Acting Manager should reach out to the CFO of Washington Township to obtain this information as well.

NEW BUSINESS:

Request for Clean for Clean Communities Grant Money

Acting Manager Blanchard stated that there is a request from Dove Environmental who provides clean community litter abatement programs to the local borough schools, the public library, and summer programs at Kid Care. Ms. Blanchard stated that this is something that the Borough has supported in the past and is not sure why we have stopped.

Currently there is \$41,000 in our Clean Community Grant line item. Ms. Blanchard stated that we do need to use this money on Clean Community programs. The current request from Dove Environmental is \$4,980.00 for ten programs throughout the remainder of the year.

Motion made by Valentine, seconded by Gleba to approve the request by Dove Environmental for Clean Communities Programs in the amount of \$4,980.00.

Ayes: 7, Nays: 0
Motion Carried

Resolution 77-2012 In Support of Amending N.J.S.A. 40A: 9-165

Motion made by Higgins, seconded by Jewell and adopted.

Ayes: 7, Nays: 0
Motion Carried

RESOLUTION NO.77-2012

WHEREAS, N.J.S.A. 40A:9-165 entitled “Salaries, wages or compensation; officers and employees; establishment by Governing Body; protest; petition; ratification by voters;” provides in pertinent part that matters of salaries, wages and compensation may be fixed and determined by ordinance from time to time and may be increased, decreased, or altered by said ordinance with the expressed stipulation, however, that no such ordinance shall reduce the salary of or deny without good cause an increase in salary given to all of the municipal officials and employees, to any Tax Assessor, CFO, Tax Collector or Municipal Clerk during the term which he shall have been appointed,

WHEREAS, the Appellate Division of the Superior Court of New Jersey has interpreted the foregoing statute as expressly requiring raises to the aforementioned officers in circumstances where “**all**” employees of a municipality have not received raises, and;

WHEREAS, the foregoing statute is special legislation and confers upon the named municipal officials entitlements that are not accorded to other municipal employees, therefore creating a preference in favor of said named officials; and

WHEREAS, the Borough Council of the Borough of Washington and the Governing Body of many municipalities within the State of New Jersey are faced with severe financial crises which in some cases have resulted in layoffs, limitation of hours, reduction in salaries, and the like; and

WHEREAS, NJSA 40A:9-163 as it is presently written immunizes the specifically referenced officials, to wit, the Tax Assessor, CFO, Tax Collector, and the Municipal Clerk from all of the foregoing and creates a special employment class which is in direct conflict with the stated authority of the municipalities to establish salaries, wages and compensation; and

WHEREAS, the Borough Council of the Borough of Washington has determined that the exception to its authority to determine salaries, wages and compensation as referenced in NJSA 40A:9-165 is inimical to and not in the best interest of the residents of the Borough of Washington or any other municipalities because it infringes on the rights of the municipalities to fix salaries, wages, and compensation, and further that it creates within a municipality a special and preferred class of employees which the Borough of Washington finds offensive and not in the best interest of its residents.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Washington that it does hereby request the Governor of the State of New Jersey and the New Jersey Legislature to effect the amendment of NJSA 40A:9-165 so as to delete there from the special treatment accorded to the Tax Assessor, CFO, Tax Collector, and Municipal Clerk in respect to salaries, wages and compensation.

BE IT FURTHER RESOLVED by the Borough of Washington that it does hereby request the Governor of the State of New Jersey and the New Jersey Legislature to amend the aforesaid statute and define the term “**all**” as it relates to matters of salaries, wages and compensation in its common meaning, to wit, **without exception** and not as defined by the Superior Court of the State of New Jersey, as being “some”.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to Governor Chris Christie, Senate President Steven M. Sweeney; Speaker of the New Jersey Assembly Sheila Oliver, Senator Michael J. Doherty; Assemblyman John DiMaio; and Assemblyman Erik Peterson.

Resolution 78-2012 Refund of Tax Monies per Tax Court Appeal

Resolution 78-2012 was moved on a motion made by Valentine, seconded by Jewell and adopted.

