

MINUTES OF REGULAR MEETING HELD MARCH 16, 2004

The Regular Meeting of the Borough of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 8:00 P.M.

Roll Call: Housel, Van Deursen, Bertoline, Giaimis, McDonald and Doty.
Present: 6.

Absent: Glaser – Absent. 1.

Also Present: Alan M. Fisher, Borough Manager
Richard P. Cushing, Esq., Municipal Attorney
Robert Miller, C.M.E., Borough Attorney
Linda L. Hendershot, RMC/CMC, Borough Clerk

Mayor Van Deursen noted for the record that Councilwoman Glaser's son was in the hospital and there was a chance she would not be in attendance this evening.

The Flag Salute was led by the Mayor.

“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.

COUNCIL APPEARANCE:

Richard P. Cushing, Esq., Municipal Attorney

Attorney Cushing appeared before the governing body and summarized his duties as Municipal Attorney representing Council. Rather than to go into any lengthy talk he outlined the areas in which he represents the Council such as legal research, preparation of ordinances and resolutions where requested, matters of ethics and litigation, all as required by law. He opened it up to the Council for questions. Mr. Cushing was asked how many years he has served the Borough? Mr. Cushing has been retained as the Borough's attorney since 1986.

Mayor Van Deursen, on behalf of Council, thanked Attorney Cushing for his professional service to the governing body and this community.

MINUTES:

Special Meeting – February 26, 2004 and Regular Meeting – March 2, 2004

Mayor Van Deursen entertained a motion to approve the minutes of the regular meeting of February 26th and March 2, 2004.

Some corrections were noted by Councilwoman Bertoline and Councilman McDonald. A correction on Page 3 of the minutes March 2nd was noted by Councilwoman Bertoline – 30 gallon containers with wheels, Page 4 on the vouchers, it should read North Prospect Street and on Page 8 on Resolution #44-2004. Councilwoman Bertoline's question on whether the trees were planted was answered in the affirmative by Engineer, Robert Miller. Councilman McDonald noted that on Page 13 and Page 17 the vote reflected that the motions were “defeated”, not “carried”.

It was therefore moved by Giaimis, seconded by McDonald that the minutes of the Special Meeting held February 26, 2004 and March 2, 2004 be approved as corrected.

Ayes: 5, Nays: 0.
Abstained: Housel.
Motion carried.

COMMUNICATIONS:

The following communications were entered into the Record:

- 1) Warren County Planning RE: Stormwater Planning;
- 2) Veola Water Re: Change in U.S. Filter Operating Services name;
- 3) NJ State League RE: State-Local Property Tax Summit;
- 4) NJ State League RE: Cross Acceptance;
- 5) NJ American Water Company RE: Rate Adjustment; and
- 6) NJ State League RE: Transfer of Development Rights.

Mayor Van Deursen entertained a motion to acknowledge, receive and file the communications.

It was moved by McDonald, seconded by Bertoline that the communications numbered #1 thru #6 be acknowledged, received and filed.

Discussion: None.

Ayes: 6, Nays: 0.
Motion carried.

AUDIENCE:

Mayor Van Deursen entertained remarks from the audience on items that were not on the agenda.

Fire Chief, Joseph Fox, 96 Park Avenue requested the Council to go into Executive Session to discuss a personnel matter.

It was therefore moved by Bertoline, seconded by Giaimis that the Council go into **Executive Session to discuss a personnel matter.**

Ayes: 6, Nays: 0.
Motion carried.

It was moved by Giaimis, seconded by McDonald that the Council go out of Executive Session back into open session at 8:45 PM.

Ayes: 6, Nays: 0.
Motion carried.

PRESENTATION:

Board of Education Presentation of 2004-2005 School Budget.

The Manager distributed information on the School Budget for Council's information. Due to school closing as a result of the snow, they were unable to attend this evening's meeting. They have invited the Mayor and Council to a meeting at the Memorial School Library, Tuesday, March 30, 2004 at 7:30 PM.

ORDINANCES:

Ordinance #5-2004 - Amending Ordinance #7-2003 – Creating a Special Improvement District (First Reading)

An ordinance amending Ordinance #7-2003 creating a Special Improvement District was introduced by Councilman McDonald.

