

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – February 16, 2016**

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.”

Mayor McDonald led everyone in the flag salute.

Roll Call: Thompson, Noone, Heinrich, Conry, McDonald, Higgins

Absent: Klimko

Also Present: Pat Titus, Acting Clerk;
Dick Cushing, Municipal Attorney

MINUTES:

Reorganization Meeting Minutes - January 5, 2016

Motion made by Noone, seconded by Conry to approve the Reorganization Meeting Minutes of January 5, 2016.

Ayes: 6, Nays: 0
Motion Carried

CORRESPONDENCE:

Warren County Department of Land Preservation – Warren County Municipal and Charitable Conservancy Trust Fund Committee (Representative Needed)

Warren County Department of Land Preservation – Warren County Preservation Day at Ramsaysburg Homestead – May 21

A motion was made by Heinrich, seconded by Noone to receive and file the correspondence.

Ayes: 6, Nays: 0
Motion Carried

Council Discussion:

Mayor McDonald stated that the Borough needs a Representative for the Warren County Municipal and Charitable Conservancy Trust Fund Committee. Mayor McDonald added that this committee is important to the Borough since the Washington Theatre will be looking to submit an application to this board. Councilwoman Conry volunteered to represent Washington Borough with no objections.

COUNCIL APPEARANCE:

Value Lighting Energy Solutions – Jim Smith

Mayor McDonald stated that the appearance will be postponed since Mr. Jim Smith was not in attendance.

AUDIENCE:

Mayor McDonald opened up the audience portion for remarks, petitions, statements, and testimony from guests.

Reverend Terelisa Bauknight – Mt. Pisgah AME Church, 169 North Lincoln Avenue

Reverend Bauknight stated that yesterday the D.P.W. came to salt North Lincoln Avenue and it went about half way up then backed up and salted the parking lot for the library. The truck then proceeded to turn right on to New Street, never salting the area of North Lincoln Avenue in front of Mt. Pisgah AME Church. Mayor McDonald asked Ms. Titus to make a note for Manager Blanchard to make sure the D.P.W. gets all the way to the end of New Street. Reverend Bauknight added that she still has an issue with the garbage blowing down the street in front of Sal's Pizza on Route 57. Mayor McDonald replied that he will have Code Enforcement Bescherer pay close attention to the garbage in that location.

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

Ayes: 6, Nays: 0
Motion Carried

REPORTS:

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

1. Municipal Court Report – January

Ayes: 6, Nays: 0
Motion Carried

ORDINANCES:

Ordinance #1-2016 An Ordinance of the Borough of Washington Creating Chapter __ Article __ Section __ of the Code of the Borough of Washington Authorizing and Regulating the Use of Fire Pits and Chimineas and Liquefied Petroleum-Gas-Fire Cooking Devices. (Public Hearing / Adoption).

A motion made by Heinrich, seconded by Conry to introduce Ordinance #1-2016 on final passage and have the clerk read by title and publication statement.

Roll Call: Conry, Noone, Heinrich, McDonald
Ayes: 4, Nays: (2) Thompson, Higgins
Motion Carried

The Clerk read Ordinance #1-2016 An Ordinance of the Borough of Washington Creating Chapter __ Article __ Section __ of the Code of the Borough of Washington Authorizing and Regulating the Use of Fire Pits and Chimineas and Liquefied Petroleum-Gas-Fire Cooking Devices.

ORDINANCE # 1-2016

AN ORDINANCE OF THE BOROUGH OF WASHINGTON CREATING CHAPTER __, ARTICLE __, SECTION __, OF THE CODE OF THE BOROUGH OF WASHINGTON AUTHORIZING AND REGULATING THE USE OF FIRE PITS AND CHIMINEAS & LIQUEFIED PETROLEUM-GAS-FIRE COOKING DEVICES.

WHEREAS, the Borough Council of the Borough of Washington (“Borough”) determines that outdoor fire can pose a significant hazard to the public health, safety, general welfare, and the quality of life of the residents of the Borough; and

WHEREAS, many residents seek to use and enjoy fire pits, chimineas, and like devices; and

WHEREAS, the Borough Council, pursuant to its regulatory authority, seeks to regulate outdoor fires to protect the safety, well-being and quality of life of all person within the Borough; and

WHEREAS, this Ordinance will permit the Borough Council to authorize and regulate the use of fire pits, outdoor fireplaces, and chimineas.

