

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – December 21, 2010**

The Regular Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 7:30 P.M.

Roll Call: McDonald, Gleba, Cioni, Higgins, Valentine, Boyle, Housel - Present

Also Present: Richard Cushing, Esq. Municipal Attorney
Richard Phelan Borough Manager
Kristine Blanchard, Borough Clerk

Mayor McDonald led everyone in the flag salute.

Mayor McDonald read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law, 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of Borough Hall stating the time, place and purpose of the meeting as required by law.

MINUTES:

Mayor McDonald entertained a motion to approve the minutes of the Regular meeting of December 7, 2010.

Motion made by Cioni, seconded by Valentine and approved.

Roll Call: Higgins, Boyle, McDonald, Valentine, Cioni, Housel
Gleba - Abstain

Ayes: 6, Nays: 0
Abstain: 1
Motion Carried

CORRESPONDENCE

Transitional Aid Plan

John Paff:

Christina Woykowski:
Sessions

Mark Bond:

Executive Session Minutes

Executive Minutes and Recording of Executive

Professional Service Appointments

John Paff: Loitering Code

Motion made by Cioni, seconded by Housel to approve the correspondence.

Ayes: 7, Nays: 0
Motion Carried

Council Discussion:

Councilwoman Gleba stated that she discussed the Transitional Aid Plan with Manager Phelan previously. She would like to see more suggestions and include 2011 budget reduction possibilities in the plan.

Councilman Cioni stated he was against the recording of executive minutes. Attorney Cushing cautioned Council against the recording of executive session. Recording of these sessions could open the Borough up to litigation. Attorney Cushing also explained that no action can be taken in executive session. Any action taken has to be done in public.

Regarding Mr. Bond's letter; Councilman Cioni stated he feels that Council does not need to solicit bids from professionals for a third time. Councilman Higgins asked if the state had contacted the Borough regarding the Municipal Attorney appointment. Manager Phelan stated they had and there was a conversation between the DLGS and the Mayor regarding the Municipal Attorney appointment. Councilman Higgins stated that the rest of Council was not notified of this. Manager Phelan stated the state simply wanted more information.

Council concurred to place the approval of Executive Session Minutes on the Council Agenda for approval going forward. The Borough Clerk will provide executive session minutes within thirty days of the meeting.

Motion made by Cioni, seconded by Housel to not record Executive Session Minutes.

Ayes: 6, Nays: 1 (Higgins)
Motion Carried

AUDIENCE

Mayor McDonald opened the audience portion of the meeting.

Joyce Pyle 88 West Stewart Street

Ms. Pyle stated she would like the Council to solicit more proposals for Municipal Attorney due to the fact the only other firm to submit a proposal to the Borough had to withdraw their firm's name.

Edna Detlif Fisher Avenue

Ms. Detlif asked about the \$100,000 grant received by the BID for the pocket park and the \$490,000 that the Borough will have to pay for the parking lot. She asked how this will affect the 2% CAP. Manager Phelan stated the Borough has the money for the parking lot and will not have to incur debt.

Hearing no further comments from the audience, motion made by Cioni, seconded by Housel to close the audience portion of the meeting.

Ayes: 7, Nays: 0
Motion Carried

ORDINANCES

Ordinance 15-2010 AN ORDINANCE RESTRICTING THE AWARD OF CONTRACTS EXEMPT FROM PUBLIC BIDDING (CONTRACTOR PAY TO PLAY LAW) (Public Hearing/Adoption)

Mayor McDonald entertained a motion to introduce Ordinance #15-2010 on final adoption and have the clerk read by title.

Motion made by Housel, seconded by Cioni to introduce on final reading and have the clerk read by title only.

The Clerk read Ordinance #15-2010 by title only and stated that this ordinance had been published in the Star Gazette as required by law; a copy was posted on the bulletin board and copies available upon request from the Clerk's office.

Roll Call: Valentine, McDonald, Cioni, Gleba, Higgins, Boyle, Housel – Yes

Ayes: 7, Nays: 0
Motion Carried

Public Hearing:

Hearing no comments from the public motion made by Gleba, seconded by Higgins to close the public hearing.

Ayes: 7, Nays: 0
Motion Carried

Motion made by Housel, seconded by Cioni to adopt Ordinance 15-2010 on final passage.