It was further moved by McDonald, seconded by Bertoline that the Clerk read Ordinance #5-2004 by title only.

Roll Call: Van Deursen, Doty, Bertoline, McDonald, Housel and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

The Clerk read Ordinance #5-2004 entitled, “AN ORDINANCE TO AMEND ORDINANCE #7-2003 CREATING A SPECIAL IMPROVEMENT DISTRICT FOR THE WASHINGTON BOROUGH BUSINESS COMMUNITY”.

Council Discussion:

Manager Fisher explained the purpose of this ordinance. This particular property was part OF the Special Improvement District and has been removed as it qualifies as a tax-exempt property. This ordinance is necessary to remove them from S.I.D.

It was moved by Housel, seconded by McDonald that Ordinance #5-2004 be approved on first reading.

Discussion: It was noted that the removal of this property would have some impact on the S.I.D. budget.

Roll Call: Giaimis, Housel, McDonald, Doty, Bertoline and McDonald.

Ayes: 6, Nays: 0.
Motion carried.

It was further moved by McDonald, seconded by Housel that Ordinance #5-2004 be published in the Star Gazette March 25, 2004 and that the public hearing be scheduled for April 6, 2004.

Roll Call: McDonald, Doty, Van Deursen, Housel, Bertoline and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

Ordinance #6-2004 – Providing for the Implementation of a “Five Year Tax Exemption and Abatement Law” in the Borough (First Reading)

An ordinance providing for the implementation of a “Five Year Tax Exemption and Abatement Law” was introduced by Councilman Housel.

It was further moved by Housel, seconded by Bertoline that the Clerk read Ordinance #6-2004 by title only.

Roll Call; Giaimis, Housel, Van Deursen, Doty, Bertoline and McDonald.

Ayes: 6, Nays: 0.
Motion carried.

The Clerk read Ordinance #6-2004 entitled, “AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION IN THE BOROUGH OF WASHINGTON OF THE “FIVE YEAR TAX EXEMPTION AND ABATEMENT LAW” PURSUANT TO N.J.S.A. 40A:21-1, ET SEQ.”

Discussion: A new revised fee schedule was presented this evening. Also, Attorney Cushing noted that there were some headings missing from some of the paragraphs which he will correct and provide the Clerk with a new copy.

It was moved by McDonald, seconded by Housel that Ordinance #6-2004 be approved on first reading.

Roll Call: Bertoline, McDonald, Doty, Van Deursen, Housel and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

It was moved by McDonald, seconded by Bertoline that Ordinance #6-2004 be published in the Star Gazette on March 25, 2004 and that the public hearing be scheduled for April 6, 2004.

Roll Call: Giaimis, Housel, Van Deursen, Bertoline, McDonald and Doty.

Ayes: 6, Nays: 0.
Motion carried.

REPORTS:

It was moved by Giaimis seconded by McDonald that the Police, Collector-Treasurer's, Road Department O.T., A & E O.T., WWTP and Building Permit reports be accepted as presented and filed.

Discussion: Councilman McDonald had a question on the Collector-Treasurer's report under the revenue section dealing with the stop payment check charges? The Manager did not know the answer to his question so he will check with Mrs. Stasyshan and get back to Councilman McDonald.

Ayes: 6, Nays: 0.
Motion carried.

VOUCHERS:

Mayor Van Deursen entertained additions or questions of the vouchers and claims.

Councilwoman Bertoline requested that the Kiwanis dues for the Manager listed on Page 1 of the claims list of 3-16-04 be pulled temporarily from the list for further discussion. The amount is \$ 276.00 for July thru December, 2004.

Councilman McDonald had a question on the handwritten list on Page 13 on the car repair for Public Assistance of which the Manager answered.

Mayor Van Deursen suggested that a poll be taken as to whether the Kiwanis dues should be pulled from the vouchers and claims list. Councilwoman Bertoline is only one person on the governing body.

The Clerk took a poll of Council. There were 2 Nays: Van Deursen, Housel and – 4 Ayes: Bertoline, Giaimis, McDonald and Doty.

