

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – November 1, 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, P.L. 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 let everyone in the flag salute.

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

Absent: None

Also Present: Ann Kilduff, Borough Clerk; Jasmine Lim, Interim Borough Manager; Matthew Hall, Incoming Borough Manager; Tara St. Angelo, Township Attorney; Dawson Bloom, Borough Engineer; and Lieutenant Teter

CORRESPONDENCE

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

1. Email from Tamzen and Wayne Meiner re: Proposed Closing of Railroad Avenue
2. Email from Edna Detlefs re: Proposed Closing of Railroad Avenue
3. Letter from NJDOT re: Transportation Trust Fund
4. Email from Peter Michel re: Town Center Project

Ayes: 7 Nays: 0

Motion Carried

MINUTES

Regular Meeting Minutes October 18, 2016

A motion was made by Noone, seconded by Conry, to approve the Regular Meeting minutes of October 18, 2016.

Ayes: 7 Nays: 0

Motion Carried

Executive Session Minutes of the Regular Meeting of October 18, 2016. (Proofed for Content Only)

A motion was made by Noone, seconded by Conry, to approve the Executive Session Minutes of the Regular Meeting held October 18, 2016.

Ayes: 7 Nays: 0

Motion Carried

AUDIENCE

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

Edna Detlefs – 27 Fisher Avenue

E. Detlefs asked the status of the public meeting to learn about the proposed railroad crossing. J. Lim stated she requested a meeting with the Department of Transportation and is waiting on their response.

Reverend Bauknight – Mt. Pisgah Church

Reverend Bauknight thanked the candidates and Council members for participating in two meet and greet sessions and wished everyone success.

John Monteverde – BID Director

J. Monteverde reported Hometown Halloween was a huge success and he discussed Trick-or-Treat hours with Councilman Thompson. J. Monteverde updated Council on upcoming events.

Hearing no further comments, a motion was made by Conry, seconded by Klimko, to close the audience portion of the meeting.

Ayes: 7 Nays: 0
Motion Carried

REPORTS

A motion was made by Heinrich, seconded by Conry, to receive and file the following reports:

1. 2016 Tax Sale Report
2. Washington Township Police – Press Release for October 16, 2016
3. Board of Health – Monthly Report for October
4. Veolia Wastewater Systems – Monthly Report for August
5. Road Department – Monthly Report for October

Councilman Higgins discussed Veolia reports with J. Lim. Councilman Thompson would like to receive Recreation Department reports on a regular basis.

Ayes: 7 Nays: 0
Motion Carried

COMMITTEE REPORTS

Councilman Higgins stated the Sewer Committee met and stated Veolia reports will now be emailed to the Sewer Committee, Engineer and Manager and a hard copy will be provided for Council. Reports and solutions to issues will be forwarded to Council within 24 hours of an incident. Council will be getting a report on the schedule and procedure of the cleaning of the collection system. Councilman Higgins stated

manhole covers have been paved over on Fisher, O'Shea and Flower Avenues and discussed the second phase of the sewer project on S. Prospect Street.

Councilman Higgins stated bids for the Midblock Crosswalk came in slightly higher than the Engineer's estimate. The bids are being reviewed and will be discussed at the next meeting.

OLD BUSINESS

Resolution 162-2016 – Resolution Extending the Option Agreement for Grant of Easement and Right-of-Way with New Jersey American Water

RESOLUTION 162-2016 RESOLUTION EXTENDING THE OPTION AGREEMENT FOR GRANT OF EASEMENT AND RIGHT-OF-WAY WITH NEW JERSEY AMERICAN WATER

WHEREAS, on November 7, 2014, the Borough of Washington and New Jersey-American Water Company, Inc. entered into an Option Agreement for Grant of Easement and Right-of-Way to provide New Jersey-American Water Company with the option to purchase an easement and right-of-way on a portion of Lot 78 in Block 48 in Washington Township and owned by the Borough with two (2) option periods from November 7, 2014 to November 6, 2015 and from November 7, 2015 to November 6, 2016; and

WHEREAS, New Jersey-American Water Company wishes to further extend the option for an additional twelve (12) months from November 7, 2016 to November 6, 2017.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Washington that:

1. The Option Agreement with New Jersey-American Water Company is hereby extended for an additional twelve (12) months from November 7, 2016 to November 7, 2017.
2. The non-refundable option fee for the twelve (12) month extension period shall be \$14,000.00 payable on or before November 7.
3. All option payments shall be credited against the final easement purchase price of \$140,000.00.