Roll Call: Housel, Boyle, Cioni, Valentine, Gleba, McDonald, Higgins

Ayes: 7, Nays: 0
Abstain: 0
Motion Carried

ORDINANCE # 15 -2010
BOROUGH OF WASHINGTON
WARREN COUNTY, NEW JERSEY

AN ORDINANCE RESTRICTING THE AWARD
OF CONTRACTS EXEMPT FROM PUBLIC
BIDDING
(CONTRACTOR PAY-TO-PLAY REFORM ORDINANCE)

WHEREAS, certain contracts are exempt from public bidding under the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.*; and

WHEREAS, there is the potential for business entities whose contracts are exempt from public bidding to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding contracts to such business entities; and

WHEREAS, permitting substantial local political contributions from business entities receiving discretionary contracts from the elected officials who receive such contributions raises reasonable concerns on the part of taxpayers as to the influence of those contributions on the process of local government as well as the quality or cost of services received; and

WHEREAS, pursuant to *N.J.S.A. 40A:11-51* a municipality is authorized to adopt by ordinance, measures limiting the award of public contracts to business entities that have made contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

WHEREAS, in the interest of good government, the Mayor and Council of the Borough of Washington desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

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

Section 1. Chapter 3 entitled “Administration of Government” of the Code of the Borough of Washington is hereby amended to add a new Section 3-26A entitled “Restrictions on Award of Contracts Exempt from Public Bidding” to read as follows

§3-26A.1 Purpose. It shall be the purpose of this section to foster competition in the contracting process that is exempt from public bidding and thereby to avoid the appearance of improper influence in public contracting through unregulated contributions to public officials who award contracts by business entities who seek public contracts.

§3-26A.2 Definitions. As used in this section 3-26A, the following terms shall have the meanings set forth below:

“Candidate” means and includes (1) every candidate for Borough of Washington elective municipal office; (2) every candidate committee established by or for the benefit of a candidate for Borough of Washington elective municipal office; (3) every joint candidate committee established in whole or in part by or for the benefit of a candidate for Borough of Washington elective municipal office; (4) every political party committee of the Borough of Washington; (5) every political party committee of the County of Warren; and (6) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the Borough of Washington municipal or Warren County elective offices or Borough of Washington municipal or Warren County political parties or political party committees. The terms in the foregoing paragraph have the meaning set forth in *N.J.A.C. 19:25-1.7*.

“Contribution” has the meaning set forth in *N.J.A.C. 19:25-1.7*. By way of illustration, and not limitation, this definition includes gifts, pledges, loans, and in-kind contributions.

“Contract for Professional or Extraordinary Services” means all contracts for “Professional Services” and/or “Extraordinary Unspecifiable Services” as such terms are used in the Local Public Contracts Law at *N.J.S.A. 40A:11-5*.

“Business Entity” means an individual person; firm; corporation; professional corporation; partnership; organization; or association. When a Business Entity is a natural person, a contribution by that person’s spouse or any child living at home shall be deemed to be a contribution by the Business Entity. When a Business Entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the entity or their spouses; any subsidiaries directly or indirectly controlled by the entity; or any political organization organized under Section 527 of the Internal revenue code that is directly or indirectly controlled by the entity shall be deemed to be a contribution by the Business Entity.

§3-26A.3 Prohibition on Awarding Public Contracts to Certain Business Entities.

- A. To the extent that it is not inconsistent with state or federal law, the Borough of Washington and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise procure a Contract for Professional or Extraordinary Services from any Business Entity if such Business Entity has solicited or made any Contribution to (1) a Candidate or (2) a holder of public office in the Borough of Washington having ultimate responsibility for the award of a contract in excess of the thresholds specified in subsection C below within one calendar year immediately preceding the date of the contract or agreement.
- B. No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the Borough of Washington or any of its departments or instrumentalities, for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution to a Candidate or a holder of public office in the Borough of Washington having ultimate responsibility for the award of a contract between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- C. The maximum Contributions permitted are: (1) \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the Borough of Washington; (2) \$500 per calendar year to a Warren County political committee or political party committee; and (3) \$500 per calendar year to any PAC. However, a Business Entity may not annually contribute for any purpose in excess of \$2,500 to all (1) Candidates and (2) holders of public office in the borough of Washington having ultimate responsibility for the award of a contract.
- D. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (1) the Borough of Washington Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing body, or (2) the Mayor of the Borough of Washington if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- E. No person may be awarded a subcontract to perform under a contract subject to §3-26A.3, if the subcontractor would be disqualified by paragraph (A) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph

(A) from receiving the contract perform substantially all of the obligations described in a Contract for Professional or Extraordinary Services that is subject to §3-26A.3.

§3-26A.4 Contributions Made Prior to Effective Date. No Contribution or solicitation of a Contribution made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of §3-26A.3.

§3-26A.5. Contract Renewal. No contract subject to this Ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of §3-26A.3 if it were an initial contract.

§3-26A.6. Contribution Statement by Business Entity.

