

# TOWNSHIP OF WASHINGTON, WARREN COUNTY

Regular Minutes  
October 19, 2010

The regular meeting of the Township Committee was held this date at the Washington Township Municipal Building, 211 Route 31 North, Washington, N.J. The meeting was called to order at 7:30 p.m. by Mayor Samir Elbassiouny.

SUNSHINE LAW COMPLIANCE - The Mayor noted that this meeting was being held in compliance with the Open Public Meetings Law of 1975 in as much as a notice had been published in the Star Gazette, transmitted to the Express Times and a copy is posted at the municipal building. This Agenda is subject to change by the order of the Washington Township Committee before and/or during the scheduled meeting.

## ROLL CALL

Elbassiouny, present; Klingel, present; Kovacs, present. Michael Lavery, Township Attorney; Mary Ann O'Neil, Township Clerk; Peter de Boer, Administrator/Certified Public Works Manager; Jeff Cooper, Assistant Municipal Supervisor of Public Works and Police Chief James Mc Donald was also present. Marks and Strunk were absent.

## SALUTE TO FLAG

## APPROVAL OF MINUTES

Kovacs made a motion to approve the Regular Meeting Minutes of September 21, 2010, Klingel seconded. ROLL CALL: Kovacs, yes; Klingel, yes; Elbassiouny, yes.

Klingel made a motion to approve the Executive Meeting Minutes of September 21, 2010, Kovacs seconded. ROLL CALL: Klingel, yes; Kovacs, yes; Elbassiouny, yes.

## ORDINANCES

Kovacs made a motion to open Ordinance 10-11 Ordinance to Amend an Ordinance Fixing the Salaries of the Officers and Employees of the Township of Washington, County of Warren, State of New Jersey, #2010-01 (Replacing 10-08), to the public, Klingel seconded. All were in favor. Nobody from the public wished to be heard. Kovacs made a motion to close the public hearing, Klingel seconded. All were in favor. Kovacs made a motion to approve ordinance 10-11, after public hearing and second reading, Klingel seconded. ROLL CALL: Kovacs, yes; Klingel, yes; Elbassiouny, yes.

Kovacs made a motion to introduce Ordinance 10-12 Ordinance to Create a New Chapter of the Township Code regarding Placement of Mailboxes, Basketball Equipment and Yard Damage by Municipal Equipment during Storm Operations on Township Owned Right -of-Way, Klingel seconded.

ROLL CALL: Kovacs, yes; Klingel, yes; Elbassiouny, yes.

Public Hearing and Second Reading will be November 15, 2010.

Klingel made a motion to open Ordinance 10-13 Ordinance Revising, Amending and Supplementing Chapter 71 of the Code of the Township of Washington, County of Warren, State of New Jersey Entitled "Fees", to the public, Kovacs seconded. All were in favor. Nobody from the public wished to be heard. Kovacs made a motion to close the public hearing, Klingel seconded. All were in favor. Klingel made a motion to approve Ordinance 10-13, after public hearing and second reading, Kovacs seconded.

ROLL CALL: Klingel, yes; Kovacs, yes; Elbassiouny, yes.

Kovacs made a motion to introduce 10-14 Ordinance Amending, Revising and Supplementing Chapter 72 Subsection 72-9A (6) of the Code of the Township of Washington, Entitled, "Fire Prevention, Klingel seconded.

ROLL CALL: Kovacs, yes; Klingel, yes; Elbassiouny, yes.

Public Hearing and Second Reading will be November 15, 2010.

Kovacs made a motion to introduce Ordinance 10-15 Ordinance Amending, Revising and Supplementing Section 117-23 Entitled "No Parking" of the Code of the Township of Washington "Vehicles and Traffic, Klingel seconded.

ROLL CALL: Kovacs, yes; Klingel, yes; Elbassiouny, abstain.

Public Hearing and Second Reading will be November 15, 2010.

## RESOLUTIONS

The Mayor asked if anyone wanted to pull any resolutions; otherwise, they would be approved with a consent approval. de Boer asked that 10-153 be pulled, it had not been completed in time for the meeting. Also Resolution 10-152 was pulled. Kovacs made a motion to approve Resolutions 10-150, excluding 10-152 and 10-153, through and including 10-156, Klingel seconded.

ROLL CALL: Kovacs, yes; Klingel, yes; Elbassiouny, yes.

- 10-150 Resolution Imposing Halloween Curfew Establishing Observance of Trick or Treat in the Township
- 10-151 Refund Resolution, Block 50, Lot 5
- 10-154 Chapter 159 Budget Amendment, Police Body Armor
- 10-155 Refund Resolution, Block 82, Lot 19.14
- 10-156 Cancel 2010 Taxes, Block 38, Lot 22 C0029

Klingel made a motion to approve Resolution 10-152, Resolution to Authorize and Approve Salaries and Wages for Certain Employees (Crossing Guards), Kovacs seconded.  
ROLL CALL: Klingel, yes; Kovacs, yes; Elbassiouny, yes.

