

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY  
WASHINGTON BOROUGH COUNCIL MINUTES -September 4, 2018**

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: Higgins, Klimko, Noone, Norris, Valle.  
Absent: Thompson

Also, Present: Matthew Hall, Manager  
Laurie A. Barton Borough Clerk  
Tara St. Angelo Attorney

Mayor Higgins led everyone in the flag salute.

Mayor Higgins 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 Higgins announces that Councilman Thompson was out tonight due to a medical appointment.

Nominations-Vacancy-Council

Mayor Higgins asked for a motion to accept Michael Heinrichs resignation from Council. Motion made by Klimko and seconded by Noone to accept the resignation.

Ayes: 5 Nays: 0  
Motion Carried.

Mayor Higgins recognized two of the three people in the audience that were submitted for consideration to fill the vacancy and asked that they each come up and be interviewed. (Torres not in attendance)

Karen Hreck and Scott Fulloon both appeared before council giving brief history of their residency and various involvement in the community. Questions from Council asking what their knowledge of the form of government, budget and taxes the Borough has, ensued.

Motion

A motion made by Noone and seconded by Norris to open the floor for nominations, all were in favor.

Nomination: Fulloon

Motion made by Klimko and seconded by Valle to nominate Scott Fulloon to fill the vacancy. Hearing no other nominations, motion made by Noone and seconded by Klimko to close the nominations, all were in favor.

Motion

Motion made by Norris and seconded by Klimko to appoint Scott Fulloon to fill the vacancy.

Ayes: 4 Nays: 1(Higgins)  
Motion Carried.

Deputy Mayor Nominations

Motion made by Norris and seconded by Noone to open the nominations for Deputy Mayor, all were in favor.

Nomination: Noone

Motion made by Higgins and seconded by Noone to nominate Councilwoman Noone for Deputy Mayor.

Ayes: Noone and Higgins.

Nays: Fulloon, Klimko, Norris, and Valle. Nomination fails.

Nomination: Norris

Motion made by Klimko and seconded by Fulloon to nominate Councilman Norris for Deputy Mayor.

Ayes: Fulloon, Klimko and Norris.

Nays: Higgins, Noone and Valle. Nomination fails.

Nomination: Klimko

Motion made by Valle and seconded by Higgins to nominate Councilwoman Klimko for Deputy Mayor.

Ayes: Fulloon, Noone, Norris, Valle.

Nays; Klimko and Higgins.

Motion carries.

Motion to close nominations made by Valle and seconded by Klimko, all were in favor.

**CORRESPONDENCE**

Motion made by Noone to receive and file the following correspondences, motion seconded by Valle all were in favor:

1. Approval of Catering Permit: Scotty's Stadium Club

Motion

Motion made by Klimko and seconded by Noone to approve Catering Permit for Scotty's Stadium.

Ayes: 6 Nays: 0  
Motion Carried.

**MINUTES**

Motion made by Valle and seconded by Noone to approve the meeting minutes of regular meetings; August 14, 2018.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.

Ayes: 6, Nays: 0  
Motion carried.

**COUNCIL APPEARANCE**

Harrington, owner of Washington Theatre, gave an update to the status of funding for revitalizing the theatre and stated that he needs to raise \$500,000.00 before the USDA will give them grant money totaling \$2.6 million dollars. The application deadline has been extended to October 1<sup>st</sup>.

Victor Cioni, Alvin Sloan Ave. gave a statement in support of a Taco Bell being proposed in the downtown development area.

Motion made by Klimko and seconded by Valle to close the audience portion.

Ayes: 6 Nays: 0  
Motion Carried.

**Ray Rice-Downtown Proposed Development-Taco Bell**

Attorney Cohen, representing Ray Rice stated they are here before the Council and public to continue discussion of proposed legislation to allow fast food restaurants in the Downtown Redevelopment Plan, amending it.

Discussions ensued regarding the affect on neighbors and other businesses in the downtown area.

**REPORTS:**

Motion was made by Noone seconded by Klimko to receive and file the following reports:

Ayes: 6 Nays: 0  
Motion Carried.

**Discussion**

Councilwoman Noone inquired about the highlighted lines in the reports. Manager Hall discussed the DPW report on the progress the DPW has done in relation to storm water which Manager Hall stressed importance to address and continue to address fixing problem areas.

**ORDINANCES**

Motion made by Noone to open the public hearing for Ordinance 2018-17 motion seconded by Valle.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Motion carried.  
Ayes: 6, Nays: 0  
Motion Carried

Hearing no public comment, motion made by Noone and seconded by Valle to close the public hearing, all were in favor.

Motion made by Noone and seconded by Valle to adopt Ordinance 2018-17.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Motion carried.  
Ayes: 6, Nays: 0  
Motion Carried

**ORDINANCE 2018-17  
AN ORDINANCE AMENDING CHAPTER 42 ‘FIRE PREVENTION CODE’ OF  
THE CODE OF THE BOROUGH OF WASHINGTON**

**WHEREAS**, certain amendments to the Fire Prevention Code of Washington Borough are needed pursuant to the recommendations of the Borough Code Book Committee; and

**WHEREAS**, the Borough Council has determined to make such amendments;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Washington that Chapter 42 of the Code of the Borough of Washington is hereby repealed in its entirety and replaced by the following:

## **Article 1. Enforcement of Fire Prevention Code of the Code of the Borough of Washington**

### **42-1. Local Enforcement.**

Pursuant to Section II of the Uniform Fire Safety Act (P.L. 1983, c.383) the International Fire Code New Jersey Edition shall be locally enforced in the Borough of Washington. All applicable definitions contained in the Uniform Fire Safety Act and the International Fire Code New Jersey Edition are applicable to the Borough of Washington.