Motion carried.

The dues will be withdrawn temporary from this claims list for further consideration.

A motion was made by McDonald, seconded by Housel that the vouchers and claims be approved in the amount of \$ 555,114.79 and the handwritten vouchers for the month of February in the amount of \$ 202,887.02 as reflected in the debit/credit memorandum on file in the Collector-Treasurer's office.

Roll Call: Giaimis, Housel, Van Deursen, Doty, Bertoline and McDonald.

Ayes: 6, Nays: 0.
Motion carried.

OLD BUSINESS:

Discussion – Garbage, Rubbish and Refuse Ordinance

Discussion was held with regard to amending the Garbage and Refuse Ordinance.

The attorney prepared an ordinance based on some discussion held at the last meeting.

The discussion that took place dealt with the size garbage cans that would be acceptable for pick-up. After discussion with the contractor, and some research as to the size containers that would be acceptable, it was agreed that a 32 gallon container instead of a 30 gallon container would be picked up.

Councilwoman Bertoline questioned whether we could consider a 35 gallon container. This size container would not be acceptable with O.S.H.A. Standards.

Councilman Bertoline also questioned Section 47-15 of the Code dealing with outside parties picking up refuse. This section specifically deters scavengers from coming into town going through garbage.

The copy of the ordinance that the Council has is being distributed to residents and has been underlined for those specific sections that better enable them to understand the garbage and refuse guidelines.

Councilman Housel had a question on 47-7B that dealt with pick-up of vegetative waste. His question was answered to his satisfaction.

It was therefore moved by Giaimis, seconded by McDonald that the necessary amendment to the ordinance be prepared amending the size of the container from a 30 gallon to 32 gallon.

Discussion: Councilman Housel suggested that any other amendments to be proposed should be discussed with the contractors before placing the garbage and refuse specifications out for bid.

Roll Call Giaimis, Housel, Van Deursen, Doty, Bertoline and McDonald.

Ayes: 6, Nays: 0.
Motion carried.

NEW BUSINESS:

Resolution #56-2004 – Adjust Sewer Billings as a Result of Appeals filed

The following Resolution was moved by McDonald, seconded by Bertoline and adopted:

RESOLUTION #56-2004

**A RESOLUTION TO ADJUST SEWER BILLINGS AS A
RESULT OF APPEALS FILED IN ACCORDANCE WITH
CHAPTER 70, SECTION 13 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 residents and property owners have filed requests for appeal of their sewer service charge with documentation to justify modification of their charges which have been reviewed by the Borough Manager; and

WHEREAS, there is a need to provide expeditious review and approval of those appeals, which are determined to be meritorious without the necessity of a formal hearing in front of the governing body; 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 preliminary 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 appeals are granted on a preliminary basis, subject to the right of the applicant to a formal hearing before the governing body:

BLOCK	LOT	NAME/ADDRESS	REASON/ADJUSTMENT
95	8	Caruso Properties, Inc. 7 Broad Street	Change in Use 2 E.D.U.'s to 1.5 E.D.U.'s

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 preliminary 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.

Roll Call: Bertoline, Doty, McDonald, Van Deursen, Housel and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

Resolution #57-2004 – Supporting Legislation Outlawing Punitive Damages

The following Resolution was moved by Bertoline, seconded by McDonald and adopted:

RESOLUTION #57-2004

**RESOLUTION IN SUPPORT OF SENATE BILL S-128
AND ASSEMBLY BILL A-939**

WHEREAS, the New Jersey Supreme Court has recently ruled that public entities may be liable for punitive damages in certain circumstances; and

WHEREAS, the Borough of Washington believes that the award of punitive damages against public entities is unfair in that it unfairly burdens the taxpayers of the Borough for conduct for which they are not responsible; and

WHEREAS, Senate Bill S-128 and Assembly Bill A-939 address the issue of punitive damages against municipalities in a way that is reasonable and fair.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Washington, Warren County, New Jersey, hereby express their support for Senate Bill S-128 and Assembly Bill A-939 and request all members of the Senate and the Assembly vote to support these bills as to protect the taxpayers of all municipalities from the unfair burden of punitive judgments being awarded against them.

