

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – July 16, 2013**

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.

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.”

Resolution #142-2013 Appointing Ann Kilduff as Acting Borough Clerk

RESOLUTION #142-2013

RESOLUTION TO APPOINT ANN KILDUFF AS ACTING BOROUGH CLERK

WHEREAS, the Borough Clerk will not be attending the Council Meeting of the Governing Body of the Borough of Washington scheduled for July 16, 2013.

WHEREAS, pursuant to NJSA 40A:9-157 the Governing Body may designate some person to act in the place of such officer during this temporary absence.

NOW, THEREFORE, BE IT RESOLVED, by the Borough of Washington Council that Ann Kilduff is hereby designated to act in the place of the Clerk during this temporary absence.

Resolution #142-2013 was moved on a motion made by Higgins, seconded by Jewell and approved.

Ayes: 6, Nays: 0
Motion Carried

Mayor McDonald led everyone in the flag salute.

Roll Call: Jewell, Torres, McDonald, Thompson, Higgins, Conry
Absent: Gleba

Also Present: Ann Kilduff, Acting Borough Clerk, Judy Kopen,
Municipal Attorney

MINUTES:

Regular Meeting – June 05, 2013

Motion made by Torres, seconded by Thompson to approve the minutes of June 05, 2013.

Ayes: 4, Nays: 0
Abstain: 2 (Jewell, Higgins)
Motion Carried

**Executive Session – June 06, 2012; July 03, 2012; August 07, 2012; August 21, 2012;
October 02, 2012; December 04, 2012; December 13, 2012 and December 18, 2012**

Motion made by Higgins, seconded by Jewell to approve the minutes of June 06, 2012; July 03, 2012; August 07, 2012; August 21, 2012; October 02, 2012; December 04, 2012; December 13, 2012 and December 18, 2012.

Ayes: 4, Nays: 0
Abstain: 2 (Conry, Thompson)
Motion Carried

AUDIENCE:

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

Ayes: 6, Nays: 0
Motion Carried

ORDINANCES:

Ordinance 5-2013 Authorizing the Sale of Surplus Land. (Public Hearing/Adoption)

Motion made by Torres and seconded by Conry to introduce Ordinance #5-2013 on final passage and have the Clerk read by title.

Roll Call: Torres, McDonald, Conry, Thompson, Higgins, Jewell
Ayes: 6, Nays: 0

Motion Carried

The Clerk read Ordinance #5-2013 Authorizing the Sale of Surplus Land

ORDINANCE # 5-2013
AN ORDINANCE AUTHORIZING THE SALE OF SURPLUS LAND

WHEREAS, a parcel of real property known as Block 95, Lot 31 on the tax map of the Borough of Washington, County of Warren, State of New Jersey and also known by the street address of 12 South Lincoln Avenue, Borough of Washington (“Property”), owned by the Borough of Washington, is not needed for public purposes; and

WHEREAS, the Borough is engaged in an active Redevelopment Plan aimed at revitalizing its downtown pursuant to the provisions of N.J.S.A. §40A:12A-1 to -49 (also known as The Local Redevelopment and Housing Law) (hereinafter referred to as the “LRHL”), which authorizes a municipal governing body to exercise redevelopment and rehabilitation functions; and;

WHEREAS, NJSA 40A:12A-8(g) of the LRHL provides in pertinent part that: “Upon adoption of a redevelopment plan...the municipality may lease or convey property or improvements to any other party, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule, or regulation to the contrary; and

WHEREAS, a presentation was made to the Borough at its public meetings of May 7, 2013 and May 21, 2013 by Ray Rice of Jade Partners Washington, LLC, which owns or is in under contract with parcels adjoining the Property in the Borough, proposing that Jade Partners Washington, LLC purchase the Property to improve the same for parking and other retail purposes in conjunction with the Borough’s redevelopment plan; and

WHEREAS, it is in the best interest of the Borough of Washington to negotiate the sale of the Property to Jade Partners Washington, LLC to further the goals of the Borough’s redevelopment plan; and

WHEREAS, the Borough of Washington wishes to dispose the Property pursuant to N.J.S.A. 40A:12-13;

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

1. The Mayor and Council hereby authorize the sale of the Property to Jade Partners Washington, LLC at such price and upon such terms as it deems

reasonable in conjunction with the Borough's redevelopment plan, which price and terms shall be more specifically described in a resolution authorizing the sale.