### **42-2. Agency Designation.**

The local enforcing agency shall be the Washington Borough Department of Fire Prevention.

### **42-3. Duties.**

The local enforcement agency shall enforce the Uniform Fire Safety Act and the codes and regulations adopted under it in all buildings, structures and premises within the establishment boundaries of the Washington Borough, other than owner-occupied one and two family dwellings, used exclusively for dwelling purposes and building structures and premises owned by the federal government, interstate agencies or the State of New Jersey, and shall faithfully comply with the requirements of the Uniform Fire Safety Act and the International Fire Code, New Jersey Edition.

### **42-4. Life Hazard Uses.**

The local enforcing agency established by Section 42-2 of this ordinance shall carry out the periodic inspections of life hazard uses required by the Uniform Fire Code on behalf of the Commissioner of Community Affairs

### **42-5. Organization**

The local enforcing agency established by Section 42-2 of this ordinance shall be under the direct supervision of the Fire Official, who shall report to the Borough Manager.

### **42-6. Appointments, Term of Office, or Removal.**

1. **Appointment & Qualifications of the Fire Official:** The local enforcing agency shall be under the direct supervision of the Fire Official. The Fire Official shall have the following qualifications:
  1. Certified Fire Official/Marshal/Fire Inspector with the State of New Jersey, Division of Fire Safety.

2. Minimum of 5 years' experience as a certified Fire Inspector/Fire Official/Marshal or Firefighter; further education may substitute for years of experience.
3. The Fire Official shall be appointed by the Borough Manager upon the advice and recommendation of the Fire Chief.
- 4.
2. **Inspectors and Employees:** Fire inspectors and other employees as may be necessary in the local enforcing agency shall be appointed by the Borough Manager upon the recommendation and advice of the Fire Chief. Inspectors shall be appointed for a period of one year. All Life Hazard Use Inspectors will be certified by the state.
3. **Removal from Office:** The Fire Official, fire inspectors and other employees of the enforcing agency shall be subject to removal by the Borough Manager pursuant to State of New Jersey statutes & Civil Service Guidelines.
4. **Appointment of Legal Counsel:** The governing body shall be responsible for legal counsel to assist the agency in enforcing the Uniform Fire Code.

#### **42-7. Board of Appeals.**

Pursuant to Section 15 and 17 of the Uniform Fire Safety Act, any person aggrieved by any order of the local enforcement agency shall have the right to appeal to the Construction Board of Appeals of Warren County in accordance with the Uniform Fire Safety Act, N.J.S.A. 52:27D-206, and Uniform Fire Code, N.J.A.C. 5:70-2.19, entitled "Appeals."

#### **42-8. Establishment and Duties of Department of Fire Prevention.**

1. The New Jersey Uniform Fire Code shall be enforced by the Dept. of Fire Prevention which shall be operated under the supervision of the Fire Official.
2. The Department of Fire Prevention shall consist of the following:
  1. The Fire Official who shall be in charge of the Department.
  2. A maximum of five (5) fire inspectors.

The above Official shall be appointed by the Borough Manager, as per their appropriate terms. Any vacancy in the above positions shall be filled for the unexpired term.

3. The duties of the Department of Fire Prevention shall consist of:
  1. Enforcing the International Fire Code New Jersey Edition.
  2. Making any and all inspections as required by law or deemed necessary.
  3. Making accurate reports of any and all inspections and activities of the Department of Fire Prevention.
  4. Making recommendations to the appropriate Officials in enforcing or amending the New Jersey Uniform Fire Code.
  5. Performing any additional duty which is deemed necessary by the Borough Manager.
  6. Conduct the periodic inspections of life hazard uses required by the Uniform Fire Code on behalf of the Commissioner of the New Jersey Department of Community Affairs.

7. Make a quarterly report of the Department of Fire Prevention and transmit to the Borough Manager.
8. Investigate any/all calls of alarm or fire within the Borough of Washington.
9. Make an annual report of the Department of Fire Prevention and transmit to the Borough Manager. It shall contain all elements required under the New Jersey Uniform Fire Code, with such statistics as the department may wish to include therein. The report is to be transmitted no later than the fourth Monday of January in the next succeeding year following the year for which the report is made.

**42-9. Duties of the Fire Official/Marshal/Fire Inspectors of the Department of Fire Prevention.**

The duties of the Employees of the Department of Fire Prevention shall consist of the following:

1. Designating regularly scheduled hours for routine fire inspections.
2. Convening and presiding over meetings of the Department of Fire Prevention.
3. Promulgating and administering a budget for the Department of Fire Prevention.
4. Formulating and implementing a schedule of routine inspections.
5. Maintaining accurate records of the inspection reports and activities of the Department of Fire Prevention.
6. Performing any additional duty which the Borough Manager may assign pursuant to this ordinance.
7. Formulating and implementing a schedule of inspection and implementing a system that will effectively enforce the provisions of the New Jersey Uniform Fire Code.
8. Perform fire prevention education within the Borough of Washington community.
9. When possible, respond to and investigate calls of alarm or fire within the Borough of Washington.
10. Coordination of Fire Pre-Plans with the Borough of Washington Fire Chiefs.
11. Perform all the duties of Fire Official/Marshal as set forth in N.J.A.C. 5:70-3.3.
12. Perform all the duties of Fire Official/Marshal/Fire Inspector as set forth in N.J.A.C. 5:71-3.3 (2012)

**42-10. Life Hazard Annual Inspection Required.**

Before a certificate of Inspection is issued, the Fire Official or the Fire Official's designated representative shall make or cause to be inspected to assure that the buildings, premises, structures, or uses comply with the provisions of the Fire Code. These inspections shall be on a yearly cycle of inspection.

