

**MINUTES OF REGULAR COUNCIL MEETING HELD
OCTOBER 19, 2004**

A Regular Meeting of the Borough of Washington, Warren County, New Jersey was held in the second floor Council Chambers of the Borough Municipal Building at 8:00 P.M. on Tuesday, October 19, 2004.

Roll Call: Present: Van Deursen, Wagner-Glaser, Bertoline, Doty, Housel, Giaimis, and McDonald.

Absent: None

Also Present: Borough Manager Alan M. Fisher, Municipal Attorney Richard P. Cushing, and Municipal Engineer Robert Miller, C.M.E., P.E...

Mayor Van Deursen read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law, 1972, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the official newspaper of the Borough of Washington and posted on the Bulletin board of the Borough Municipal Building stating the time, place and purpose of the meeting as required by law.”

Mayor Van Deursen led the group in the Pledge of Allegiance.

Animal Control Officer Betty Wysocki addressed the governing body on the activities within the past year. The Mayor thanked both Betty and her husband Gary for their hard work and dedication to the Borough.

Minutes

It was moved by Councilman Scott McDonald and seconded by Councilman Terry Housel to approve the minutes of the Regular Meetings held on September 21st and October 5th and the Special Meeting held on September 29th.

Councilwoman Gina Bertoline noted the following corrections:

Minutes of September 21st:

pg. 2. The sentence that reads, “If we have something that should be protected we would do so.” should be changed to read, “If we have something that should be protected we should do so.”

pg. 3. The Roll Call should reflect 7 Ayes and not 6.

pg. 4. The sentence that reads, “She also voiced her criticism in deference to the comments made by the Mayor in the Planning Board minutes on the number of people who were opposed to sidewalks being constructed in their neighborhood on Sunrise Terrace.” should be changed to read, “She also voiced her criticism in deference to the comments made by the Manager and the Mayor in the Planning Board minutes on the

number of people who were opposed to sidewalks being constructed in their neighborhood on Sunrise Terrace.”

pg. 8. The sentence that reads, “However, Councilwoman did not agree with increasing the fees; they should be left alone.” should be changed to read, “However, Councilwoman Bertoline did not agree with increasing the fees; they should be left alone.”

pg. 9. The sentence that reads, “She questioned the fees being paid to the League for Registration fees.” should be changed to read, “She questioned the double fees being paid to the League for Registration fees.”

pg 11. The sentence that reads, “Councilwoman questioned whether these streets were certified by the engineer?” should be changed to read, “Councilwoman Bertoline questioned whether these streets were certified by the engineer?”

pg. 12. The following should be added under the discussion of the comments from Sharon Wescoe of 22 Sunrise Terrace. “Council agreed that signs should be placed in areas currently missing proper regulatory signs.”

Minutes of October 5th:

pg. 4. The sentence that reads, “The overtime appears to be more than the payroll for the regular staff.” should be changed to read, “The overtime appears to be almost as much as the payroll for the regular staff.”

Councilman Scott McDonald commented that on page five the sentence that reads, “She polled the Council for their availability where all seven Council people could be present to conduct final interviews with the three candidates the search committee chooses for the final round.” should be changed to read, , “She polled the Council for their availability where all seven Council people could be present to conduct final interviews with the candidates the search committee chooses for the final round.”

Minutes of September 21, 2004: Ayes: Van Deursen, Wagner-Glaser, Bertoline,
Doty, Housel, Giaimis, and McDonald.
Nays: None
Abstentions: None

Minutes of September 29, 2004: Ayes: Van Deursen, Wagner-Glaser, Housel,
Giaimis, and McDonald.
Nays: None
Abstentions: Bertoline and Doty.

Minutes of October 5, 2004: Ayes: Van Deursen, Bertoline, Housel,
Giaimis, and McDonald.
Nays: None
Abstentions: Wagner-Glaser and Doty.

Communications

It was moved by Councilman Scott McDonald and seconded by Councilwoman Gina Bertoline to acknowledge receipt of and file the items of communications on the agenda. All voted in favor. Motion Carried.

Audience

Mike Dertie from the Mediterranean Bistro at 301 West Washington Avenue explained that the Code Enforcement Officer visited his property and that he informed him that he was in violation of the Borough Codes for depositing fill material behind his restaurant without any permits. Mr. Dertie explained that he was only stabilizing the embankment which had experienced erosion problem as a result of recent rainfall events. The manager explained the development process that Mr. Dertie will have to go through which may include Planning Board approvals.