Resolution 162-2016 was moved on a motion by Noone, seconded by Conry, and approved.

ROLL CALL: Noone, Conry, Heinrich, Higgins, Klimko, Thompson, McDonald
Ayes: 7; Nays: 0
Motion Carried

NEW BUSINESS

Resolution #165-2016 – Resolution Appointing Borough Manager Matthew C. Hall

RESOLUTION 165-2016
RESOLUTION APPOINTING BOROUGH MANAGER
MATTHEW C. HALL

WHEREAS, the Borough of Washington desires to employ the services of Matthew C. Hall as Borough Manager for the Borough of Washington, Warren County, NJ, pursuant to N.J.S.A. 40:69A-92; and

WHEREAS, N.J.S.A 40:82-2 provides that the Borough must reside within the Borough; and

WHEREAS, N.J.S.A 40:82-2 also provides for a waiver of the residency requirement upon approval of the municipal governing body.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Washington as follows:

1. Matthew C. Hall is hereby appointed Borough Manager effective November 3, 2016
2. Matthew C. Hall shall be compensated at the annualized rate of \$80,000 for the first six (6) months of his employment
3. Upon a favorable performance review by the Governing Body after six (6) months of employment, the annual compensation shall be increased to an annualized rate of \$83,000
4. The Borough Manager's benefits shall be as provided for by Borough Policy, Code and/or New Jersey State Statutes
5. The residency requirement set forth in N.J.S.A. 40:82-2 is hereby waived for Borough Manager, Matthew C. Hall to permit residency within a ten (10) mile radius of the Borough of Washington.

Resolution 165-2016 was moved on a motion by Noone, seconded by Conry, and approved.

Council Discussion:

Councilman Higgins explained events around the hiring of a Borough Manager should have been done differently; however, he is willing to support M. Hall.

J. Lim noticed a typographical error in the resolution which will be corrected.

Ayes: 4; Nays: 1 (Klimko); Abstentions: 1 (Thompson); Present: 1 (Higgins)
Motion Carried

Resolution #166-2016 – A Resolution of the Mayor and Council of the Borough of Washington Endorsing and Supporting the Passage of Assembly No. 3686 Designated as “Ralph and David’s Law”

RESOLUTION 166-2016
RESOLUTION OF THE MAYOR AND COUNCIL OF
THE BOROUGH OF WASHINGTON
ENDORING AND SUPPORTING THE PASSAGE OF ASSEMBLY, NO. 3686
DESIGNATED AS “RALPH AND DAVID’S LAW”

WHEREAS, on February 26, 2004, David Heim, a thirteen year old boy was tragically killed by a drunk driver in Sussex County; and

WHEREAS, the drunk driver who hit David was convicted solely of drunk driving and served only thirty days in jail, the maximum term of imprisonment for a first offense under the State's Drunk Driving Law; and

WHEREAS, another tragic death occurred on May 5, 2012 when Ralph Politi, Jr., an East Hanover Township community activist and business owner, was killed by a drunk driver who swerved out of her lane and struck him as he stood by his parked pick-up truck; and

WHEREAS, in the case of Ralph Politi, the drunk driver was recently acquitted of first-degree aggravated manslaughter and second-degree vehicular homicide, and instead received a two-year suspension of her driver's license and was ordered to perform thirty days of community service and pay \$733.00 in fines and penalties; and

WHEREAS, as a result of the untimely deaths of both David Heim and Ralph Politi, and the penalty limitations imposed by current law, members of both sides of the aisle have crafted Assembly, No. 3686, which establishes the crime of strict liability vehicular homicide and the conditions under which a defendant may be charged with such a violation; and

WHEREAS, under Assembly, No. 3686, strict liability vehicular homicide would be a third-degree crime, but neither the presumption of non-imprisonment that normally applies to first-time offenders convicted of third-degree crimes, nor the causal requirements of N.J.S.A. 2C:2-3, would apply; and

WHEREAS, Assembly, No. 3686 would also amend various sections of statutory law to strengthen penalties for vehicular homicide caused by drunk or drugged drivers; and

WHEREAS, Assembly, No. 3686 would be known as "Ralph and David's Law" in honor of Ralph Politi and David Heim; and

WHEREAS, the Borough Council of the Borough of Washington applauds the bi-partisan efforts of members of the General Assembly in strengthening the penalty provisions for operating a vehicle or vessel under the influence of drugs or alcohol, closing any loopholes that would set a violator free.