**42-11. Non-Life Hazard Inspection Required.**

Before a certificate of Inspection is issued, the Fire Official or the Fire Official's designated representative shall make or cause to be made an inspection to assure that the buildings, premises, structures, or uses comply with the provisions of the Fire Code. These inspections shall be on a one year inspection cycle.

#### **42-12. Fee Required.**

A certificate of Inspection or permit shall not be issued until the designated fees have been paid. The owners and/or occupiers of all properties and businesses subject to this Article shall be responsible for the payment of the registration/application fee.

#### **42-13. Amount of Fee.**

1. The fee schedule for registration of Non-Life Hazard Uses shall be an annually registration fee of:
  1. \$50.00 for 1 sq. ft. to 3,500 sq. ft.
  2. \$75.00 for 3,501 sq. ft. to 6,500 sq. ft.
  3. \$100.00 for 6,501 sq. ft. to 11,999 sq. ft.
2. All registration of life-hazards, non-life hazards, permits & Smoke & CO Inspection fees collected as per N.J.A.C 5:71-2.6(d) shall be appropriated to the local enforcing agency for the enforcement of the code & yearly operations of the Department of Fire Prevention.
3. Fire Lane Fees
  1. Penalty for non-compliance with Section 42-23 parking in a fire lane, as determined by the Fire Official, shall be \$50.00.
  2. All fines shall be made payable to: Borough of Washington or designated agency writing said summons.

The fee for Permits and inspections of Life hazard uses shall be as set forth in the Uniform Fire Safety Act.

#### **42-14. Application for Permit.**

Application for a permit required by this ordinance shall be made in such form and detail as the Fire Official shall require. Fee schedules shall be given to the applicant at the time of application depending on the type of permit required. The fee schedule shall be as follows per N.J.A.C. 5:70-2.9 C.

#### **42-15. Unlawful to Fail to Obtain a Permit or Pay Fees.**

It shall be unlawful to fail to obtain the permit or pay the inspection fees required by this ordinance.

1. Failure to pay registration fee shall result in a penalty of double the outstanding registration fee, in addition to initial registration fee.
2. Failure to pay application fee for permit shall result in a penalty of double the application fee, in addition to the initial application fee.

#### **42-16. Penalties for Violations.**



The violation of any provision of section 42-17 shall be punished by a fine of \$500 or by imprisonment in the county jail for a term not exceeding ninety days (90). Violates of provision section 42-13 through 14 shall be set forth in section 42-15. Each day any violation of this ordinance shall continue, will constitute a separate offense and shall be punishable as such.

## **Article 2. Certificate of Smoke Detector and Carbon Monoxide Alarm and Portable Fire Extinguisher Compliance (CSDCMAPFEC)**

### **42-17. Existing Structures.**

Before any existing single family, two family or multifamily dwelling, on or after the effective date of this ordinance, is sold, leased or otherwise made subject to a change of occupancy for residential purposes, the owner shall obtain a certificate of smoke detector and carbon monoxide alarm compliance. No dwelling unit shall change occupancy until one or more smoke detectors (or other approved fire alarm system) are installed for each dwelling unit subject to changing of occupancy in accordance with all the requirements of the New Jersey Uniform Construction Code and the Uniform Fire Code.

### **42-18. Enforcement.**

1. The Fire Official of the Borough of Washington, or in his absence or unavailability, an inspector of the department or the Borough Construction Official, shall be responsible for the enforcement of the requirements of this ordinance. Said Fire Official, Construction Official or Fire Inspector, as the case may be, shall inspect and approve all smoke detectors and other fire alarm systems installed in accordance with the provisions of this ordinance and the New Jersey Uniform Construction Code and Uniform Fire Code, including the approval of the location or locations selected for such installation.
  
2. In order to inform prospective purchasers of residential properties within the Borough of Washington that no residential dwelling unit may be sold or rented without first installing (a) smoke detector(s) or such other approved fire alarm system in accordance with the requirements of this ordinance and the New Jersey Uniform Construction Code and Uniform Fire Code, each and every tax search issued by the Borough of Washington shall contain a statement calling attention to the requirements of this ordinance and shall include a certification for the property owner to execute and deliver to the purchaser at the closing of title, attesting to compliance with the provisions of this ordinance. Such certification form shall be forwarded with each tax search ordered.

A. The fee to be paid to the Washington Borough Fire Prevention Bureau for the initial or re-inspection and certificate of approval shall be based upon the amount of time remaining before the change of occupant is expected, as follows:

1. Requests for a CSDCMAC received more than 10 days prior to the change of occupant: \$45.00;

2. Requests for a CSDCMAC received four to 10 days prior to the change of occupant: \$70.00; and
  3. Requests for a CSDCMAC received fewer than four days prior to the change of occupant; \$125.00.
  4. There shall be a \$500.00 non-compliance penalty issued to anyone not applying for or has changed occupancy without said certification.
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3. Whenever a smoke detector or other approved fire alarm system is required to be installed by this ordinance, such requirement shall not be considered to have been complied with unless such smoke detector(s) or other type of fire alarm system is installed in accordance with all the technical requirements and specifications of the New Jersey Uniform Construction Code (and the Building Code and Uniformed Fire Code adopted therein by reference) and has been inspected and approved by the Fire Official, the Fire Inspector, or the Construction Official.
  4. The owner(s) of the real estate upon which the structure in question is located shall be the party responsible for installation of smoke detectors or other fire alarm system in accordance with the requirements of this ordinance.
  5. Any owner of the property upon which is constructed or located a structure required to have installed therein a fire detector or other fire alarm system, and who fails to do so in accordance with the requirements of this ordinance, shall be liable for a fine of not more than \$500.00 or for imprisonment for not more than thirty (30) days, or to both such fine and imprisonment.
  6. The Fire Official, and in his absence or unavailability, the Construction Official, is hereby empowered, upon reasonable advance notice to the owner and/or the tenant or other party in possession, to come upon any premises and enter any structure which is required to comply with the requirements of this ordinance in order to verify compliance with this ordinance and the New Jersey Uniform Construction Code and Uniform Fire Code and to otherwise carry out the objectives and enforcement of this ordinance.
  7. The Fire Official shall maintain a list of all properties in the Borough of Washington which have had smoke detectors or other fire alarm systems installed in accordance with the requirements of this ordinance and the New Jersey Uniform Construction Code and the Uniform Fire Code. This list shall be kept current as additional buildings within the

township are equipped with smoke detectors and other fire alarm systems in accordance with this ordinance.

#### **42-19. False Alarms.**

1. **Investigations:** In the case of false alarms which summon the police or fire department to investigate, the Fire Official or Fire Chief shall cause an investigation to be made for the purposes of ascertaining the cause of the false alarm and shall keep a record of such false alarms on file.
2. **Penalties for False Alarms:** In any calendar year period of the following penalties shall apply:
  1. For the first to third false alarm by one person or entity a written warning shall be issued.
  2. For the fourth to twelfth false alarm a fine of \$250.00 shall be imposed for each such false alarm.
  3. For any violation in excess of twelve alarms a fine of \$500.00 shall be imposed for each such violation.
3. **Penalties for Intentional False Alarms:** Any individual intentionally, willfully, or maliciously destroying or injuring any of the posts, alarm boxes or other alarm apparatus owned by the Borough of Washington or intentionally, willfully or maliciously interfering with the operation of same or any part thereof or who hinders or impedes any of the operations intended to be accomplished thereby or who intentionally causes or assists in causing a false alarm shall, upon conviction thereof, be imprisoned in the county jail for a term not exceeding ninety (90) days or shall forfeit and pay a fine not less than \$500.00 and not more than \$1,000.00.
4. All fines and fees collected for the above are to be deposited in a separate dedicated penalty account to serve for training and education for the Washington Borough Fire Department and the Borough of Washington Department of Fire Prevention.

### **Article 3. Fire Zone Established**

#### **42-20. Fire Lanes & Drafting Sites.**

1. **Designation:** The Fire Official may require and designate public or private fire lanes as deemed necessary for the efficient and effective use of fire apparatus.
2. **Obstruction:** Designated fire lanes shall be maintained and free of obstructions and vehicles at all times. They shall also be appropriately marked as per N.J.A.C. 5-70-3.2-503.

#### **42-21. Compliance with Orders.**

A person shall not willfully fail or refuse to comply with any lawful order or direction of any Fire Official or interfere with the compliance attempts of the Fire Official or his designee.

#### **42-22. Snow Removal from Fire Hydrants, Fire Department Connections and Standpipes.**

Snow removal from all fire hydrants, fire department connections and stand pipe systems that are located on public or private streets and access lanes or on private property by the property owner shall be completed within twenty-four (24) hours of the end of each snow storm is required

#### **42-23. Parking Regulations.**

Except in compliance with the directions of a police officer or posted traffic signal, no operator of a motor vehicle, moped, motorized bicycle or bicycle shall stop or stand or park in any of the following places:

1. Within ten (10) feet of a fire hydrant or fire department connection or stand pipe system
2. In any area marked by yellow or signs indicating the location of a fire zone or fire lane

#### **42-24. Delineation and Marking.**

1. Each fire lane shall be striped along the perimeter with a yellow stripe not less than four (4) inches wide.
2. Each fire lane shall be clearly marked on the surface of the pavement "FIRE LANE NO PARKING" in yellow letters no less than twenty-four (24) inches high. This wording shall be located horizontally and between the perimeter lines and shall be repeated throughout the fire lane or fire zone.
3. Each fire lane shall be clearly marked with a metal sign every fifty (50) feet with a minimum of two (2) signs. The metal signs shall be no less than eighteen (18) inches by twenty-four (24) inches with three (3) inch red letters, shall contain a white reflective background and shall read as follows:

FIRE LANE  
NO PARKING

#### **42-25. Maintenance of Fire Lane.**

The owner of the property where the fire lane is located shall properly maintain any such markings, striping, curbing, and signage in the designated areas at all times. Defacing, tampering with, or damaging any such markings, striping, curbing, or signage or allowing them to deteriorate so as to reduce their effectiveness shall constitute a violation of the chapter.

#### **42-26. Penalties.**

Any vehicle owner or person who shall violate any of the provisions of this section or who fails to comply herewith shall for each and every violation and non-compliance respectively upon conviction, be subject to a fine not in excess of \$500.00 and is subject to removal by the Washington Township Police Department or Washington Borough Fire Official at the sole expense of the owner or operator therefore.