2. The specific terms and conditions of the sale will be set forth in a resolution authorizing the sale, copies of which will, upon adoption, be available at the Borough Municipal Building.
3. The sale of the Property shall be subject to a written contract to be entered into with Jade Partners Washington, LLC. The form of contract will be attached to the resolution authorizing the sale.
4. A minimum deposit of ten percent (10%) of the agreed price on the Property by cash or certified check (or other immediately negotiable funds) payable to the Chief Financial Officer, Borough of Washington shall be paid to the Borough upon the execution of the contract of sale.

Public Hearing

Hearing no comments from the public, a motion was made by Higgins, seconded by Jewell to close the public hearing of Ordinance #5-2013.

Roll Call: Torres, McDonald, Conry, Thompson, Higgins, Jewell
Ayes: 6, Nays: 0
Motion Carried

Council Discussion:

Councilman Higgins asked if the actual sale price will be set in the resolution. Attorney Kopen replied yes, that is correct. Mayor McDonald added that the parking spaces will also be negotiated and stated in the resolution as well. Councilman Higgins asked if there were any rights to the Washington Borough Fire Department since the property was given to the Borough from the Fire Department. Attorney Kopen replied that she will examine the deed to determine if there are any rights.

Hearing no further comments, a motion was made by Torres, seconded by Gleba to adopt Ordinance #5-2013 on final passage.

Roll Call: Torres, McDonald, Conry, Thompson, Higgins, Jewell
Ayes: 6, Nays: 0
Motion Carried

REPORTS:

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

1. Manager’s Report
2. Tax Collector’s Report
3. Warren County Board of Health
4. Municipal Court Report

Council Discussion:

Councilman Torres stated that he is glad to see that the Borough is receiving regular reports from the Warren County Board of Health. However, there is no report from the Recreation Department again and Councilman Torres would like it on the record that he is waiting to receive regular reports from the Recreation Department.

Ayes: 6, Nays: 0
Motion Carried

AUDIENCE:

A motion was made by Jewell, seconded by Torres to reopen the audience portion of the meeting.

Ayes: 6, Nays: 0
Motion Carried

Mrs. Robin Klimko – 35 West Marble Street

Mrs. Klimko stated that she received the letter from the Borough regarding the creek erosion from the Sewer Engineer. Mrs. Klimko would like the engineer to come out and take a look while her and her fellow neighbors are there. Mrs. Klimko stated that the Sewer Engineer’s report states that the erosion is minimal. Mrs. Klimko strongly feels this is not the case. Mrs. Klimko also stated that the Sewer Engineer’s report says that the boulders that were placed there seem to be holding back the erosion. Mrs. Klimko says those rocks were not placed there, those rocks used to be in the ground and have unearthed themselves due to the erosion. The Sewer Engineer’s letter states that he feels the erosion problem is the responsibility of the homeowner and Mrs. Klimko strongly disagrees because it is not the homeowner putting the extra water into the stream. Mrs. Klimko and her fellow neighbors would like to attend the next Sewer Committee meeting to discuss potential solutions. Mrs. Klimko stated that every time it rains, the creek overflows and floods the sewer which therefore does not work properly. Councilman Higgins will call Mrs. Klimko and let her know when the next Sewer Committee meeting

will take place. Councilman Higgins will contact the Army Corp. of Engineers, the Highlands, and the DEP to determine where the responsibility lies.

Reverend Terrilisa Bauknight – 95 Lenape Trail

Reverend Bauknight stated that the paving on North Lincoln Avenue stopped right before the Library and the upper portion is very lumpy and getting worse. Mayor McDonald replied that the Borough only had so many dollars to spend on paving and the Streets Committee determined which roads needed to be paved the most. Councilman Jewell added that the Streets Committee and DPW determined the list of roads from good to bad and chose from that list. Councilman Jewell also stated that the Borough had enough money to pay for the paving in cash, and that no bond was used. Possibly more roads will be paved next year. Mayor McDonald stated that he will ask Manager Blanchard to have DPW take a look and see if they can smooth it out a little for the time being. Reverend Bauknight also stated there is constantly debris and garbage left in the church parking lot on North Lincoln Avenue. Mayor McDonald asked Acting Clerk Kilduff to ask the Washington Township Police Department to patrol that area especially after events at the Warren Hills Middle School.

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

Ayes: 6, Nays: 0
Motion Carried

NEW BUSINESS:

Resolution #140-2013 – Redemption of Tax Certificate

RESOLUTION #140-2013
A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

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

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 25, 2012 to US Bank Cust Pro Capital I LLC, TLSG, 50 S 16th Street, Suite 1950, Philadelphia, PA 19102, in the amount of \$182.23 for taxes or other municipal liens assessed for the year 2011 in the name of Rowlands, William & Kristin H. as supposed owners, and in said assessment and sale were described as 78 South Lincoln Avenue, Block 98 Lot 28, which sale was evidenced by Certificate #12-00059; and

WHEREAS, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 7-02-13 and before the right to redeem was cut off, as

provided by law, Seterus Inc./Chase Bank claiming to have an interest in said lands, did redeem said lands claimed by US Bank Cust Pro Capital I LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,093.65 which is the amount necessary to redeem Tax Sale Certificate #12-00059.