- A. Prior to awarding any Contract for Professional or Extraordinary Services to any Business Entity, the Borough of Washington or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he / she / it has not made a Contribution in violation of §3-26A.3. The Borough of Washington, its purchasing agents and departments shall be responsible for informing the Borough Council that the aforementioned sworn statement has been received and that the Business Entity is not in violation of §3-26A.3, prior to awarding the contract or agreement.
- B. A Business Entity shall have a continuing duty to report to the Borough of Washington any Contribution that constitutes a violation of §3-26A.3 made during the negotiation, proposal process or the duration of a contract. The Borough of Washington, its purchasing agents and departments shall be responsible for informing the governing body within (10) business days after receipt of said report from the Business Entity, or at the next Borough Council meeting following receipt of said report from the Business Entity, whichever comes first.
- C. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Borough of Washington, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

§3-26A.7. Return of Excess Contributions. A Business Entity that is a party to a Contract for Professional or Extraordinary Services may cure a violation of §3-26A, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and received reimbursement of the Contribution from the recipient of such Contribution.

§3-26A.8. Exemption—“Fair and Open” Contracts Not Exempt. The contribution limitations prior to entering into a contract in §3-26A.3 do not apply to contracts which (1) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefore within the meaning of *N.J.S.A. 40A:11-4*, or (2) are awarded in the case of emergency under *N.J.S.A. 40A:11-6*. There is no exemption for contracts awarded pursuant to a “Fair and Open Process” under *N.J.S.A. 19:44A-20 et seq.*

§3-26A.9. Indexing. The monetary thresholds in §3-26A.3(C) shall be increased effective March 1 of each calendar year by the percentage increase, in the prior calendar year, of the consumer price index for all urban consumers (CPI-U) for New York-Northern N.J.-Long Island region, rounded to the nearest \$10.00. The Clerk of the Borough of Washington shall, by no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in an official municipal newspaper.

§3-26A.10. Penalties.

- A. It shall be material breach of the terms of a Borough of Washington Contract for Professional or Extraordinary Services if a Business Entity that is a party to such agreement or contract has: (1) made or solicited a Contribution in violation of this Ordinance; (2) knowingly concealed or misrepresented a Contribution given or received; (3) made or solicited Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (4) made or solicited any Contribution on the condition or with the agreement that it will be re-contributed to a Candidate or holder of public office having ultimate responsibility for the award of a contract; (5) engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by the Business Entity itself, would subject the Business Entity to the restrictions of this Ordinance; (6) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (7) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (8) directly or indirectly, through or by any other person or means, done any act which if done directly would subject the Business Entity to the restrictions of this Ordinance.
- B. Any Business Entity that violates §3-26A.7(A) shall be disqualified from eligibility for future Borough of Washington contracts for a period of four (4) calendar years from the date of violation.
- C. Notwithstanding the foregoing, any Business Entity who violates any provision of §3-26A.3-7 shall, upon conviction, be liable for the penalties set forth in Chapter 1, Article II, General Penalty, of the Code of the Borough of Washington.

Section 2. If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

Section 3. All ordinances and resolutions inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies.

Section 4. 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.

**BOROUGH OF WASHINGTON
WARREN COUNTY**

RESOLUTION # 226-2010

**A RESOLUTION DESIGNATING ORDINANCE #15-
2010 TO BE AN EMERGENCY ORDINANCE.**

WHEREAS, Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington, states that Ordinances shall become effective 20 days after final passage unless the Council, by an affirmative vote of five (5) Council Members, adopts a resolution declaring the Ordinance to be an emergency upon which said Ordinance will take effect upon final passage; and

WHEREAS, the project enumerated within the above captioned Ordinance are necessary for the betterment of the residents of the Borough of Washington and;

WHEREAS, the 20 day waiting period is not in the best interest of the residents and employees of the Borough of Washington and;

NOW, THEREFORE, BE IT RESOLVED by the members of the Borough of Washington of the Borough of Washington, in the County of Warren, State of New Jersey that Ordinance #1-2008 in accordance with Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington and that this Ordinances shall take effect immediately upon final passage.

Ayes: 7, Nays: 0
Motion Carried

REPORTS:

Motion was made by Cioni, seconded by Valentine to receive and file the following reports:

1. Managers Reports (redacted version)
2. Board of Adjustment – 2010 Cases
3. Municipal Court
4. Police Activity

Councilman Cioni thanked the Borough Manager and the CFO for the submitting the Borough's best practices to the State.

Councilman Housel stated the DPW employees are moving into the new garage. Councilman Boyle suggested an open house. Mayor McDonald stated in the Spring would be a good time for an open house.

Ayes: 7, Nays: 0
Motion Carried

COMMITTEE REPORTS:

DPW: No Report

Streets Committee: No Report

Finance Committee: No Report

Shared Services Committee: No Report

Senior Services: No Report

Website Committee: Councilman Cioni reminded everyone to register online for information updates from the Website.

Sewer: No Report

Park Committee: Councilman Cioni thanked the BID and Sandy Cerami for all their hard work in obtaining the \$100,000 grant for the pocket park.

Grant Committee: Councilwoman Gleba noted the committee had applied to for the American River Grant for the Pleasant Valley Mill Dam project. Manager Phelan also noted the Borough received a BPU Energy Grant. Manager Phelan is meeting with them tomorrow. Councilman Cioni suggested seeing if it is possible to retrofit the bulbs downtown with LED lighting. Manager Phelan will discuss this with them.