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

1. The Governing Body endorses and supports the bi-partisan efforts of the General Assembly in the introduction of Assembly, No. 3686, which establishes the third-degree crime of strict liability vehicular homicide, amends various sections of statutory law, and designates Assembly, No. 3686 as "Ralph and David's Law.

2. Certified copies of this resolution shall be transmitted to these sponsors of Assembly, No. 3686, namely Assemblymen John F. McKeon and Anthony M. Bucco, Assemblywomen Mila M. Jasey, Nancy F. Munoz, and Valerie Vainieri Huttel, Assembly Speaker Vincent Prieto, Senate President Stephen M. Sweeny, and the New Jersey State League of Municipalities.

Resolution 166-2016 was moved on a motion by Higgins, seconded by Conry, and approved.

Ayes: 7; Nays: 0
Motion Carried

Resolution 167-2016 – Resolution Authorizing a Handicapped Parking Space at 94 Youmans Avenue in Washington Borough

**RESOLUTION 167-2016
RESOLUTION AUTHORIZING A HANDICAPPED PARKING SPACE
AT 94 YOUMANS AVENUE IN WASHINGTON BOROUGH**

WHEREAS, Denise Freeman resides at 94 Youmans Avenue and has requested a designated handicapped parking space in front of her home, and

WHEREAS, Ms. Freeman has provided a doctor’s note supporting the need for a handicapped space in front of her home.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Washington that a handicapped parking space be designate at 94 Youmans Avenue with a sign and curb painting.

Resolution 167-2016 was moved on a motion by Noone, seconded by Higgins, and approved.

Ayes: 7; Nays: 0
Motion Carried

Resolution 168-2016 – Resolution Authorizing a Memorandum of Understanding between the Borough of Washington and the Warren Hills Regional High School

**RESOLUTION 168-2016
RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE BOROUGH OF WASHINGTON AND THE
WARREN HILLS REGIONAL MIDDLE SCHOOL**

WHEREAS, storm drainage system upgrades are required at the southwest and northwest corner of the alleyway in the vicinity of its intersection with Lincoln Avenue and within the area of the Warren Hills Regional Middle School parking lot, and

WHEREAS, the alleyway is owned and maintained by the Borough of Washington and is routinely utilized by the Warren Hills Regional School District as a means of ingress and egress in connection with the transportation of students to and from the Warren Hills Regional Middle School, and

WHEREAS, the Borough and the School District agree that the upgrades to the drainage system in the alleyway will benefit the Borough, the School District and local residents, and

WHEREAS, the Borough and the School District are desirous to enter into a Memorandum of Understanding to set out the arrangements that each of the parties agree are necessary to complete the storm drainage system upgrade project, and

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Washington that a Memorandum of Understanding between the Borough and the School District with the following provisions is hereby authorized:

1. The Storm Drainage Upgrade Project includes the replacement of an existing field inlet and basin with a double field inlet and precast concrete in the Middle School parking lot; construction of a new field inlet over an existing 15% storm drain at the southwest corner of the alleyway and Lincoln Avenue; closure of an existing field inlet at the northwest corner of the intersection of the alleyway and Lincoln Avenue; installation of a 15" HDPE Stormwater pipe between the new basins; and milling and overlay of the disturbed pavement,
2. The Parties agree to share equally in the cost of the Project in an amount up to \$7,000.00 in order to reduce the financial impact on both entities, with the responsible for all costs in excess of \$7,000.00,
3. The District agrees to remit payment of \$3,500.00 to the Borough upon the Borough's commencement of the work. To the extent that the cost to complete the Project is less than \$7,000.00, the Borough will refund the School District its share of the reduced cost,
4. The Borough agrees to complete the project at no additional cost to the School District, and
5. The School District agrees to cooperate with the Borough with respect to scheduling of the project and access by Borough employees and representatives onto District property for the purpose of undertaking the Storm Drainage Upgrade Project.

Resolution 168-2016 was moved on a motion by Higgins, seconded by Thompson, and approved.

ROLL CALL: Higgins, Thompson, Conry, Heinrich, Klimko, Noone, McDonald

Ayes: 7; Nays: 0

Motion Carried

VOUCHERS

A motion was made by Conry, seconded by Klimko, to approve the vouchers and claims in the amount of \$1,468,190.73.

ROLL CALL: Conry, Klimko, Heinrich, Higgins, Noone, Thompson, McDonald

Ayes: 7; Nays 0; Abstentions: 1 (Thompson–Fire/EMS only)

Motion Carried

RECAP

There was no recap at this meeting.

COUNCIL REMARKS

Councilman Higgins welcomed M. Hall and looks forward to working with him.