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

Section One: Fire Pits and Chimineas, A new Article _____, of the Borough Code, entitled “Fire Pits and Chimineas”, is hereby created so the same shall read as follows:

Section _____: Fire Pits and Chimineas.

Fire pits, chimineas, outdoor fireplaces, and other similar devices are authorized within the Borough boundaries subject to the restrictions set forth in this Chapter.

Section _____. Restrictions.

- (a) Only firewood, wood pellets or coal may be burned in a fire pit, chiminea, outdoor fireplace, or other similar device within the Borough. No trash or other waste such as garbage, leaves, yard waste, brush, vines, evergreen needles, construction debris, rubbish, plastic materials, leather, furniture, engineered and architectural wood or petroleum based materials may be used to fuel any fire in any such device.
- (b) Kindling may be used to start a fire.
- (c) No outdoor fire, whether in a fire pit, chiminea, or the like, may be left unattended.

Section _____. Enforcement.

- (a) This Ordinance shall be administered by the Washington Borough Department of Fire

Prevention, Washington Fire Department on Duty Officer or Senior Firefighters, Washington Township Police Department.

- (b) Anyone authorized to enforce this ordinance shall have the authority to immediately cause any person using a fire pit, chiminea, outdoor fireplace or like device within the Borough boundaries to extinguish the same if the enforcement official believes that the use of the fire pit, outdoor fireplace, chiminea, or like device is in violation of this ordinance.

Section _____, Penalties.

Any individual, person, firm, or corporation, violating and of provisions of this ordinance shall be liable to a fine no less than \$50.00 and no more than \$500.00.

Section Two: Prohibited open burning.

Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

Section Three: Recreational Fires.

Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

Section Four: Protection.

A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on site fire-extinguisher equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

Section Five: Open-flame cooking devices and outdoor fire-places.

Charcoal burners, other open-flame cooking devices and outdoor fireplaces shall not be operated or stored on combustible balconies or decks or within 5 feet (1524 mm) of combustible construction.

Section Six: Liquefied-petroleum-gas-fueled cooking.

Portable LP-gas cooking equipment such as barbecue grills and outdoor fireplaces shall not be stored or used:

1. On any porch, balcony or any other portion of a building;
2. Within any room or space of a building

3. Within 5 feet (1524 mm) of any combustible exterior wall;
4. Within 5 feet (1524 mm), vertically or horizontally, of an opening in any wall; or
5. Under any building overhang.

Section Seven: If any section, subdivision, paragraph, clause, or provision of this ordinance shall be adjusted invalid, such adjudication shall apply only to such section, subdivision, paragraph, clause, or provision and the remainder of this ordinance shall be deemed valid and effective. All ordinances or parts of ordinance inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section Eight: This ordinance shall become effective upon final passage and publication according to law.

Public Hearing:

Reverend Bauknight stated that she feels it is important to have regulations on the fire pits as there are many residents who use them within her neighborhood.

Hearing no additional comments from the public, a motion was made by Heinrich, seconded by Noone to close the public hearing of Ordinance #1-2016

Ayes: 4, Nays: (2) Thompson, Higgins
Motion Carried

A motion was made by Conry, seconded by Noone to adopt Ordinance #1-2016 on final passage.

Council Discussion:

Councilman Higgins asked which chapter, article and section of the codebook would this ordinance go into. Attorney Cushing replied that often what happens is that the codebook publishing company will organize it along with the other changes and then send back to the Borough for approval.

Roll Call: Conry, Noone, Heinrich, McDonald
Ayes: 4, Nays: (2) Thompson, Higgins
Motion Carried

NEW BUSINESS:

Resolution #39-2016 Redemption of a Tax Certificate

RESOLUTION #39-2016

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 16, 2015 to US Bank Cust Pro Capital 6, 50 S 16th Street, Suite 2050, Philadelphia, PA 19102, in the amount of \$351.96 for taxes or other municipal liens assessed for the year 2014 in the name of Butterfield, Warren as supposed owner, and in said assessment and sale were described as 21 Fisher Avenue, Block 84 Lot 34, which sale was evidenced by Certificate #15-00040; and

WHEREAS, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 2-08-16 and before the right to redeem was cut off, as provided by law, Warren Butterfield claiming to have an interest in said lands, did redeem said lands claimed by US Bank Cust Pro Capital 6 by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$411.00 which is the amount necessary to redeem Tax Sale Certificate #15-00040.