### **Article 4. Key Box**

#### **42-27. Installation.**

When a property is protected by an fire protection system, and access to or within a structure or an area on that property is impeded by secured openings, and where immediate access might become necessary for lifesaving or fire-fighting purposes, the Fire Official may require a key box to be installed in an approved location. The key box shall be a type approved by the Fire Official and shall be installed at the expense of the property owner.

#### **42-28. Contents.**

The key box shall contain:

1. Keys to locked points of ingress whether on the interior or exterior of such buildings.
2. Keys to locked mechanical equipment rooms.
3. Keys to locked electrical rooms.
4. Keys to elevator controls.
5. Keys to other areas as directed by the Fire Official.
6. Other material as directed by the Fire Official.

All keys shall be clearly labeled or marked to identify the doors they open or the devices they operate.

#### **42-29. Application.**

This subsection applies to both existing and future structures, but shall not apply to any residential units, with the exception of common areas within multi-dwelling residential units.

#### **42-30. Approvals.**

1. The Fire Official shall, within 90 days of the effective date of this subsection, develop and submit to the Borough Manager a list of specifications for key boxes. Following approval of the specifications by resolution of the Borough Council, any box complying with those specifications shall be deemed to be approved. Until such specifications are developed and at any time thereafter, any property owner may request the Fire Official to render a determination as to whether a particular key box, which does not comply with the specifications, can be approved for installation.
2. Prior to installing any key box required by this subsection, the property owner shall make written request to the Fire Official to designate or approve the proposed location.

#### **42-31. Fees.**

The Washington Borough Department of Fire Prevention may recoup the fees incurred by it in connection with the procurement and installation of any necessary key boxes.

#### **42-32. Enforcement.**

The Washington Borough Department of Fire Prevention shall be the enforcing agency of this ordinance section. Any person who owns or operates a structure subject to this section shall be subject to penalties set forth in this code for any violation of this section, and the minimum fine for a conviction or a violation of this section shall be \$100.00 for the first offense, \$200.00 for the second offense, and \$300.00 for the third or further offense for failure to comply.

## **Article 5. Fire Watch & Fire Safety Standby**

### **42-33. Intent and Purpose.**

Fire safety compliance has always been and continues to be a high priority for the Borough of Washington. Town Officials frequently assess what can be done to assure the safety of all township residents, and to that end, the Borough of Washington deems it necessary to implement fire watch procedures when there exists substantial risks to life, safety and property, including when all or part of the required fire protection systems in Borough structures are intentionally interrupted for repairs and maintenance, not functioning properly, not functioning at all, or when they are damaged or destroyed by fire or other disaster. In certain circumstances detailed herein, the Fire Official, Fire Chief or his designee, is hereby authorized to order a fire watch for the affected structure in order to ensure continued safety of residents during this period.

### **42-34. Definitions.**

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

**FIRE WATCH**—A temporary measure intended to ensure continuous and systematic surveillance of a building or portion(s) thereof by one or more qualified individuals for the purpose of identifying and controlling fire hazards, detecting early signs of an unwanted fire, raising an alarm of fire to the occupants and notifying the fire department.

### **42-35. Fire Watch; When Required.**

1. A fire watch may be ordered by the Fire Official or The Fire Officer in charge in public and privately owned buildings and or properties within the Borough of Washington under the following circumstances:
  1. Where required fire protection systems are out of service due to system failure, repair, scheduled maintenance, vandalism, etc.; the Fire Official shall be notified immediately and where the Fire Official determines that an imminent hazard exists pursuant to N.J.A.C. 5:70-2.16 an approved fire watch may provide for all occupants left unprotected by the shut down until the fire protection system has been returned to service. Upon restoration of the fire protection system as

supported by proper documentation, the Fire Official shall then sign off on the ability to remove such fire watch.

2. When in the opinion of the Fire Official or Fire Officer in Charge it is essential for public safety in a place of assembly or any other place where people congregate, because of the number of persons, or the nature of the performance, exhibition, display, contest or activity, the owner, agent or lessee shall provide one or more fire watch personnel, as required and approved, to remain on duty during the times such places are open to the public, or when such activity is being conducted.
3. When required by the Fire Official for building demolition that is hazardous in nature, qualified personnel shall be provided to serve as an on-site fire watch. Fire watch personnel shall be provided with at least one approved means of notification of the fire department and their sole duty shall be to perform constant patrols and watch for the occurrence of fire.
4. A fire watch shall be posted by the Fire Official or the Fire Official in Charge at the following type of events: hot work welding or cutting, fireworks displays, fumigation in gas tight tank or vault, tent, canopy or membrane structures used as places of assembly
2. A fire watch may include the maintaining of posted fire lanes, means of egress, posted occupancy loads, building surveillance for signs of smoke or fire, checking for proper permits, inspecting for proper safety precautions of cooking equipment, and other functions as required by the Fire Official or his assigned designee.
3. Should a fire watch be posted by the Fire Official or the Fire Official in Charge, the party performing the fire watch is then responsible to contact and maintain open communications the Fire Official in Charge actions with such on the status of the fire watch and conditions of the property in question. Proper fire watch procedure forms will be supplied to the Fire Chief. The Department of Fire Prevention shall take responsibility of all posted fire watches and report back to the Fire Chief on the status of the property and fire protection systems.
4. Should the building owner, agent, lessee be unable to post their own fire watch, a fire watch shall be performed by the Washington Borough Department of Fire Prevention. In the event no one of the above agency is available, other qualified individuals may be utilized at the discretion of the Fire Official or the assigned designee. Any qualified individuals used for the purposes of a fire watch shall report directly to the Fire Official or his assigned designee, who will report to the Manager of the Borough of Washington.