Robert Cammarota of 47 Alvin Sloan Avenue appeared to complain about his grading issue on his lot. He claimed Municipal Engineer Robert Miller was supposed to call and arrange a re-inspection on the property. He had not heard from Mr. Miller and wanted to know the status of the matter. Mr. Miller stated that Centex Homes had not gotten back to him and that Mr. Miller would re-inspect with a Centex representative present. Mr. Miller indicated that there were eight other lots that had issues with grading and drainage. There was some discussion about the letter from the Municipal Attorney and the timeframe for resolving those matters referred to Centex.

Rachael Semonche of 263 Carlton Avenue complained about St. Joseph's Church and the Board of Adjustment meeting when the circular driveway was approved. Mrs. Semonche claimed that there was supposed to be no parking in the driveway area. Mrs. Semonche also pointed out that when St. Joseph Church came before the governing body to have a private fire hydrant removed from the north side of the church and be replaced by a public fire hydrant on Carlton Avenue, a fire lane was supposed to be marked in the circular driveway. The Mayor asked the Manager to have the Zoning Officer research the file for the site plan approval. The Manager was also asked to talk to the Fire Official about the fire lane situation.

It was moved by Councilman Scott McDonald and seconded by Councilman Jerry Giaimis to close the audience part of the meeting. All voted in favor. Motion carried.

Ordinance #17-2004

It was moved by Councilman Terry Housel and seconded by Councilman Scott McDonald to introduce Ordinance #17-2004 on second and final reading and to have the Clerk read by title only.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
and McDonald.

Nays: Bertoline and Giaimis

Abstained: None

Motion Carried.

The Deputy Clerk read the following:

ORDINANCE # 17-2004

**AN ORDINANCE TO AMEND CHAPTER 42 OF THE
CODE OF THE BOROUGH OF WASHINGTON
KNOWN AS THE FIRE PREVENTION CODE OF
WASHINGTON BOROUGH.**

The Mayor opened the public hearing up for comments. No members from the public approached the podium.

It was moved by Councilman Terry Housel and seconded by Councilman Jerry Giaimis to close the public hearing. All voted in favor. Motion carried.

Mayor Marianne Van Deursen opened the floor up for Council comments. Councilman Jerry Giaimis voiced his opposition to raising the fees. Councilwoman Gina Bertoline voiced her concerns with raising the fees and this ordinance being overly intrusive.

Councilman Terry Housel moved that Ordinance #17-2004 be approved on final reading and the motion was seconded by Councilman Scott McDonald.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
and McDonald.
Nays: Bertoline and Giaimis
Abstained: None

Motion Carried.

ORDINANCE # 17-2004

**AN ORDINANCE TO AMEND CHAPTER 42 OF THE
CODE OF THE BOROUGH OF WASHINGTON
KNOWN AS THE FIRE PREVENTION CODE OF
WASHINGTON BOROUGH.**

WHEREAS, P.L. 1999, Chapter 15 required installation of carbon monoxide detectors in one and two family homes and the State of New Jersey adopted regulations implementing the provisions of this law requiring local enforcing agencies under the Uniform Fire Safety Act to inspect and issue certificates of smoke detector and carbon monoxide alarm compliance; and

WHEREAS, the Bureau of Fire Prevention under the Borough of Washington Department of Public Safety, Fire Division has been designated as the local enforcing agency under the Uniform Fire Safety Act; and

WHEREAS, the Department of Community Affairs, Division of Fire Safety, Fire

Code Enforcement Unit has issued a monitoring report recommending the amendment of the Borough Code to reference the carbon monoxide alarm inspection requirement and to include provisions for non-life hazard use inspections; and

WHEREAS, governing body of the Borough of Washington believe these changes to be in the public interest.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that Chapter 42 of the Code of the Borough of Washington is hereby amended as follows with bracketed “[]” text being deleted and underlined text “ ” being added:

SECTION I. By adding a new section as follows:

“§ 42-4.1. Non-Life Hazard Uses.

All non-life-hazard uses, including but not limited to retail, storage and professional offices, shall be inspected at least once a year and pay the non-life-hazard use inspection fee.”