NOW THEREFORE BE IT RESOLVED, on this 16 day of February 2016 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 6, 50 S 16th Street, Suite 2050, Philadelphia, PA 19102 in the amount of **\$1,611.00** (This amount consists of \$411.00 Certificate Amount redeemed + \$1,200.00 Premium).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 84 Lot 34 from the tax office records.

Resolution #40-2016 Redemption of a Tax Certificate

RESOLUTION # 40-2016

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 16, 2015 to JU Solo 401k Trust, 42 Huntington Rd, Basking Ridge, NJ 07920, in the amount of \$181.81 for taxes or other municipal liens assessed for the year 2014 in the name of Borough of Washington, Foreclosure as supposed owner, and in said assessment and sale were described as 44 Taylor Street, Block 31 Lot 6, which sale was evidenced by Certificate #15-00016; and

WHEREAS, I, Natasha Turchan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that Certificate #15-00016 was sold in error at the October 16, 2015 Tax Sale. The Borough of Washington claiming to have an interest in said lands, will redeem said lands claimed by JU Solo Trust, by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$233.81, which is the amount necessary to redeem Tax Sale Certificate #15-00016.

NOW THEREFORE BE IT RESOLVED, on this 16th day of February, 2016 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Washington Borough in the amount of **\$233.81**.

Resolution #41-2016 Redemption of a Tax Certificate

RESOLUTION #41-2016

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 16, 2015 to JU Solo 401K Trust, 42 Huntington Rd, Basking Ridge, NJ 07920, in the amount of \$181.81 for taxes or other municipal liens assessed for the year 2014 in the name of Borough of Washington Foreclosure as supposed owner, and in said assessment and sale were described as 44 Taylor Street, Block 31 Lot 6, which sale was evidenced by Certificate #15-00016; and

WHEREAS, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 2-16-16 and before the right to redeem was cut off, as provided by law, Borough of Washington, claiming to have an interest in said lands, did redeem said lands claimed by JU Solo 401K Trust by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$233.81 which is the amount necessary to redeem Tax Sale Certificate #15-00016.

NOW THEREFORE BE IT RESOLVED, on this 16th day of February, 2016 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to JU Solo 401K Trust, 42 Huntington Rd, Basking Ridge, NJ 07920 in the **amount of \$333.81** (This amount consists of \$233.81 Certificate Amount redeemed + \$100.00 Premium).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 31 Lot 6 from the tax office records.

Resolutions #39-2016, #40-2016, and #41-2016 were moved on a motion made by Noone, seconded by Conry and approved.

Roll Call: Thompson, Conry, Noone, Heinrich, Higgins,
McDonald

Ayes: 6, Nays: 0

Motion Carried

Resolution #42-2016 Authorizing the Mayor and Clerk to Execute a Contract with Utility Service Partners dba Service Line Warranties of America (for consideration)

Resolution #42-2016 was moved on a motion made by Conry, seconded by Heinrich.

Council Discussion:

Councilman Higgins questioned the wording in the Grant of License section of the Agreement, specifically the non-exclusive license and the fact that the Borough can not extend a similar license to any competitor. Attorney Cushing agreed with Councilman Higgins that the wording was contradicting. Councilman Higgins also questioned the Choice of Law/Attorney Fees portion of the agreement if which Attorney Cushing stated adds an uncertainty to the negotiation process. Councilman Higgins also added that there is nothing in the agreement that states how Utility Service Partners will be audited or how they are going to provide numbers to the Borough which states how much revenue is owed. Attorney Cushing replied that there is wording in the Consideration portion of the agreement that states that SLWA shall include with each License Fee payment to the Borough a statement signed by an SLWA corporate officer certifying the calculation of the License Fee. Attorney Cushing noted that the agreement also states that it is the Borough's right but at their expense to conduct an audit. Mayor McDonald suggested that Manager Blanchard send a letter to Utility Service Partners stating the corrections of taking out the last sentence of paragraph two and the last sentence of paragraph ten. Council agreed to table the resolution until the agreement is amended.

Motion was withdrawn by Conry, seconded by Heinrich.

Councilman Heinrich suggested the Borough obtain a copy of an example of the agreement between the homeowner and the Utility Service Partners.

A motion made by Thompson, seconded by Noone to table Resolution #42-2016 until the necessary amendments are made.

Ayes: 6, Nays: 0
Motion Carried

VOUCHERS:

Mayor McDonald entertained a motion to approve the vouchers and claims in the amount of \$135,269.68

Motion made by Noone, seconded by Conry to approve the vouchers.