#### **42-36. Fees and Payments.**

1. A fire watch shall be paid for by the building owner, tenant, lessee, or organization for which the fire watch is requested or required, as appropriate.
2. All fire watch services not incurred and paid by the Borough of Washington, but performed by the Borough Fire Department and billed through the Borough, shall be billed at the rate of \$35 per hour per person with a minimum of 3 hours per person. There shall be a \$100.00 per hour fee for the use of each Borough vehicle utilized, plus a 15% administration fee.

3. All payments for fire watch services provided by the Borough Fire Department shall be made within 10 days after service is provided.
4. Payments shall be made payable to the Borough of Washington.

#### **42-37. Violations and Penalties.**

Any person, partnership, corporation, or other entity that violates the provisions of this article shall be subject to the penalties as set forth in the Uniform Fire Code New Jersey Edition by the Washington Borough Department of Fire Prevention.

All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.

If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.

In accordance with Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington, this Ordinance shall become effective 20 days after final passage unless the Council, by an affirmative vote of five (5) Council Members, shall adopt a resolution declaring the Ordinance to be an emergency upon which said Ordinance will take effect upon final passage.

Motion made by Noone and seconded by Valle to introduce and have Clerk read by title on first reading Ordinance 2018-18.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Motion carried.  
Ayes: 6, Nays: 0  
Motion Carried

Motion made by Valle and seconded by Norris to approve on first reading Ordinance 2018-18.

#### Discussion

Councilwoman Noone inquired about usage for lots on the corner. Attorney St. Angelo stated that it's just to amend the redevelopment plan.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Ayes: 0, Nays:5 Abstain: 1(Fulloon)  
Motion Fails.

Mayor Higgins announced that since he is on the deciding side he will bring the issue back up for further discussion.



Motion to reintroduce and pass on first reading Ordinance 2018-18 made by Noone and seconded by Valle.

Discussions ensued regarding conformity of Taco Bell and residential impacts.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Ayes: 0, Nays:5 Abstain: 1(Fulloon)  
Motion Fails.

Motion made by Higgins and seconded by Noone to reintroduce and approve Ordinance 2018-18 for first reading.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Ayes: 5, Nays:1  
Motion Carried.

**ORDINANCE NO. 2018-18**  
**AN ORDINANCE TO AMEND THE DOWNTOWN REDEVELOPMENT**  
**PLAN OF THE BOROUGH OF WASHINGTON**  
**TO ADD “FAST FOOD” AS A PERMITTED USE**

**WHEREAS**, the Borough Council of the Borough of Washington, County of Warren and State of New Jersey (the “Council”) has designated certain areas within its borders as in need of redevelopment and/or rehabilitation pursuant to the Local Redevelopment and Housing Law (“LRHL”) (N.J.S.A. 40A:12A-1 to -73); and

**WHEREAS**, pursuant to the LRHL, the Council adopted the Downtown Redevelopment Plan on April 7, 2009, by Ordinance No. \_\_\_\_\_; and

**WHEREAS**, the Council is vested with the authority to amend the Downtown Redevelopment Plan pursuant to N.J.S.A. 40A:12A-7, and N.J.S.A. 40A:12A-8, and

**WHEREAS**, fast-food restaurants and drive-thru’s are not permitted uses set forth in the Downtown Redevelopment Plan; and

**WHEREAS**, the Section 94-5 of the Borough’s Code defines fast food restaurants as:

A commercial establishment where food and drink prepared for immediate consumption are purchased at a counter and either eaten on the premises, in the purchaser's automobile or off the premises. Those restaurants where food is consumed only at tables on the premises and served by waiters and waitresses shall not be deemed fast-food restaurants. Fast-food restaurants shall also not include those retail stores where food is primarily sold for preparation and consumption elsewhere, although, as a secondary use of the premises, prepared food may also be sold over the counter for immediate consumption, such as a delicatessen.

**WHEREAS**, several businesses currently operating in the Downtown Redevelopment Area meet the definition of fast food; and

**WHEREAS**, according to the Borough's Zoning Officer, some of the existing fast food restaurants were issued zoning permits after the adoption of the Borough's Downtown Redevelopment Plan;

**WHEREAS**, the Borough believes that a prohibition on fast food uses may burden these existing uses by designating them as pre-existing, non-conforming uses requiring variances in order to expand or alter their business; and

**WHEREAS**, the Borough additionally believes that prohibiting fast food uses in the Redevelopment Area may be limiting or prohibiting revitalization of the Borough's downtown area; and

**WHEREAS**, drive-thru's are often customary accessory uses to fast food restaurants; and

**WHEREAS**, there is at least one bank with a drive-thru operating in the Downtown Redevelopment Area; and

**WHEREAS**, the Borough believes that the Washington Avenue Core District and Route 31 Gateway District are uniquely suited to fast-food restaurants with drive-thrus because of their location along a highway where such uses can capture pass-by traffic; and

**WHEREAS**, one goal of the Borough's Downtown Redevelopment Plan is to enhance "pedestrian comfort;" and

**WHEREAS**, the Redevelopment Plan also states, "The Redevelopment Area will be friendly to the needs of pedestrians while providing convenient access to those who take advantage of public transportation, bicycles, and motor vehicles;" and

**WHEREAS**, in order to protect pedestrian safety, the Borough's Planner has recommended that drive-thru's only be permitted as accessory uses to fast food restaurants subject to certain conditions; and

**NOW THEREFORE BE IT ORDAINED**, by the Borough Council of the Borough of Washington, County of Warren, and State of New Jersey, that the Borough's Downtown Redevelopment Plan be amended to now read as follows:

**SECTION 1.** The following revisions are made to the Borough's Downtown Redevelopment Plan:

Page 32, "Allowable Uses" in the Washington Avenue Core District shall be amended to include: restaurant, fast-food with drive-thru (as defined in the Borough's Code Section 94-5).