#### STAFF ADMINISTRATION

Chief Mc Donald handed out his report, there were no questions.

Cooper handed out his report, there were no questions.

de Boer distributed his October Report. He said the Township did receive SAGE Grant Money, third quarter on Washington Borough Police Shared Service for \$5918.76 and first payment from Oxford Shared Service in the amount of \$15,171.57.

The only other item he wanted to discuss was the Public Bid Document Proposal on the Salt Shed Facility for the Department of Public Works. Finelli Consulting Engineers had been authorized to provide a proposal for professional services with the preparation of public bid documents on the salt storage facility. It has become apparent that the project will exceed the public bid threshold of \$36,000. This will require the project to be publicly advertised for bidding. The additional cost for services related to the preparation of the associated construction specifications, public bid documents, pre-bid meeting, bid advertisement, bidders questions, bid opening, post bid review, recommendation for award and attendance on the matter would not exceed \$2800. Kovacs made a motion to authorize Finelli Consulting Engineers to prepare bid and all follow up at a price not to exceed \$2800, Klingel seconded.

ROLL CALL: Kovacs, yes; Klingel, yes; Elbassiouny, yes.

#### PUBLIC QUESTIONS/CONCERNS

Kathleen Enz, 18 Spring Lane, said it was interesting that Mr. de Boer had no reports to make. She wrote him a letter two months ago and has been waiting very patiently for some answers. She spoke to him the other day and he said nothing has been done. She would like to know why. Lavery said he would answer this. Enz she said she did not ask him, she asked de Boer. Lavery said Mrs. Enz, since I have been Township Attorney in this Township, in all due respect, you are a nice person, but you have brought up this dispute you have with your neighbor many times. On each occasion, you have been told that the Township is not going to be drawn into the neighbor dispute. You have tried to get the Township involved into things that are being litigated or have been litigated. You wrote letters to various Township Departments. Lavery answered her and said, with all due respect, I think all of these items were covered in the litigation that you had with your neighbor. Would you please provide me with a copy of the court order? He knew she had it, because it had been presented in years past. There was an order from the court, whether you settled the case or were ordered to do something, that will tell him exactly what her or neighbors are required to do. All the issues that he saw in the letter were the exact same issues that she has been fighting about with the neighbors for years. Enz said this is true. Lavery said, his job, as Township Attorney, is try to keep the township and tax payers from having getting sued and spending further legal fees. He asked for a copy of the order, it wasn't provided. Instead, another letter was sent. The one issue not covered by litigation was the one with regard to the tax assessor and the neighbors property. This is Mrs. Schmidt's jurisdiction. She was copied on his letter to Enz, Schmidt can do what she sees fit regarding Enz's concerns.

As Township Attorney, Lavery said, the same issues have come up again and again. If he had a copy of the court order, whether a consent order or an order by the judge, then he could at least tell the township the other issues raised are not covered by that. It seems like, once again, you are looking to draw the township into the neighbor dispute. Lavery said he has always responded to her letters, she may not have wanted to hear the responses, but he did respond. Enz asked if she could say something. She said she got the response. The reason she did not send the copy is she does not have it. It was sent to their attorney. It was one page. It had the drawing, four signatures and witnesses on it. It came back to her as eight pages of gobbledy goo, which she refused to sign. They did it three times, it was nonsense. So anyway, they have all the copies. She will try to get one from their attorney if that is what the Township has to have. However, she has made her mind up, this is going to end. This started with this Committee and so help me God, she doesn't think anybody anticipated the fire storm this has caused. It has caused her a lot of money, aggravation and a lot of upset.

Enz said she had asked, very politely, if any permits had been given out for road opening on Spring Lane. Mr. de Boer said no, so that answered the one question. They certainly did not get a permit from her to open into her driveway. So that is the next thing. There is a number of other things. The Mayor asked who she was referring to, the Township did nothing. Enz said she did not give them permission to open into her driveway.

Enz said she was hoping the other two committee people would be here, because only three of you were on the committee at that time. Your attorney at that time, told them they could not dig up in the right-a-way, they could not spray paint, etc. They ignored this. When they were asked for a meeting with committee, they refused. She cannot even go on with it. She recently spent lot of time in court, so help me God, about the gravel in her driveway getting on their property and cars going in and out. So, she put a block across this time when she was getting new gravel, it stayed for a couple of days, which surprised her. She wasn't sure what was going to happen. She brought pictures to show committee. The bottom line is, that property is beautiful, every blade of grass stands up straight, but where it joins her property, they have trashed her driveway for the past few years. There have been accidents in her driveway. She has put up a signs to that effect. Mr. Bocko sent her a notice that she could not put up signs. She got to 13 accidents, you all saw them. The policemen have been lied to three times, on three different occasions. They told them they had an opening for that permit, they did not.