Council Discussion:

Councilman Higgins asked if the legal charge on page four was the last bill that the Borough would receive in regards to the D.P.W. Garage litigation. Ms. Titus will have Manager Blanchard reply back to Council.

Roll Call: Noone, Heinrich, Thompson, Conry, Higgins,
McDonald

Ayes: 6, Nays: 0
Abstain: (1) Thompson (Fire & EMS only)
Motion Carried

RECAP:

Ms. Titus will have Manager Blanchard strike out the necessary sentences from paragraphs two and ten of Resolution #42-2016 Authorizing the Mayor and Clerk to Execute a Contract with Utility Service Partners dba Service Line Warranties of America. Ms. Titus will also ask Manager Blanchard to request a draft copy of an agreement with the homeowners from Utility Service Partners. Manager Blanchard will also make sure D.P.W. sands or salts on North Lincoln north of New Street and look into the legal charges from Kelly, Trinity & Farsiou, LLC.

COUNCIL REMARKS:

Mayor McDonald stated that in the Manager's Report there is the question of whether Council wants to hire Mr. Frank Mangravite to examine the contract for the sewer plant. Councilman Higgins suggested that Manager Blanchard ask Mr. Mangravite to appear before Council to discuss how he can assist the Borough. Mayor McDonald asked Attorney Cushing to investigate how the Borough can get the properties on the foreclosure list available for sale. Attorney Cushing discussed many options with Council including having an auction company such as Max Spann discuss options with Council.

Councilman Higgins stated that Manager Blanchard was supposed to obtain quotes for the demolition of 149 North Lincoln Avenue and would like an update provided to Council. Councilman Higgins asked if a fire hydrant is on personal property, what right does a public utility have to put a piece of equipment on private property? Attorney Cushing replied that without an easement or right of way there is no right for anyone to place any equipment on private property. Attorney Cushing added that if he was the property owner and a piece of utility equipment was placed on his property then he would expect some type of compensation from the utility company. Councilman Higgins discussed the property between South Lincoln Avenue and Broad Street that is owned by Norfolk Southern Corporation and how they want to close it off. Councilman Higgins would like to ask Norfolk Southern to produce a survey proving ownership of the property.

Councilman Thompson stated that the garbage on Broad Street has been an eyesore for two days. Mayor McDonald noted that item is on Manager Blanchard's list to take care of.

Councilman Heinrich noted that the Borough's website needs to be updated with the Mayor's Year End message and the Senior Advisory Committee's updates.

Councilwoman Noone mentioned that there is a benefit for the renovation and restoration of the Washington Theatre this Friday, February 19th at Centenary College called Building Bridges with an artist's reception from 6:00 p.m. to 10:00 p.m. and the exhibit continues through February 28th. Councilwoman Noone also mentioned that there is a lot of garbage and mattresses being dumped on the property across from the Advanced Auto Parts.

Councilman Thompson added that he would like an update on the time clocks soon.

EXECUTIVE SESSION:

At this time, Mayor McDonald stated that an Executive Session is needed. A motion was made by Conry, seconded by Heinrich to enter into Executive Session for pending

litigation after a ten minute recess.

Ayes: 6 Nays: 0
Motion Carried

RESOLUTION # 44-2016

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;

 X 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: ___/Personnel___ 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 Conry, seconded by Noone, to go out of Executive Session.

Ayes: 6, Nays: 0
Motion Carried

Attorney Cushing noted that in addition to the Wolosky matter, also discussed in Executive Session was a matter involving excess fees charged to the Domestic Abuse and Sexual Assault Crisis Center of Warren County, as well as a quick update on the affordable housing developments.

A motion was made by Conry, seconded by Thompson to add into the record these additional items discussed in Executive Session.

Ayes: 6, Nays: 0
Motion Carried

A motion was made by Conry, seconded by Noone to grant relief of \$1,074.50 to the Domestic Abuse and Sexual Assault Crisis Center of Warren County due to an error on behalf of the Borough of Washington.

Roll Call: Noone, Heinrich, Thompson, Conry, Higgins,
McDonald

Ayes: 6, Nays: 0
Motion Carried

ADJOURNMENT:

Hearing no further business, a motion was made by Higgins, seconded by Conry to adjourn the meeting at 8:22 p.m.

Ayes: 6, Nays: 0
Motion Carried

Mayor Scott McDonald

Kristine Blanchard, RMC Borough Clerk