OLD BUSINESS

None

NEW BUSINESS

Viridian Energy

Councilman Cioni proposed that the Governing Body look into this or a company like this to buy their energy from. Viridian Energy is an energy wholesaler. He stated by using an energy wholesaler the Borough could see significant savings in energy costs. Attorney Cushing noted that the law requires that municipalities go out to bid when seeking to buy energy from an energy wholesaler. Attorney Cushing noted that Bid specs would need to be prepared. He would have to look into this as not too many municipalities have done this yet. Council concurred that preliminary research should be done on this.

Resolution 215-2010 Redemption of Tax Sale Certificate

Resolution 215-2010 was moved on a motion made by Housel, seconded by Cioni and adopted.

Roll Call: Housel, Cioni, Gleba, McDonald, Valentine, Higgins, Boyle

Ayes: 7, Nays: 0
Motion Carried

RESOLUTION # 215-2010

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to Lionheart Holdings, LLC, PO Box 3059 Memorial

Station, Montclair, NJ 07042, in the amount of \$3,480.09 for taxes or other municipal liens assessed for the year 2009 in the name of Giordano, Dominick P and Cindly L, as supposed owners, and in said assessment and sale were described as 26 Lenape Trail, Block 101.01 Lot 24, which sale was evidenced by Certificate #10-00043; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 12-09-10 and before the right to redeem was cut off, as provided by law, Wells Fargo Home Mortgage claiming to have an interest in said lands, did redeem said lands claimed by Lionheart Holdings, LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$10,200.60, which is the amount necessary to redeem Tax Sale Certificate #10-00043.

NOW THEREFORE BE IT RESOLVED, on this 21st day of December 2010 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Lionheart Holdings, LLC, PO Box 3059 Memorial Station, Montclair, NJ 07042 in the **amount of \$15,800.60** (this amount consists of \$10,200.60 + \$5,600.00 Premium).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 101.01 Lot 24 from the tax office records.

Resolution 216-2010 Redemption of Tax Sale Certificate

Resolution 216-2010 was moved on a motion made by Housel, seconded by Cioni and adopted.

Roll Call: Housel, Cioni, Gleba, McDonald, Valentine, Higgins, Boyle

Ayes: 7, Nays: 0
Motion Carried

RESOLUTION # 216-2010

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to Stonefield Inv Fund I, LLC, 21 Robert Pitt Drive #202, Monsey, NY 10952, in the amount of \$466.79 for taxes or other municipal liens assessed for the year 2009 in the name of Parker, Monica, as supposed owners, and in said assessment and sale were described as 81 Flower Avenue, Block 66.01 Lot 14, which sale was evidenced by Certificate #10-00022; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 12-09-10 and before the right to redeem was cut off, as provided by law, Corelogic Tax Services, LLC claiming to have an interest in said lands, did redeem said lands claimed by Stonefield Inv Fund I, LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,006.20, which is the amount necessary to redeem Tax Sale Certificate #10-00022.

NOW THEREFORE BE IT RESOLVED, on this 21st day of December 2010 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Stonefield Inv Fund I, LLC, 21 Robert Pitt Drive #202, Monsey, NY 10952 in the **amount of \$1,006.20**.

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 66.01 Lot 14 from the tax office records.

Resolution 217-2010 Resolution Authorizing the Waster Water Engineer to Move Forward with the Geographic Information System Mapping of the Borough's Sanitary Sewer/Storm Sewer Collection System

Resolution 217-2010 was moved on a motion made by Housel, seconded by Valentine and adopted.

Councilman Boyle asked if this is a want or a need for the Borough. Manager Phelan stated this is a want. Manager Phelan explained that this will give us a better idea of why the Borough experiences high inflow and infiltration in the system. Councilman Boyle stated the sewer committee should have reviewed this.

Roll Call: Housel, Cioni, McDonald, Valentine – Yes
Gleba, Higgins, Boyle – No

Ayes: 4, Nays: 3
Motion carried

Resolution 217-2010
RESOLUTION AUTHORIZING THE BOROUH'S WASTE WATER ENGINEER
TO MOVE FORWARD WITH GEOGRAPHIC INFORMATION SYSTEM
MAPPING OF THE BOROUGH'S SANITARY SEWER AND STORM SEWER
COLLECTION SYSTEM

WHEREAS, the Borough Council of the Borough of Washington has a desire to move forward with Geographic Information System Mapping of the Borough's Sanitary Sewer and Storm Sewer Collection System; and

WHEREAS, Resolution 78-2009, also known as the "Scope of Services Resolution" states in part that "Before the start of any project, a scope of services shall be presented to

the Mayor and council, by the respective professional(s) including variables and cause and effect, and estimated costs with sufficient details so the Mayor and council can make an informed decision whether to consider this project at all and if so, which direction to take”; and

WHEREAS, attached to this resolution is a proposal from the Borough’s Waste Water Engineer outlining the scope of the proposed project; and

WHEREAS, the Borough’s Waste Water Engineer was awarded a contract via Resolution 11-2010, to which there is a sufficient balance of funds to pay for Phase 1 of the project as recommended in the attached memorandum from the Borough Manager.