Ayes: 7, Nays: 0
Motion Carried

RESOLUTION # 78-2012

A RESOLUTION TO REFUND TAX MONIES PER TAX COURT APPEAL

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

<u>BLOCK</u>	<u>LOT</u>	<u>NAME OF OWNER/ PROPERTY LOCATION</u>	<u>YEAR</u>	<u>AMOUNT</u>
37	1	Pechiney Plastics Packaging Inc 191 Route 31 North	2010 Taxes	15,430.97
			2011 Taxes	7,715.49
			TOTAL	23,146.46

Refund payable to: Bruce A Stavitsky FBO Pechiney Plastics, 341 Broad Street, Clifton, NJ 07013

WHEREAS, due to Tax Court Judgment Docket #009505-2010, the assessed value for the improvements has been reduced from 3,853,600 to 3,511,250 which changes the amount of taxes due thus creating these overpayments.

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

Resolution 81-2012 Authorizing the Release of Site Improvement Performance Bond for Gibsons Gym

Resolution 81-2012 was moved on a motion made by Higgins, seconded by Gleba and adopted.

Ayes: 7, Nays: 0
Motion Carried

RESOLUTION #81-2012

A RESOLUTION AUTHORIZING THE RELEASE OF SITE IMPROVEMENT \$500,000 PERFORMANCE BOND FOR GIBSON'S GYM FOR THE IMPROVEMENTS TO THE FORMER DPW ALLEGER STREET GARAGE HELD IN TRUST BY THE BOROUGH OF WASHINGTON

WHEREAS, Gibson's Gym has requested the release of the Site Improvement Performance Bond issued for the site improvements to the Department of Public Works Alleger Street Garage; and

WHEREAS, Andrew S. Holt, PE, PP, CME, Borough Engineer, advised that his office performed an inspection of the property and received confirmation from Frank Brockerhoff LSRP in a letter dated April 5, 2012 that the site improvement work is satisfactory; and

WHEREAS, Suburban Consulting Engineers, in a letter dated April 17, 2012 (attached) recommends the performance Bond which was posted for the site improvement (environmental) in the amount of \$500,000 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 Borough Clerk is authorized to release Performance Bond in the amount of \$500,000.00 as per Andrew Holt's letter of April 17, 2012.

VOUCHERS

Mayor McDonald entertained a motion to approve the vouchers and claims in the amount of \$568,687.52.

Motion made by Higgins, seconded by Jewell and approved.

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

Ayes: 7, Nays: 0

Abstain: Higgins – Fire Dept. Jewell – EMS, Fire Dept. Gleba - Finelli

RECAP

The Acting Borough Manager will reach out to Washington Township regarding actual expenditures for 2009 and 2010 as well as quarterly expenditure reports. She will review the Municipal Court projected savings. She will also schedule a meeting with the Trust for Public Land with the Governing Body.

COUNCIL REMARKS:

Councilman Torres stated he was glad that we discussed the budget in public with the intention of reviewing the shared service agreement.

Councilman Valentine stated he was glad Council agreed to fund the Dove Environmental Programs.

Councilman Higgins asked the CFO to explain the impact of the municipal budget on the tax bills this year. The CFO stated that the municipal budget overall was decreased by \$2700. The taxes to be raised by the municipality and the library will remain flat.

EXECUTIVE SESSION:

Resolution 79-2012 Executive Session

Motion made by Higgins, seconded by Boyle to enter Executive Session after a five minute recess.

79-2012
RESOLUTION AUTHORIZING EXECUTIVE SESSION

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

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

WHEREAS, the Mayor and Council find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

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

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

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

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

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

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

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

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

_____ Investigations of violations or possible violations of the law;

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

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

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

X Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is: Borough Manager Position 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 re-entered regular session at 9:10 p.m.

A motion was made by Higgins, seconded by Jewell to appoint Kristine Blanchard the Borough Manager for a term of three months with an evaluation at ten weeks to determine if this will become a permanent appointment.

Ayes: 7, Nays: 0
Motion Carried

A motion was made by Torres, seconded by Jewell to allow the Borough Manager to hire temporary part time assistance for the clerk's office if necessary.

Ayes: 7, Nays: 0
Motion Carried

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

Mayor Scott McDonald

Kristine Blanchard, RMC Borough Clerk