NOW THEREFORE BE IT RESOLVED, on this 16th day of July, 2013 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to US Bank Cust Pro Capital I LLC, TLSG, 50 S 16th Street, Suite 1950, Philadelphia, PA 19102 in the amount of **\$1,093.65**.

Resolution #140-2013 was moved on a motion made by Higgins, seconded by Jewell and approved.

Roll Call: Jewell, Torres, McDonald, Thompson, Conry, Higgins
Ayes: 6, Nays: 0
Motion Carried

Resolution #144-2013 – Awarding Bid For Rehabilitation of Two Air Conditioning Units at Washington Borough Hall

RESOLUTION # 144-2013
A RESOLUTION TO AWARD A BID FOR
REHABILITATION OF TWO AIR CONDITIONING
UNITS AT WASHINGTON BOROUGH HALL

WHEREAS, bids were advertised and accepted by the Municipal Clerk/Borough Manager and Mike Finelli of Finelli Consulting Engineers for the rehabilitation of two air conditioning units in the Washington Borough Municipal Building on Wednesday July 10, 2013 at 10:00 a.m. and;

WHEREAS, 3 bids were submitted and reviewed by Finelli Consulting Engineers and Gebhardt and Kiefer; and

WHEREAS, the lowest responsible bidder for the rehabilitation of two Air Conditioning Units in the Washington Borough Municipal Building is Binsky and Snyder LLC with a total bid price of \$21,450.00.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Contract for the rehabilitation of two air conditioning units in the Washington Borough Municipal Building be awarded to Binsky and Snyder LLC.

BE IT FURTHER RESOLVED that Mayor, Borough Clerk are hereby authorized to execute all necessary contracts and documents to award said contract.

Council Discussion:

Councilman Higgins stated that the resolution should state that the air conditioning units are for the Washington Borough Municipal Building. Councilman Torres suggested taking the Fire Department out of the wording of the resolution. At this time, Attorney Kopen addressed Councilman Higgins' question from a previous meeting whether he can vote on Fire Department matters. Since he is no longer an active member of the Washington Borough Fire Department, Attorney Kopen stated that Councilman Higgins can vote as long as he does not pay dues of any nature, does not make significant monetary contributions and does not attend meetings. Since that is the case, Councilman Higgins does not have to abstain from voting in any Fire Department matters in the future.

Resolution #144-2013 was moved on a motion made by Torres, seconded by Conry and approved.

Roll Call: Jewell, Torres, McDonald, Thompson, Conry, Higgins
Ayes: 6, Nays: 0
Motion Carried

Fire Prevention Ordinance Discussion:

Councilman Torres stated that the original Fire Code Ordinance had to be updated and the Fire Official asked to make some changes. The committee met and investigated the changes further with the Fire Official. There was discussion that has come up because the current Fire Official happens to be moving out of Washington Borough. The committee felt as long as the Borough Manager was confident that the Fire Official could commute back and forth, no residency requirement was necessary at this time.

Also, Councilman Torres added that the Fire Official shall order a Fire Watch each 4th of July at the location surrounding the Washington Celebrates America event. Mayor McDonald added as long as the fireworks are located in the Borough. Mayor McDonald wouldn't want the Borough's Fire Official performing a Fire Watch outside of the Borough's limits.

Councilman Higgins stated his concern if in the future there is a Fire Official who is not a member of the Washington Borough Fire Department and who has not trained with the department. Councilman Higgins added he would not want that individual assisting the Chief with infinite command. Attorney Kopen stated that she will research to see if there is a clear statement in the State Administrative Code stating if the Fire Chief essentially is in charge just in case there is a difference in opinion with the Fire Official. Mayor McDonald added that some language can be added that the Fire Chief supersedes the Fire Official.

VOUCHERS:

Mayor McDonald entertained a motion to approve the vouchers and claims in the amount of \$592,177.63

Council Discussion:

Councilman Thompson questioned the charge for the fence at Borough Park on page ten. Councilman Thompson stated that it was pulled from the May 7th list because Council had questions about the sides of the fence and were awaiting a response from the Risk Manager whether the fence was acceptable or not. Mayor McDonald suggested pulling it from the bill list until an answer is received. Councilman Torres stated that there is a machine rental charge on page one and the same charge on page two. Councilman Torres questioned if this was a duplicate charge. Mayor McDonald replied that the charge is probably being split between two departments but he will have Manager Blanchard check on that charge. Councilman Torres also stated that on page eight under utilities it looks like sixty six gallons of gas was used by the Recreation Department. Mayor McDonald replied that gas is for all the different departments including, Code Enforcement, DPW, and the Fire Department.