NOW THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Washington hereby authorizes the Borough’s Waste Water Engineer to proceed with Phase 1 of the project in as stated in the Borough Managers memorandum.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Suburban Consulting Engineers.

Resolution 202-2010 Sustainable Jersey Municipal Certification Program (tabled from previous meeting)

Resolution 202-2010 was moved on a motion made by Valentine, seconded by Cioni and adopted.

**Resolution 202-2010
Resolution Supporting Participation
In the Sustainable Jersey™ Municipal Certification Program**

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, The Borough of Washington strives to save tax dollars, assure clean land, air and water, improve working and living environments as steps to building a sustainable community that will thrive well into the new century; and

WHEREAS, The Borough of Washington hereby acknowledges that the residents of Washington Borough desire a stable, sustainable future for themselves and future generations; and

WHEREAS, The Borough of Washington wishes to support a model of government which benefits our residents now and far into the future by exploring and adopting sustainable, economically-sound, local government practices; and

WHEREAS, by endorsing a sustainable path the Borough of Washington is pledging to educate itself and community members further about sustainable activities and to develop initiatives supporting sustainable local government practices; and

WHEREAS, as elected representatives of Washington Borough, we have a significant responsibility to provide leadership which will seek community-based sustainable solutions to strengthen our community:

NOW THEREFORE BE IT RESOLVED, that to focus attention and effort within Washington Borough on matters of sustainability, the Governing Body wishes to pursue local initiatives and actions that will lead to Sustainable Jersey Municipal Certification.

BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Washington that we do hereby authorize Rich Phelan to serve as The Borough of Washington's agent for the Sustainable Jersey Municipal Certification process and authorize the Municipal Registration on behalf Washington Borough

Resolution 218-2010 Recreation Fees 2011

Resolution 218-2010 was moved on a motion made by Housel, seconded by Cioni and adopted as amended.

Discussion: Councilman Cioni stated that he handed out to Council his recommendation of the Recreation fees for 2011. Councilman Higgins stated he agrees with Councilman Cioni's proposal.

Council agreed to amend the Resolution as follows:

Incorporate all of Councilman Cioni's recommendations and change the daily field usage fees for Borough residents to \$30 per day and the non Borough resident to \$60 per day. Also, change the field usage fees for four or more days for Borough residents to \$175.00 and non Borough residents to \$250.00.

Ayes: 7, Nays: 0
Motion Carried

RESOLUTION NO. 218-2010

RESOLUTION MEMORIALIZING THE ESTABLISHMENT OF RECREATION FEES FOR 2011

WHEREAS, the Borough Manager/Recreation Director provided the Mayor and Council with a proposed fee schedule for pool and park activities; and

WHEREAS, in that fees were reviewed to determine whether they are fair to the public and fairly reflect the reasonable cost of public facilities, taking into account such

municipal expenses as wages and benefits, insurance, utility costs, maintenance and repair costs and other unpredictable costs incurred by the Borough to operate the Borough's recreational facilities; and

WHEREAS, the Mayor and Council have reviewed the attached fee schedule as proposed by the Borough Manager/Recreation Director and wish to memorialize the approval of the 2011 fee schedule, a copy of which fee schedule is attached to this resolution and will be posted on the Borough website.

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

The 2011 Recreation Fee Schedule, in the form attached to this resolution, is hereby approved. **Washington Borough Recreation Department**
2011 Fee Schedule

	Borough Resident	Non-Borough Resident
Girl's Softball	\$45 per participant	\$50 per participant
Karate/Self-Defense	\$50 per participant	\$55 per participant
Swim Team**	\$55 per participant	\$60 per participant
<u>**All Swim Team participants are also required to become members of the Borough Pool and pay the appropriate pool membership fees in addition to participant fees. Pool membership can be done on an "Individual" or "Family" basis at the participant's discretion.</u>		
Swim Lessons	\$55 per participant	\$65 per participant
Pool Membership		
Family	\$175	\$250
Individual	\$110	\$125
Senior	Free	\$25
Youth Soccer	\$55 per participant	\$65 per participant
Field Hockey	\$60 per participant	\$75 per participant

Men's Basketball	\$60 per participant	\$70 per participant
Team sponsor (In addition to participant costs as applicable)	\$500	\$500

Youth Basketball	\$55 per participant	\$65 per participant
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Street Hockey	\$50 per participant	\$60 per participant
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Miscellaneous Fees

Late Fee (Applies to all participants that sign up after applicable deadline)	\$15 per participant	\$15 per participant
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Field Usage Fee (In addition to participant costs as applicable)		
Daily Fee	\$30	\$60
4 or more days per season	\$175	\$250
Lighting at park	\$55 per night	\$55 per night

Resolution 219-2010 Resolution requesting Warren County Freeholders Place a Freeze on the Collection of Open Space Tax

Resolution 219-2010 was moved on a motion made by Housel, seconded by Higgins and adopted.