SECTION II. By amending Section 9, Subsection A to read as follows:

“A. For all non-life-hazard uses, except single- and two-family dwellings occupied by the holder of title to the property and dwelling units within two-family and multifamily dwellings, the fee shall be [twenty]forty-five dollars (\$[2]45.) for the first hour or part thereof of inspection time and [ten]twenty-five dollars (\$[10]25.) for each additional hour or part thereof of inspection time.”

SECTION III. By amending Section 10 Heading to read as follows:

“§ 42-10. Smoke and carbon monoxide alarms.”

SECTION IV. By amending Section 10, Subsection A to read as follows:

“A. A structure located in the Borough of Washington used or intended for use for residential purposes [by not more than two (2) households] shall have a smoke-sensitive alarm device on each level of the structure and outside each separate sleeping area in the immediate vicinity of the bedrooms and located on or near the ceiling in accordance with National Fire Protection Association Standard No. 74-1984 for the installation of [battery-operated] smoke-sensitive alarm devices, which shall be accepted as meeting the requirements of this section. A carbon monoxide detector shall be installed in the hall outside the sleeping areas. The smoke-sensitive and carbon monoxide devices shall be tested and listed by a product certification agency recognized by the Bureau of Fire Safety. This section shall not be enforced except pursuant to Subsections B, C and D of this section.”

SECTION V. By amending Section 10, Subsection D to be a new Subsection E.

SECTION VI. By amending Section 10, Subsection C to be a new Subsection D to read

as follows:

“[C]D. Fees. The fee of the Fire Official of the Borough of Washington shall be [twenty]thirty-five dollars (\$[2]35.) for the first inspection or scheduled visit to the property and twenty-five dollars (\$25.) for each subsequent reinspection or scheduled visit to the property.”

SECTION VII. By amending Section 10 by adding a new Subsection C to read as follows:

“C. If the property owner or tenant believes the structure or alarm devices have been compromised either party may request an inspection of the property.”

SECTION VIII. 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.

Ordinance #18-2004

It was moved by Councilman Terry Housel and seconded by Councilwoman Gina Bertoline to introduce Ordinance #18-2004 on second and final reading and to have the Clerk read by title only.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel, Bertoline, Giaimis and McDonald.
Nays: None
Abstained: None

Motion Carried.

The Deputy Clerk read the following:

ORDINANCE # 18-2004

**AN ORDINANCE REGULATING THE STATUTORY
AUTHORITY OF UNITED TELEPHONE COMPANY
OF NEW JERSEY, INC. , IT SUCCESSORS AND
ASSIGNS TO USE THE VARIOUS PUBLIC ROADS,
STREETS OR HIGHWAYS IN THE BOROUGH OF
WASHINGTON, WARREN COUNTY, NEW JERSEY
FOR ITS LOCAL AND THOUGH LINES AND
OTHER COMMUNICATIONS FACILITIES AND
PRESCRIBING THE CONTITIONS THEREOF.**

The Mayor opened the public hearing up for comments. No members from the public approached the podium.

It was moved by Councilman Scott McDonald and seconded by Councilman Terry Housel to close the public hearing.

Mayor Marianne Van Deursen opened the floor up for Council comments.

Councilman Terry Housel moved that Ordinance #18-2004 be approved on final reading and the motion was seconded by Councilman Scott McDonald.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
McDonald, Bertoline and Giaimis
Nays: None
Abstained: None

Motion Carried.

ORDINANCE # 18-2004

AN ORDINANCE REGULATING THE STATUTORY AUTHORITY OF UNITED TELEPHONE COMPANY OF NEW JERSEY, INC., ITS SUCCESSORS AND ASSIGNS TO USE THE VARIOUS PUBLIC ROADS, STREETS, OR HIGHWAYS IN THE BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY, FOR ITS LOCAL AND THROUGH LINES AND OTHER COMMUNICATIONS FACILITIES AND PRESCRIBING THE CONDITIONS THEREOF.