Motion made by Higgins, seconded by Jewell and approved.

Roll Call: Jewell, Torres, McDonald, Conry, Thompson, Higgins
Ayes: 6, Nays: 0
Abstain: Thompson – Fire Dept. & EMS
Jewell – Fire Dept. & EMS

MEETING RE-CAP:

Manager Blanchard will check the Sewer Engineer's schedule and coordinate a Sewer Committee meeting. Councilman Higgins will advise Mrs. Klimko of that meeting date. Manager Blanchard will also have the Sewer Engineer schedule a time with Mrs. Klimko to visit the site prior to the subcommittee meeting. Councilman Higgins will contact the Army Corps of Engineers, Highlands and the DEP regarding the problem to see where the responsibility lies. The Sewer Committee will visit the site prior to their next meeting. Manager Blanchard will ask the Road Department to look at the condition of Upper Lincoln Avenue near the church to inspect the areas that seem to be sinking. Acting Borough Clerk Kilduff will ask the Washington Township Police Department to patrol that same area on Upper Lincoln Avenue for speeding and debris left behind.

COUNCIL REMARKS:

Councilman Thompson wished everyone a safe and healthy summer.

Councilman Jewell read the following letter into the record:

“Dear Mayor McDonald, Council, Manager Blanchard, and Mrs. Kilduff:

With this letter, I hereby submit my resignation as Councilman of Washington Borough effective at the conclusion of the August 20, 2013 meeting. My resignation from Council is not due to lack of interest in the Borough and the residents. Rather, life has taken me on a different path and I will no longer be a resident of the Borough. Since being elected to Council, I have taken great pride in Washington Borough’s success and economic growth. I wholeheartedly wish that the Borough continues to be a place of progress and have a clear sense of community. I wish Mayor McDonald, my fellow Councilmen and Councilwomen, and Manager Blanchard all the best in the future. If I can be of assistance during this transition, please feel free to contact me.”

Respectfully,

Justin P. Jewell
Councilman, Washington Borough

Mayor McDonald thanked Councilman Jewell for his efforts on behalf of the Borough of Washington.

Councilman Higgins asked for an update on the Paramount Property located downtown at 16 East Washington Avenue. Mayor McDonald stated that in order to put a new façade on the building, according to the Redevelopment Plan, Paramount has to go before the Planning Board. Paramount has submitted a basic design to Manager Blanchard, but the Borough is looking for something more detailed as to what Paramount plans to do. The plan needs to be approved by the Planning Board before the new facade can be installed. Councilman Higgins also stated that he had the opportunity to go through the metal collection dumpster located at the DPW Garage and this is the second time that it’s just about full. While Councilman Higgins was there, he noticed there were mounds and mounds of road millings. Councilman Higgins suggested that the Borough get a bulldozer and spread the millings down at the DPW location and use it as a base before blacktop. Councilman Higgins added that now is the best time to do this before it cools down and hardens. Mayor McDonald suggested Councilman Higgins send Manager Blanchard an email regarding this topic.

Councilwoman Conry wished Councilman Jewell the best in his future.

Councilman Torres also wished Councilman Jewell the best and congratulated him on his recent wedding. Councilman Torres stated that the Mayor of Hopatcong wanted to start a county wide League of Municipalities. Councilman Torres would like a resolution prepared for the next meeting to allow the Borough of Washington to join the Warren County League of Municipalities.

EXECUTIVE SESSION:

Resolution #143-2013 Executive Session Authorization

A motion was made by Higgins, seconded by Jewell, to go into Executive Session after a ten minute recess.

Ayes: 6, Nays: 0
Motion Carried

RESOLUTION # 143-2013
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: _____ litigation and contracts _____. The public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.)

_____Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: _____ OR _____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.);

_____Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is: _____ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.;

_____Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Mayor and Council hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Borough Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough or any other entity with respect to said discussion.

BE IT FURTHER RESOLVED that the Mayor and Council, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

A motion was made by Higgins, seconded by Jewell, to go out of Executive Session.

Ayes: 6, Nays: 0
Motion Carried

Hearing no further business, a motion made by Higgins, seconded by Torres to adjourn the meeting at 8:47p.m.

Ayes: 6, Nays: 0
Motion Carried

Mayor Scott McDonald

Kristine Blanchard, RMC Borough Clerk