Page 32, "Permitted Secondary Uses" shall be amended to include the following language: "Drive-thru's as accessory to restaurant, fast food uses subject to the following conditions:

1. Minimum Lot Size - 30,000 sq. ft.
2. Corner lots which front on Washington Avenue
3. Only one curb cut shall be permitted per street, unless there are existing curb cuts approved by the New Jersey Department of Transportation (NJDOT).
4. Where there are existing and NJDOT-approved curb cuts, those curb cuts may be utilized to provide access. However, each existing curb cut shall be limited to one-way traffic and a maximum driveway width of 12 feet.
5. On the secondary street, one two-way curb cut shall be permitted.
6. There shall be no parking or drive aisle between the building and the Washington Avenue right-of-way.
7. The drive-thru shall be designed to stack a minimum of 8 cars and shall be designed to not interfere with parking and on-site vehicle circulation.
8. Where an outdoor dining area is proposed, the building may be set back a maximum of 25 feet. Where an outdoor dining area is not proposed, a maximum building setback of 15 feet shall be required.”

Page 34, “Allowable Uses in the Route 31 Gateway District shall be amended to include: “Allowable Uses” in the Washington Avenue Core District shall be amended to include: restaurant, fast-food with drive-thru (as defined in the Borough’s Code Section 94-5).

Page 34, “Permitted Secondary Uses” shall be amended to include the following language: “Drive-thru’s as accessory to restaurant, fast food uses subject to the following conditions:

1. Minimum Lot Size - 30,000 sq. ft.
2. Corner lots which front on Washington Avenue
3. Only one curb cut shall be permitted per street, unless there are existing curb cuts approved by the New Jersey Department of Transportation (NJDOT).
4. Where there are existing and NJDOT-approved curb cuts, those curb cuts may be utilized to provide access. However, each existing curb cut shall be limited to one-way traffic and a maximum driveway width of 12 feet.
5. On the secondary street, one two-way curb cut shall be permitted.
6. There shall be no parking or drive aisle between the building and the Washington Avenue right-of-way.
7. The drive-thru shall be designed to stack a minimum of 8 cars and shall be designed to not interfere with parking and on-site vehicle circulation.
8. Where an outdoor dining area is proposed, the building may be set back a maximum of 25 feet. Where an outdoor dining area is not proposed, a maximum building setback of 15 feet shall be required.”

**SECTION 2.** The Mayor, Clerk, Planner, Engineer, and such other Township Officials are hereby authorized to take such ministerial actions as are necessary to effectuate the purposes of this Ordinance. The Township Planner and Engineer are hereby authorized to amend the Borough’s Downtown Redevelopment Plan in accordance with the provisions of this Ordinance.

**SECTION 3.** All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 4.** If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

**SECTION 5.** Pursuant to the Municipal Land Use Law, the Clerk is directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the County Planning Board pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this Ordinance with the County Planning Board as required by N.J.S.A. 40:55D-16.

**SECTION 6.** This Ordinance shall take effect upon final passage and publication as provided by law; however, subsequent to the first reading, this Ordinance must be referred to the Borough Planning Board for review, which shall be based on whether the proposal is substantially consistent with the Master Plan. The Planning Board has a period of forty-five (45) days after referral to report on the proposed Ordinance.

**NOTICE IS HEREBY GIVEN that the above titled Ordinance was introduced and passed on first reading at a regular meeting of the Borough Council on September 4, 2018 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Borough Council to be held on October 2, 2018, at 7:00 p.m. A copy of the above titled ordinance in its entirety is available at no charge from the Borough Clerks Office.**

Attorney St. Angelo explained the pre-existing non-conforming businesses with regards the redevelopment ordinance that will need variances.

## **RESOLUTIONS**

Motion made by Noone and seconded by Valle to approve Resolution 2018-114

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Ayes: 6, Nays: 0  
Motion carried.

**RESOLUTION 2018-114**  
**A RESOLUTION TO ADJUST SEWER BILLINGS IN**  
**ACCORDANCE WITH CHAPTER 70, SECTION 28B OF**  
**THE CODE OF THE BOROUGH OF WASHINGTON.**

**WHEREAS**, the Borough of Washington commenced operations of a municipal sewer utility in January of 1999; and

**WHEREAS**, certain facts have come to the attention of the Borough to justify modification of sewer service charges which have been reviewed by the Borough Manager; and

**WHEREAS**, notice has been provided to the owner(s) of the property or properties listed below of the action proposed to be taken with the date, time and place where the Mayor and Council will meet to consider change(s) in the E.D.U.'s assigned to the property or properties listed below; and

**WHEREAS**, all parties affected by this resolution will be notified of the action taken, in writing, and notified of an opportunity to appear, in person, at a formal hearing of the governing body, if dissatisfied with the decisions made herein.

**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 following changes in the sewer service charge(s) are approved:

<b>BLOCK/LOT</b>	<b>NAME/ADDRESS</b>	<b>REASON/ADJUSTMENT</b>
80/4	Dr. Anil Garg 171-173 E. Washington Ave. Washington, NJ 07882	Change in Use (3.5) to (2.5) E.D.U.s Effective: September 2018

**BE IT FURTHER RESOLVED** that the Borough Clerk be directed to send a certified copy of this resolution to all parties affected by this resolution and advise them of their right to protest the decision and request a formal hearing before the governing body, as provided in Chapter 70, Section 13. If no protest is filed, the decisions contained herein shall be considered final.