BE IT ORDAINED by the Mayor & Council of the Borough of Washington, Warren County, New Jersey that:

SECTION 1: Pursuant to the provisions of N.J.S.A. 48:17-10, N.J.S.A. 48:17-11, and N.J.S.A. 48:17-12, non-exclusive permission and consent is hereby granted to United Telephone of New Jersey, Inc., ("Company"), its successors and assigns, to erect, construct and maintain the necessary poles, wires/cables, conduits, or other fixtures in, upon, along, over or under any public street, road, or highway, and parts thereof, throughout their entire length, and to effect the necessary street openings and lateral connections to curb poles, property lines and other facilities in the Borough of Washington (the "Borough") for said Company's local and through lines in connection with the transaction of its business. The right of Company to affect necessary street openings shall be subject to the Borough's then-existing ordinances related to such actions. Company shall also be subject to standard road/improvement opening moratoriums. This Ordinance does not authorize placement of wireless telecommunications facilities within the Borough's rights-of-way. This Ordinance also does not authorize Company to construct switching stations in the Borough's rights-of-way without separate permission.

SECTION 2: The permission and consent of the Borough shall be for fifty (50) years.

SECTION 3: All poles and above-ground facilities hereafter located within the rights-of-way shall be placed back of the curb lines where shown on the official map(s) of the Borough or other filed maps, surveys or approved site plans that are necessary to establish the location of road rights-of-way. Said facilities shall be located in accordance with applicable standards, including, but not limited to, Borough ordinances, Residential Site Improvement Standards, and NJDOT standards, or at the points or places now occupied by the poles or other facilities of Company, or at such other convenient points or places in, upon, along, adjacent, or across the public streets and ways as may be mutually agreed upon between Borough and Company.

SECTION 4: Company may bury its local and through lines and facilities within the right-of-way of the various public streets and ways and at such locations as shall be mutually agreed upon by the parties. Underground conduits and associated facilities shall be placed at least eighteen (18) inches below the surface of said public streets and ways and, with the exception of lateral branches to curb poles and property lines and other facilities, the same shall generally not be constructed more than ten (10) feet from the curb line, unless obstructions make it necessary to deviate from such course or unless the parties mutually agree to another location. Manholes shall be located at such points along the line of underground conduits as may be necessary or convenient for placing, maintaining, and operating the facilities which Company may from time to time use in connection with its underground conduit system and shall be so constructed as to conform to the cross-sectional and longitudinal grade of the surface so as not to interfere with the safety or convenience of persons or vehicles.

SECTION 5: Any such area affected by United Telephone Company in constructing its facilities shall be restored to as good condition as it was before the commencement of work thereon. No public streets or ways shall be encumbered for a period longer than shall be reasonable to execute the work.

SECTION 6: Company agrees to indemnify and save harmless the Borough from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of conditions resulting from any negligent or faulty excavation, installation or maintenance connected with its work or equipment. The provisions of this Section shall not be interpreted to relieve the Borough from liability to Company or third parties in the event of joint or concurring negligence or fault of Company and the Borough; provided, however, that the legal liability of the Borough, if any, shall be determined under applicable law, taking into account the privileges and immunities afforded a governmental entity.

SECTION 7: Whenever a curb line shall be established on streets where one does not now exist, or where an established curb line shall be relocated in order to change the width or realign an existing street in conjunction with road construction being performed by the Borough, Company shall change the location of its above-ground and below-ground facilities covered by this Ordinance, so that the same shall be back of, and adjacent to, the new curb line so long as the Borough has acted in accordance with applicable law and with reasonable care in establishing the new curb line and providing notice thereof. The former includes that the Borough owns the existing or acquired right-of-way where Company is requested to locate or relocate facilities, and that the new curbline is properly established by ordinance, filed map and/or official map. Company

shall bear the costs so long as the relocation is for the purpose of construction, reconstruction, improvement or repair to streets, sidewalks, sewers, water mains, storm drains, and other Borough utilities and not solely for aesthetic purposes or governed by N.J.S.A. 40A:26A-8.

SECTION 8: Any company or corporation having legal authority to place its facilities in the public streets and ways of the Borough may jointly use Company's poles, conduits or other fixtures for all lawful purposes, provided that Company consents to such use, on terms and conditions acceptable to Company and not inconsistent with the provisions of this Ordinance, and that said company or corporation has obtained consent from the Borough.

SECTION 9: If any or all of the said streets or ways are later taken over by the County of Warren or the State of New Jersey, such County or State shall have the rights and privileges and be subject to the same terms, conditions and limitations of use as apply herein to the Borough, provided, however, that such satisfactory prior arrangements as may be necessary are made with the Borough and Company for the full protection of the respective interest of each.

SECTION 10: The term "Borough" as used in this Ordinance shall be held to apply to and include any form of municipality or government into which the Borough or any part thereof may at any time hereafter be changed, annexed, or merged.