Roll Call: Giaimis, Housel, Van Deursen, Doty, Bertoline and McDonald.

Ayes: 6, Nays: 0.
Motion carried.

Resolution #58-2004 – Refund Overpayment of 2003 Real Estate Taxes

The following Resolution was moved by McDonald, seconded by Bertoline and adopted:

RESOLUTION #58-2004

**A RESOLUTION TO REFUND OVERPAYMENT ON
2003 REAL ESTATE TAXES**

WHEREAS, according to the Tax Collector's records, there is an overpayment of \$ 1,022.73 on 2003 3rd Quarter Regular Taxes paid on property located at 98 Lenape Trail, also known as Block 101, Lot 015.27 and in the name of Tichy, Steven; and

WHEREAS, this overpayment was created by the tax servicer/mortgage company, Washington Mutual Home Loans, Inc. and the homeowner both paying the 3rd Quarter Regular Taxes for Tichy, Steven; and

WHEREAS, the Tax Collector's office has received a request from Washington Mutual Home Loans, Inc. requesting the refund of the overpayment be refunded to the property owner.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey to hereby authorize the Tax Collector and Treasurer to refund the amount of \$ 1,022.73 and payable to:

Steven Tichy
98 Lenape Trail
Washington, NJ 07882

Roll Call: Van Deursen, Doty, Bertoline, McDonald, Housel and Giaimis.

Ayes: 6, Nays: 0.
Motion carried.

Resolution #59-2004 – Refunding the Overpayment of the Borough’s Sewer Charge

The following Resolution was moved by McDonald, seconded by Bertoline and adopted:

RESOLUTION #59-2004

**A RESOLUTION AUTHORIZING THE REFUNDING OF
AN OVERPAYMENT OF THE BOROUGH’S SEWER
SERVICE CHARGE**

WHEREAS, according to the Treasurer’s records, there is an overpayment showing on the following property; and

<u>BLOCK/LOT</u>	<u>NAME OF OWNER/ PROPERTY LOCATION</u>	<u>AMOUNT TO BE REFUNDED</u>
101 013.15	Louis Brenner 1 Flower Ave.	\$ 44.16

The former owner and the closing attorney for the new owner paid the same sewer charge causing the overpayment. A refund of \$ 44.16 is to be mailed to:

Louis Brenner
345 Sunset Drive
Bangor, PA 18013

WHEREAS, the Treasurer has a written request from Louis Brenner that the above amount be refunded.

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

Roll Call: Giaimis, Housel, Doty, Van Deursen, McDonald and Bertoline.

Ayes: 6, Nays: 0.
Motion carried.

Application for Bingo License – St. Joseph’s Church

An application for bingo license was submitted from St. Joseph’s Church. The application is in order and fees paid.

It was therefore moved by Giaimis, seconded by Housel that the Clerk be directed to issue the license to St. Joseph’s Church for their bingo license.

Roll Call: McDonald, Doty, Housel and Giaimis – Ayes: 4,
Nays: 0. Bertoline and Van Deursen – Abstained.
Motion carried.

COUNCIL REMARKS:

Mayor Van Deursen polled Council for their remarks.

Councilwoman Bertoline noted that during the budget workshop sessions there was only \$ 32,000.00 cut from the Manager's proposed budget. She would like to look a little harder at the budget for additional cuts. She would like to see another special meeting scheduled.

Mayor Van Deursen suggested Council wait until they see the revenue picture of the budget. The Manager is waiting for the auditor's comments.

Councilman Giaimis had no remarks.

Councilman Housel had no remarks.

Councilman Doty had no remarks.

Councilman McDonald had no remarks.

Mayor Van Deursen had no further remarks.

Hearing no further business to come before Council, it was moved by Bertoline, seconded by McDonald that the meeting be adjourned at 9:10 PM.

Ayes: 6, Nays: 0.
Motion carried.

Marianne Van Deursen, Mayor

Linda L. Hendershot, RMC/CMC
Borough Clerk