Motion made by Noone and seconded by Valle to approve Resolution 2018-115

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Ayes: 6, Nays: 0  
Motion carried.

**RESOLUTION 2018-115**

**RESOLUTION OF THE BOROUGH OF WASHINGTON TO SUPPORT AND PARTICIPATE IN THE VOLUNTEER TUITION CREDIT PROGRAM (P.L. 1998 c.**

**145)**

**WHEREAS**, the Borough Council of the Borough of Washington, in the County of Warren, in the State of New Jersey deems it appropriate to enhance the recruitment and retention of volunteer firefighters and emergency medical volunteers in the Borough of Washington; and

**WHEREAS**, the State of New Jersey has enacted P.L. 1998, c. 145 which permits municipal governments to allow their firefighting and emergency medical volunteers to take advantage of the Volunteer Tuition Credit Program at no cost to the municipal government.

**NOW THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Washington, in the County of Warren, in the State of New Jersey that the Volunteer Tuition Credit Program as set forth in P.L. 1998, c. 145 is herewith adopted for the volunteer firefighters and emergency medical volunteers in the municipality; and

**BE IT FURTHER RESOLVED** that the Borough Manager is herewith delegated the responsibility to administer the program and is authorized to enter into all agreements and to maintain files of documents as may be required under the P.L. 1998, c. 145, a copy of which is herewith made part of this resolution.

Motion made by Noone and seconded by Valle to approve Resolution 2018-116

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.

Ayes: 5, Nays: 0, Abstain: 1 (Fulloon)

Motion carried.

#### **RESOLUTION 2018-116**

#### **RESOLUTION APPROVING THE ASSIGNMENT OF UTILITY INCENTIVE REBATE TO FACILITIES SOLUTIONS GROUP**

**WHEREAS**, the Borough has deemed it appropriate to participate in New Jersey SmartStart Buildings, a statewide energy efficiency program (hereinafter the “Program”) for which the Borough is eligible; and

**WHEREAS**, the Borough’s participation in the Program will allow certain Borough owned buildings to be retrofitted with LED lighting, which will increase energy efficiency and will likewise result in an overall cost-savings for the Borough; and

**WHEREAS**, the Program offers “Prescriptive Lighting Incentives” similar to a rebate to help offset the added cost of purchasing qualifying energy-efficient equipment; and

**WHEREAS**, the Borough determined it may reduce its up-front cost, if it agrees to assign the incentive to Facilities Solutions Group (“FSG), the entity responsible for the purchase and installation of the LED fixtures; and

**WHEREAS**, the Borough has determined that an assignment of the incentive to FSG will be the most economical way to proceed with the project.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Washington hereby authorize the execution of the paperwork necessary to assign the Borough’s right to the payment of the incentive to FSG.

## **VOUCHERS AND CLAIMS**

Motion made by Valle seconded by Noone to pay the vouchers and claims in the amount of \$1,524,507.58 from the current fund and \$ 39,033.58 from sewer.

ROLL CALL: Fulloon, Klimko, Noone, Norris, Valle and Higgins.  
Ayes: 6, Nays: 0,  
Motion carried.

## **RECAP**

M. Hall recapped the following:

- Update website when members of council change.

## **COUNCIL REMARKS**

Councilwoman Valle expressed her excitement for the upcoming Festival in the Borough.  
Councilwoman Klimko discussed problems and a dangerous situation without a crossing guard on Prospect Street.

Councilwoman Noone announced the recent opening of new businesses; Celestines and Honor Yoga.

Councilman Norris welcomed Scott Fulloon to Council.

Councilman Fulloon stated he looks forward to working hard.

Mayor Higgins addressed Deputy Mayor Klimko and newly appointed Councilman Fulloon to reach out if they need anything.

Mayor Higgins reminded everyone of the school opening tomorrow for a new year.

Mayor Higgins announced the League of Municipalities convention will be held November 13<sup>th</sup> - 15<sup>th</sup>. Mayor Higgins recommended members of Council to attend the educational classes that are offered.

Mayor Higgins stated that the resolution from Mansfield Township similar to the one the borough passed for a ballot question regarding the library wasn't able to make the deadline to the County to appear on the November ballot.

Mayor Higgins thanked the Fire and Policemen for the game that was put on for charity that was held on August 25<sup>th</sup>.

## **EXECUTIVE SESSION**

A motion was made by Noone seconded by Klimko to approve a resolution authorizing executive session for the purpose of discussing a potential litigation matter, contract negotiations, and a personnel matter at 9:21 PM with a five-minute break.

Ayes: 6 Nays: 0  
Motion Carried.

## **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: \_\_\_\_\_ 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 Klimko seconded by Norris to come out of Executive Session at 9:49 pm.

Ayes: 6; Nays: 0

Motion Carried.

Councilwoman Klimko re-addressed pre-existing non-conforming businesses with regards to expansion in the downtown re-development area. Discussions of the definition of fast food establishment ensued.

### **ADJOURNMENT**

Hearing no further business, a motion was made by Noone seconded by Klimko to adjourn the meeting at 9:52 pm.

Ayes: 6; Nays: 0

Motion Carried.

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Mayor David Higgins

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Laurie A. Barton, Borough Clerk