SECTION 11: The permission and consent hereby granted shall apply to Company's local and through lines and related fixtures, existing or hereafter constructed or operated by Company, its predecessors, successors, or assigns. This Ordinance shall cancel and supersede all prior consent ordinances between the Borough and Company regarding the subject matter hereof.

SECTION 12: This Ordinance shall not affect the ability of the Borough to impose real property taxes on the facilities of Company under current law. Further, if in the future applicable law should change so as to enable the Borough to impose a franchise fee or other fee, tax, charge, or monetary obligation on Company's operations or facilities hereunder, Company agrees that the provisions of this Ordinance shall not preclude the Borough from imposing or collecting such fee, tax, charge or other monetary obligation which may be permitted by law.

SECTION 13: Company shall maintain its property within the Borough in good condition and shall comply with applicable law for the provision of safe, adequate and proper service at just and reasonable rates, and safeguard the public interest in continuous and uninterrupted service.

SECTION 14: Nothing contained in this Ordinance shall be construed to impose an obligation on the part of the Borough to open any street not heretofore dedicated or opened to public use, and nothing herein shall be construed as an acceptance by the Borough of any unaccepted street or any part thereof where any pole, wire, conduit, cable or other fixture may exist.

SECTION 15: In the event that any public street or way where any pole, conduit, cable or other fixture owned or used by Company exists is vacated by the Borough, the Borough agrees to reserve unto Company the rights granted by this Ordinance. Borough would have no further obligation or responsibility to maintain or provide access to the right-of-way.

SECTION 16: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared to be unenforceable or invalid for any reason whatsoever, such decision or declaration shall not affect the remaining portions of this Ordinance, which shall continue in full force and effect; and to this end the provisions of this Ordinance are hereby declared severable.

SECTION 17: Company shall pay the expenses incurred for advertising required in connection with the passage of this Ordinance, after the date of its first reading, within thirty (30) days after Company has received a bill for said advertising.

SECTION 18: Following final passage of this Ordinance, the Borough Clerk shall provide Company with written notice thereof by certified mail. As provided by applicable law, this Ordinance, and any subsequent amendments, shall not become effective until acceptance by Company and approval by the Board of Public Utilities.

SECTION 19. This Ordinance shall take effect in the time and manner prescribed by law.

Reports

It was moved by Councilman Scott McDonald and seconded by Councilwoman Susan Wagner-Glaser to receive and file all reports on the agenda. All voted in favor. Motion carried.

Voucher

It was moved by Councilman Scott McDonald and seconded by Councilman Terry Housel to approve the vouchers on the Bill List for payment.

Mayor Marianne Van Deursen asked if there were any Council comments. Councilwoman Gina Bertoline stated that the Warren County Chamber of Commerce Economic Development Seminar and the N.J. League of Municipalities Pay for Play Seminar as well as the Warren County League of Municipalities dinner meeting for the Borough Manager should be removed from the Bill List since the Borough will not be receiving any benefit from the Manager's attendance.

It was moved by Councilwoman Gina Bertoline and seconded by Councilman Scott McDonald to amend the original motion to remove the Warren County Chamber of Commerce Economic Development Seminar and the N.J. League of Municipalities Pay for Play Seminar as well as the Warren County League of Municipalities dinner meeting for the Borough Manager from the Bill List.

The Manager indicated that one of the seminars was tomorrow and he was unsure of the refund policy notification requirements for these various functions. Councilman Tom Doty suggested that Councilwoman Gina should have investigated this matter more thoroughly before making a motion.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, and Housel,
Nays: Bertoline, McDonald and Giaimis
Abstained: None

Amendment Failed.

The original motion without the amendment was then placed up for vote.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
McDonald and Giaimis
Nays: Bertoline
Abstained: None

Motion Carried.

Old Business – La Verne Loux Parking Concerns

Councilwoman Gina Bertoline requested this item to be placed back on the agenda for discussion. Councilwoman Gina Bertoline asked for Andrew Turner to come forward and address the governing body with his suggested solution to Ms. La Verne Loux concern about vehicles parking in front of her property at 198 West Washington Avenue. This matter was originally presented to the governing body on July 6th in the form of a letter from Ms. Loux and was discussed by council after input from the Chief of Police and Municipal Engineer on July 20th.