Ayes: 7, Nays: 0
Motion Carried

Councilwoman Gleba suggested reaching out to the Freeholders to schedule a meeting to discuss regarding County taxes paid by the Borough and how the money is applied towards the Borough. Council agreed. Manager Phelan will reach out to the Freeholder Board.

Resolution 219-2010

RESOLUTION OF THE BOROUGH OF WASHINGTON, COUNTY OF WARREN
AND STATE OF NEW JERSEY REQUESTING THE WARREN COUNTY
FREEHOLDERS PLACE A FREEZE ON THE COLLECTION OF OPEN SPACE TAX
FOR THE YEAR 2011

WHEREAS, in the November election in 1993 the voters of the County of Warren approved by a non-binding referendum to raise property taxes by a rate of \$.02 per \$100 of equalized real property valuation to provide dedicated revenue for land acquisition. Again in 1999 a similar referendum was asked of the citizens of Warren County to increase the tax by an additional \$.02 allowing the Freeholders to collect \$.04 per \$100 of assessed property value. In 2002 another \$.02 was approved by the voters allowing the Freeholders to collect \$.06 per \$100 of assessed property value; and

WHEREAS, the Borough of Washington has since 2003 paid the County of Warren an open space tax that has totaled to date approximately \$2,130,000.00; and

WHEREAS, in addition to the Borough of Washington, Warren Counties 21 other municipalities have also paid Open Space Tax; and

WHEREAS, the County of Warren has established The Agriculture Development Board, The Board of Recreation Commissioners and The Municipal and Charitable Conservancy Trust Fund Committee all of whom have a primary purpose of funding projects in accordance with N.J.S.A. 40:12-15.1 et seq.; and

WHEREAS, over the years these boards have provided funding for eligible projects such as acquisition of open space, recreation, farmland and historic preservation; and

WHEREAS, although the Borough of Washington supports the conservation of open space, the protection of our natural resources and the necessity of preserving our historic sites, it is the state of the economy compounded by the State of New Jersey's budget deficit that every municipal government will be faced with a difficult budget process due to uncertain municipal aid, decreasing revenues and increasing mandates.

NOW, THEREFORE, BE IT RESOLVED, by copy of the Resolution to each Warren County Municipality the Borough of Washington requests the Warren County Freeholders to provide relief to each municipality by placing a freeze on the collection of the Open Space Tax for the year 2011.

Approval of Shared Service Agreement between the Borough of Washington and the Business Improvement District for Snow Removal.

Approval moved by Valentine, seconded by Cioni and adopted.

Roll Call: Cioni, Gleba, McDonald, Higgins, Boyle - Yes
Valentine, Housel – No

Ayes: 5, Nays: 2
Motion Carried

SHARED SERVICE AGREEMENT
BETWEEN THE BOROUGH OF WASHINGTON AND
THE WASHINGTON BUSINESS IMPROVEMENT DISTRICT
REGARDING SNOW REMOVAL

THIS AGREEMENT, made this 21st day of December 2010, between the BOROUGH OF WASHINGTON, a municipal corporation in the County of Warren, State of New Jersey, having its principal offices at 100 Belvidere Ave., Washington, New Jersey, 07882, (hereinafter referred to as the “Borough”) and the WASHINGTON BUSINESS IMPROVEMENT DISTRICT, a not-for-profit corporation of the State of New Jersey, having its principal offices at 21 Belvidere Ave., Washington, NJ 07882 (hereinafter referred to as the BID”), and

WHEREAS, the BID has approached the Borough for assistance in providing snow removal services to certain sidewalks located within the Downtown Business District, and

WHEREAS, the Borough has the equipment, supplies and manpower to be able to assist the BID with snow removal without impairing its ability to provide snow removal as required in the rest of the Borough; and

WHEREAS, the BID will reimburse the Borough for snow removal services provided; and

WHEREAS, the sharing of the cost of snow removal services will benefit both the Borough and the BID by increasing the efficiency of snow removal and decreasing the costs; and

WHEREAS, both parties have approved the Agreement; and

WHEREAS, the Agreement shall be known as the WASHINGTON BOROUGH – WASHINGTON BUSINESS IMPROVEMENT DISTRICT SNOW REMOVAL SHARED SERVICE AGREEMENT;

NOW, THEREFORE, IN CONSIDERATION of the promises, covenants, terms and conditions set forth, it is mutually agreed as follows:

1. The Borough agrees to remove snow that has accumulated near the curb on the following sidewalks located within the Downtown Business District, as outlined in “Exhibit A”:
 - a. Route 57 East and West from School Street to Lincoln Ave.
 - b. Broad Street from Allegar Street to Rt. 57

- c. Belvidere Ave. from Rt. 57 to Church Street
2. The above-referenced sidewalks will only be cleared of accumulated snow when the following conditions have been met:
 - a. The Borough must receive a minimum of twenty-four (24) hours advance notice of the BID's intention to utilize Borough services. Said notice must come directly from the BID Executive Director (or designee) to the Borough Manager.
 - b. Accumulated snow will not be removed at any location until the Borough has completed the removal of snow on all other public property located within the Borough. At a minimum, the accumulated snow will not begin to be removed from the sidewalks referenced in this agreement until forty-eight (48) hours after the snow fall has ceased, weather permitting.
 3. **The Borough's actions pursuant to the terms of this Agreement do not relieve any property owner from responsibility for clearing sidewalks of snow and ice. The ultimate responsibility for such snow/ice control/removal on all of the sidewalks referenced in this Agreement remains on the property owner as dictated in Chapter 75 of the Borough Code of the Borough of Washington, as amended.**
 4. For the 2010 – 2011 winter season, the BID agrees to pay the Borough \$118.00 per hour for labor, equipment, and materials.
 - a. The Borough will issue a monthly bill to the BID for any services rendered during the month.
 - b. The hourly service fee charged in the Agreement may be adjusted on a yearly basis to account for increases in cost attributable to labor, equipment or materials. Under no circumstances will the Borough increase the hourly rate without adequate justification and notice to the BID so it can properly allocate additional funds. Should an increase be required, sufficient documentation will be supplied to the BID to support the hourly rate change.
 5. The Borough's maintenance workers will be considered employees of the Borough at all times when providing services pursuant to the terms of this Agreement whether on Borough, BID or Private property. The Borough will provide workers compensation, liability and motor vehicle insurance for its employees.
 6. This Agreement shall become effective on December 21, 2010 and shall continue in effect for a period of twelve (12) months, expiring on December 20, 2011, unless either party to this Agreement gives thirty days (30) written notice of its intention to terminate its participation in the Agreement. This Agreement may be extended for an additional twelve (12) month period upon passage of a resolution by the Borough and BID respectively.

7. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the Borough of Washington and the Washington Business Improvement District have caused this Agreement to be signed and attested to by their respective officers and their respective seals to be affixed hereto the day and year first above written.

Resolutions 221-2010 through 224-2010

Resolutions 221-2010 through 224-2010 were moved on a motion made by Higgins, seconded by Gleba and adopted.

Roll Call: Higgins, Gleba, Valentine, Housel, Cioni, McDonald, Boyle

Ayes: 7, Nays: 0

Motion Carried

RESOLUTION #221-2010

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF WASHINGTON,

WARREN COUNTY, ASSIGNING A LABOR LIEN ON BLOCK 71 LOT 3

WHEREAS, Section 91-1 of the Code of the Borough of Washington (the Code) provides that weeds and vegetable growths in excess of one foot in height are a public nuisance; and

WHEREAS, Section 91-3 that the Borough can cause such nuisance to be abated; and

WHEREAS, Section 91-4 provides that the costs of the abatement done under Section 91-3 be charged to the property owner as a labor lien on the property.

WHEREAS, the Zoning Code Enforcement Officer of the Borough has certified, per the attached, that the owner of the property of the property at 107 Harding Drive, identified on the tax maps of the Borough as Block 71 Lot 3 was in violation of Section 91-1 of the Code so that it was necessary for the Borough to take action to cut and bag the grass; and

WHEREAS, the Zoning Code Enforcement Officer has certified that the Borough incurred costs of \$708.00 to correct the violation.

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 under the provisions of Section 75-70 et seq the Tax Collector is hereby authorized and directed to place a lien in the amount of \$708.00 on the property at 107 Harding Drive, identified on the tax maps of the Borough as Block 71 Lot 3.

RESOLUTION #222-2010
RESOLUTION FOR REDEMPTION OF TAX SALE CERTIFICATE
as per N.J.S.A.54: 5

KNOW ALL PERSONS BY THESE PRESENTS, THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to Borough of Washington, 100 Belvidere Avenue, Washington, NJ 07882 in the amount of \$450.42 for taxes or other municipal liens assessed for the year of 2009 and in the name of Ritter, Theresa as supposed owners, and in said assessment and sale were described as 142 Belvidere Avenue, Block 30 Lot 4, which sale was evidenced by Certificate #10-00015.

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 12-06-2010 and before the right to redeem was cut off, as provided by law, Chase/FARETS claiming to have an interest in said lands, did redeem said lands claimed by Borough of Washington, and last above mentioned, by paying to the Collector of Taxes of said taxing district of Washington Borough the amount of \$500.82, which is the amount necessary to redeem Tax Sale Certificate #10-00015.