Councilwoman Klimko welcomed M. Hall and thanked J. Lim for helping the Borough. She stated the Township Attorney is looking into the streets ordinance to see if it was advertised properly. Councilwoman Klimko would like clarification on the status of the time clocks and would like something in place by January 1st. Councilman Higgins stated he will get information regarding time clocks at the League of Municipalities.

Councilman Thompson welcomed M. Hall to the Borough and thanked J. Lim for her time and effort. He reminded everyone to thank a veteran on Veterans' Day.

Councilwoman Conry thanked J. Lim for doing a wonderful job and welcomed M. Hall. She asked the status of the demolition of 149 S. Lincoln Avenue. Council discussed and would like to move forward with the demolition.

Councilwoman Noone welcomed M. Hall and thanked J. Lim.

Councilman Heinrich thanked J. Lim for her efforts and welcomed M. Hall. He thanked the Police Department for their coverage during Trick-or-Treat and wished the candidates luck in the upcoming election. Councilman Heinrich updated Council on the Senior Advisory Bus Trip.

Mayor McDonald thanked the Police Department for their efforts during Trick-or-Treat and thanked J. Lim for filling in as Interim Manager. Mayor McDonald welcomed M. Hall and thanked him for his initiative in the days before his official start date.

E. Detlefs thanked J. Lim and welcomed M. Hall. She stated it is hard for residents to find a copy of the Star Gazette newspaper in the area.

Council took a short recess before entering into Executive Session.

EXECUTIVE SESSION

A motion was made by Conry, seconded by Klimko, to approve Resolution 169-2016 - Authorizing Executive Session for the purpose of discussing contractual matters, a pending litigation matter, a personnel matter, and a collective bargaining agreement matter at 7:50 pm.

Ayes: 7 Nays: 0
Motion Carried

RESOLUTION # 169-2016
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;

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

_____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: DPW Equipment 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: _____ 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 Heinrich, seconded by Noone, to come out of Executive Session at 9:25 pm.

Ayes: 7 Nays: 0

Motion Carried

Resolution 170 -2016 – Resolution Authorizing Settlement Agreement and Release of Claims with Washington Community Solar, et al

RESOLUTION 170-2016

RESOLUTION AUTHORIZING SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS WITH WASHINGTON COMMUNITY SOLAR, ET AL

WHEREAS, the Borough of Washington (Borough) and Washington Community Solar (WCS) entered into a Power Purchase Agreement on December 30, 2011 which had subsequently been amended four (4) times, and

WHEREAS, Energy in the Bank (EIB) and GEP Solar Farms, LLC (GEP) acquired WCS in 2014, and

WHEREAS, GEP is an affiliate of Solar Development Group, LLC (SDG),

WHEREAS, EIB and GEP sold and conveyed WCS and its assets to GES Megafive, LLC (GES) in 2015, and

WHEREAS, a dispute has arisen between WCS and the Borough whether there exists an obligation for WCS to pave an 800-foot roadway in connection with the PPA,

WHEREAS, as a result of this dispute, the Borough has refused to issue a Certificate of Completion and sign Certificate Completion Form B for the solar project contemplated by the PPA, and

WHEREAS, all parties agree that it is in their respective best interests to resolve all claim raised by all parties.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Washington that a settlement agreement between the Borough and EIB, GEP, SDG, GES and WCS is authorized wherein EIB, GEP, SDG and GES, on behalf of WCS will make a settlement payment of ten thousand dollars (\$10,000.00) to the Borough and the Borough shall promptly sign and deliver the required Certificate of Completion and Certificate of Completion Form B for both the roof mount and ground mount solar projects, provided, however that Certificates of Approval for the roof mount and ground mount have been furnished.

Resolution 170-2016 was moved on a motion by Noone, seconded by Conry, and approved.

ROLL CALL: Noone, Conry, Heinrich, Higgins, McDonald

Ayes: 5; Nays: 2 (Klimko, Thompson)

Motion Carried

A motion was made by Noone, seconded by Conry, to amend the complaint against the Borough Clerk to request termination as discussed in Executive Session.

Ayes: 7; Nays: 0

Motion Carried

Councilman Higgins reminded everyone that the next Council meeting will be held on Monday, November 14th due to the League of Municipalities.

ADJOURNMENT

Hearing no further business, a motion was made by Higgins, seconded by Noone, to adjourn the meeting at 9:33 pm.

Ayes: 7 Nays: 0

Motion Carried

Mayor Scott McDonald

Ann Kilduff, RMC Borough Clerk