Andrew Turner of 300 Belvidere Avenue suggested that parking spaces be painted on State Route # 57 from Lincoln Avenue westward to the Warren Hills Memorial Home. Municipal Engineer Robert Miller pointed out that this pavement marking would require State Department of Transportation approval and would most likely have to be undertaken at municipal expense. The Borough Manager pointed out that the painting of the lines would not necessarily eliminate the problem of visibility by the driveway since there are no regulations as to how far from a driveway a parking space should be and unless there is enforcement, people could park outside the lined spaces.

Councilwoman Gina Bertoline suggested that the Borough check with the State of New Jersey Department of Transportation to see if they would allow the parking spaces to be painted along State Route #57. Councilman Jerry Giaimis recommended that once this information is known, the matter should be brought back to the governing body to determine if the Borough should paint the lines if the State were to approve of the markings. Councilman Scott McDonald suggested that the Chief of Police be consulted for his input at that time.

It was moved by Councilwoman Gina Bertoline and seconded by Councilwoman Susan Wagner-Glaser to authorize the Borough Manager to send a letter to the State of

New Jersey Department of Transportation seeking their permission to paint parking spaces along both sides of State Route #57 from Lincoln Avenue to the Warren Hills Memorial Home.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
McDonald, Bertoline and Giaimis
Nays: None
Abstained: None

Motion Carried.

Star-Gazette – Official Newspaper

Municipal Attorney Richard P. Cushing explained the current status of our inquiry into the question of whether or not the Star-Gazette meets the statutory requirements for being a newspaper where legal notices can be published. The Star-Gazette's Attorney and the Attorney representing the N.J. Press Association will be filing a brief with Mr. Cushing presenting all the facts and law regarding this issue. Mr. Cushing pointed out that there is a 19th Century case known as the Hoboken Case that may have bearing on this matter.

Councilman Scott McDonald suggested that the Borough notify its State Assembly and Senate representatives to ask them to correct this problem. Richard Cushing suggested that we wait for their filing and his offices review of the matter before contacting the legislative delegation.

Councilman Jerry Giaimis wanted to be reassured that our Municipal Attorney would be researching this matter as well so that we are not just relying upon the newspaper industries interpretation of the law. Mr. Cushing stated they would be doing their own research as well as reviewing the material presented by the Star-Gazette and N.J. Press Association.

New Business - NJPDES Permit

The Borough Manager pointed out that the permit had been issued and the D.E.P. had not made many accommodations to our comments. The Manager suggested the council approve the filing for a stay and requesting an adjudicatory hearing.

It was moved by Councilman Scott McDonald and seconded by Councilman Jerry Giaimis to authorize the Municipal Attorney to file for a stay and adjudicatory hearing on the Borough of Washington's N.J.P.D.E.S. Permit.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
McDonald, Bertoline and Giaimis
Nays: None
Abstained: None

Motion Carried.

Resolution #194-2004

RESOLUTION # 194-04

**A RESOLUTION OF THE BOROUGH OF
WASHINGTON REQUESTING APPROVAL OF AN
ITEM OF REVENUE AND APPROPRIATION
UNDER N.J.S.A. 40:4-87**

WHEREAS, N.J.S.A. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the Adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, hereby request the Director of Local Government Services with the Department of Community Affairs to approve the insertion of an item of revenue in the budget of the year 2004 in the sum of \$5,000.00, which item is now available as a revenue from the State of New Jersey, Department of Environmental Protection, Division of Water Quality, Bureau of Nonpoint Pollution Control for the Municipal Stormwater Regulation Program grant.

BE IT FURTHER RESOLVED that the like sum of \$5,000.00 is hereby appropriated under the caption "Stormwater Management – Other Expenses" outside the CAP; and

The above Resolution was moved by Councilman Terry Housel, seconded by Councilman Jerry Giaimis.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
McDonald, Bertoline and Giaimis
Nays: None
Abstained: None

Motion Carried.

St. Joseph Church ABC Permit & 50/50 Raffle

It was moved by Councilman Jerry Giaimis and seconded by Councilman Terry Housel to approve the Application for a Special Permit for Social Affair from St.

Joseph's Roman Catholic Church for a dinner/dance on New Year's Eve and for a Games of Chance 50/50 Raffle License.

Roll Call: Ayes:, Wagner-Glaser, Doty, Housel,
McDonald, and Giaimis
Nays: None
Abstained: Bertoline and Van Deursen

Motion Carried.