NOW THEREFORE BE IT RESOLVED, on this 21st day of December, 2010 by the Mayor and Council of the Borough of Washington, County of Warren authorizes the Mayor to sign Certificate #10-00015 for cancellation.

BE IT FUTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 30 Lot 4 from the tax office records.

RESOLUTION # 223-2010

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to US Bank Cust Empire Tax Fund I, TLGS; 2 Liberty Place, 50 South 16th Street 1950, Philadelphia, PA 19102, in the amount of \$20,729.21 for taxes or other municipal liens assessed for the year 2009 in the name of Barton, John M, as supposed owners, and in said assessment and sale were described as 108 Route 31 South, Block 84 Lot 2, which sale was evidenced by Certificate #10-00029; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 11-29-10 before the right to redeem was cut off, as provided by law, John

M Barton claiming to have an interest in said lands, did redeem said lands claimed by US Bank Cust Empire Tax Fund I by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$41,060.62, which is the amount necessary to redeem Tax Sale Certificate #10-00029.

NOW THEREFORE BE IT RESOLVED, on this 21st day of December 2010 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to US Bank Cust Empire Tax Fund I, TLSG; 2 Liberty Place, 50 South 16th Street Ste 1950, Philadelphia, PA 19102, in the amount of **\$41,060.62**.

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 84 Lot 2 from the tax office records.

RESOLUTION #224-2010

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL MEN BY THESE PRESENTS, THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on December 4, 2008 to John LaFlamme, in the amount of \$173.84 for taxes or other municipal liens assessed for the year 2007 in the name of Pedersen, Alan and Martina, as supposed owners, and in said assessment and sale were described as 264 East Washington Avenue, Block 70 Lot 7 C0264, which sale was evidenced by Certificate #08-00452; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 11-30-10 and before the right to redeem was cut off, as provided by law, Alan Pedersen, claiming to have an interest in said lands, did redeem said lands claimed by John LaFlamme, by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$3,488.17, which is the amount necessary to redeem Tax Sale Certificate #08-00452.

NOW THEREFORE BE IT RESOLVED, on this 21st day of December, 2010 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to John LaFlamme, 9 Lisa Ct, Oxford, NJ 07863 in the amount of **\$3,488.17**.

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 70 Lot 7 C0264 from the tax office records.

VOUCHERS

Motion made by Cioni, seconded by Housel to approve the claims and vouchers in the amount of \$ 367,287.99

Ayes: 7, Nays: 0

Abstain: 2 (Higgins – Fire Department Invoices, Gleba – Finelli Consulting Invoices)

Motion Carried

RECAP

Manager Phelan will see if the energy grant can be used to update the bulbs downtown with LED bulbs. He will update the Recreation fees resolution and will reach out to the Warren County Freeholders to discuss County taxes.

COUNCIL REMARKS

Councilman Boyle wished Councilman Cioni and Councilman Housel much luck in the future and stated he enjoyed working with them over the years.

Councilman Higgins thanked Councilman Cioni and Councilman Housel for their service to the Borough. Councilman Higgins reported he visited the new DPW Garage and his happy it is complete.

Councilwoman Gleba noted that she read in the Managers report that the Historical Society will do research on the cannon. She motioned to have the cannon place on the National Historic Registry, seconded by Councilman Boyle. Ayes: 7, Nays: 0 Motion Carried. She requested the Resolution regarding the reserved for uncollected taxes be placed on the next agenda. She wished Councilman Cioni and Councilman Housel luck in the future.

Councilman Valentine thanked Councilman Cioni and Councilman Housel for the help they have given him.

Mayor McDonald stated both Councilman Cioni and Councilman Housel will be missed. He thanked Councilman Housel for his dedication for the Borough for seventeen years.

Councilman Cioni stated the last four years have been wonderful serving his community. He thanked Councilman Housel for being an inspirational role model.

Councilman Housel thanked his fellow Council members and his constituents for everything over the last seventeen years. He will enjoy his retirement from the Governing Body and wishes everyone luck in the upcoming year.

EXECUTIVE SESSION

A motion was made by Higgins, seconded by Housel, to enter into Executive Session to discuss Contract Negotiations at 9:40 p.m.

Ayes: 6, Nays: 0
Nays: 1 (Boyle)
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;

X Pending or anticipated litigation or contract negotiation in which the public body is or may become a party; (The general nature of the litigation or contract negotiations is: Shared Service Agreement_____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.)

 Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: _____ OR _____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.);

 Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is: OR _____ 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 Higgins, seconded by Cioni, to exit Executive Session at 9:45 p.m.

Ayes: 7, Nays: 0
Motion carried.

Hearing no further business, a motion was made by Housel, seconded by Valentine, to adjourn the meeting at 9:45pm.

Ayes: 7, Nays, 0
Motion Carried.

Mayor Scott McDonald

Kristine Blanchard, Borough Clerk