Chapter 94, Section 18A (2) Amendment

Municipal Attorney Richard P. Cushing explained that he had been in conversation with Zoning/Code Enforcement Officer Rudy Bescherer regarding a case he recently had that was dismissed due to the fact that the Borough cited the tenant and not the property owner for the violation. Rudy Bescherer explained the situation to the governing body and noted that he would like the ability to hold the tenant responsible if the property owner is not responsible for the violation. Mr. Bescherer mentioned that he had several matters pending where the tenant has failed to file for permits and he would prefer to summons them instead of the property owner.

Richard P. Cushing suggested some proposed language that would also hold the tenant responsible in certain situations where the tenant caused the violation. Mr. Bescherer expressed concern about situations when the violation takes place on a parcel of land where the violator is not a tenant. Councilwoman Gina Bertoline stated that there are existing laws against trespassing that would probably rectify the situation. Councilman Scott McDonald suggested that the Borough Attorney look to what other communities are doing in these types of situations for guidance.

It was moved by Councilwoman Susan Wagner-Glaser and seconded by Councilman Terry Housel to authorize the Municipal Attorney to prepare an amendment to Chapter 94 of the Code of the Borough of Washington that would allow enforcement action against a tenant if the tenant is the responsible party.

The Mayor asked if there were any further Council comments? Councilwoman Gina Bertoline stated the Borough did not need more rules on the books.

Roll Call: Ayes: Van Deursen, Wagner-Glaser, Doty, Housel,
McDonald and Giaimis
Nays: Bertoline
Abstained: None

Motion Carried.

Council Remarks

Mayor Marianne Van Deursen read a statement regarding the downtown parking lot acquisition expressing her appreciation for the hard work of everyone involved in the

process. The matter appears to be winding to a successful conclusion and closings should be scheduled in the very near future.

Councilman Jerry Giaimis commented that Mrs. Dawn Higgins wanted to comment on the proposed amendment to the motion to remove certain vouchers for payment from the bill list but was not recognized by the Mayor. The Mayor stated that she forgot to go back to her after the council discussions and asked if she had anything to say. Mrs. Higgins stated she did at the time, but not now. Councilman Jerry Giaimis also congratulated Jim Sheldon on the W.B.B.I.D. achievements.

Councilman Scott McDonald also congratulated Jim Sheldon and the W.B.B.I.D. for the progress in the downtown revitalization effort.

Councilwoman Gina Bertoline asked what happened to the Tree Removal Ordinance that the Planning Board was to have forwarded to the governing body. The Manager noted that the Planner did not get the revised document finished in time for transmittal. Councilwoman Gina Bertoline asked about the status of the Swimming Pool Ordinance. Richard Cushing indicated that he did get a response from the Deputy Attorney General, but had not forwarded it to the Borough. The Deputy Attorney General indicated that the State Uniform Construction Code does not preempt local regulation of swimming pools. Councilwoman Gina Bertoline requested that the Swimming Pool Ordinance that was tabled should now be placed back on the Council agenda for further discussion. Councilwoman Gina Bertoline asked if it was time for setting budget review dates. Councilwoman Susan Wagner-Glaser indicated it was too early for that. Councilwoman Gina Bertoline requested an update on the Centex Homes paving concerns raised by Tilcon. Municipal Engineer Robert Miller stated that a meeting was held on October 8th and there was an agreement on what had to be done in regards to the pavement repair. Mr. Miller explained why Tilcon's proposal of paving only half the road to correct defective pavement was not satisfactory. Councilwoman Gina Bertoline requested an executive session. The Manager questioned what was going to be discussed in the executive session. Councilwoman Gina Bertoline indicated it did not involve personnel but involved enforcement action taken against Stew's Auto Body. The Manager explained that the owners of Stew's Auto Body were issued a summons for land development activities without permits. Councilman Jerry Giaimis stated that the proper place to hear this matter is in municipal court and not before the governing body.

Councilman Tom Doty also expressed his regrets that Mrs. Higgins was not recognized by the Mayor to speak during the review of the Vouchers and Claims List.

It was moved by Councilman Terry Housel and seconded by Councilwoman Gina Bertoline to adjourn the meeting. All voted in favor. Motion carried. The meeting adjourned at 9:41 p.m.

Marianne Van Deursen, Mayor

Alan M. Fisher, Deputy Clerk