Enz said this did start here, you did not cause it, but it has happened and she wants it done. The Mayor asked Enz, the last time when she came, you said you did have a settlement agreement. Enz said yes, but they did not uphold it. The Mayor said she said today she never signed it, so there is none in place if she did not sign it. Enz said it was signed as it should have been, but they sent back eight pages, instead of the one paragraph they agreed on, she did not sign. It included such things as she had to plow the snow to the north in her driveway away from their property, cannot pave her driveway, she can only put asphalt or gravel on it. This is nonsense and there is also a paragraph they could sue me if they did not like what she was doing at the end of her driveway. Enz said this had been taken into the court and she thought it had been settled. They set the terms, she finally agreed. She gave them half the money, they moved one rock, they were going to have their surveyor do it, report it and put into the two deeds so it would be forever usable. The check was cashed the next day, which was supposed to be held in escrow until this was done. Sixty days went by, ninety days, 120 days, four months, she finally called their surveyor. She found he had done the survey, but apparently he found something and told them they did not need the easement, they fired him. So, to date, he has not been paid. They sent a second surveyor out there, he made a survey, it is a triangle in the middle of the oasis. There are no markings on the survey, it does not show that opening into the driveway. She refused to accept it. That is how it stands. This information had all been sent to the Township. She sent the secret survey they had made that was sent to the soil conservation agency that showed the stone row there and they are going to put in a 25 foot wide driveway. She had to really look for that, because that is what they gave the third cop and he never read it. It said very clearly on there that any permits or licenses needed had to be given by the Township. That opening they carved out at night, in the dark probably, she doesn't know. After she went out for the mail in the afternoon it was fine, the next morning it was done. So, they did it at night, pushed it through. When the cop came, they gave him the soil conservation thing. She has a couple other questions. She really wants some answers and she thinks the Township has an obligation to end this.

Lavery told her she has not been able to end this after how many years of litigation. She has a settlement somewhere that she said they violated. Enz said they did not uphold it in any way, not in any way. Lavery said, during all this fighting with the neighbors, she had a very capable attorney representing her, if they had violated the court order or didn't abide by their side of the settlement, you could file a motion to enforce the settlement and it would be done. These are the same issues that he heard years ago and every few months. This is a civil matter, which she cannot resolve with her neighbor even though they have been in court for years. There is no criminal violation as far as he can see. Enz said they violated making a road opening without a permit. That is clear on the Township. They also have a derelict truck sitting in yard. There is a law about unlicensed trucks. She asked Jeff Cooper, do you remember a couple years ago they set out the big tv in her driveway and the DPW had to come pick it up. Cooper did not remember. Enz said de Boer sent a crew out to pick it up.

Enz said there was a bag set out there the other day after she blocked the driveway. When she went out there was a black plastic bag and she wondered why this was in her driveway. The next day was to be her trash pick up, they do not have trash pick up. She checked the bag, it was dirt. She thought what is this all about. She finally found out and she is waiting for repercussions. She asked if Cooper picked up or the trash people. Cooper did not know. She was curious, because of what has been going on at the end of the driveway.

Enz asked the Committee if they contacted Soil Conservation Agency about this fraud. The Mayor asked her what fraud. Enz said when they applied for normal maintenance - Lavery said, with all due respect, if she thinks fraud has been committed by her neighbor with the survey, she should contact Soil Conservation. Enz said she did. They said, at that time, they were only supposed to go after 5000 square feet or more, which this obviously was not. Today, they do every spot. The survey was specifically sent to them, to get a certificate that said they did not need anything. The cop did not read it or obviously he would have seen it. Lavery said the only thing that the Soil Conservation Agency does is stabilizing soil for work on your property. That is the extent of their jurisdiction. Enz said you do not apply for that to open one driveway, it was certainly less than 5000 square feet.

Enz asked if the Committee has contacted the DEP about all the trees being cut down along the trout stream. Enz said, "you people have been in trouble before with the DEP." Lavery said they are not in trouble with the DEP, the township did not cut any trees down. Lavery told Enz, if want to turn your neighbor in to the DEP because you think they are doing something wrong, she should pick up the phone and call the DEP. She said she has called all the numbers supplied to her, she never gets an answer. Lavery said if she saw something, she should report it. Enz said she has left information, nobody returns her call. She said she felt the Township may have more pull on something like this. Lavery said unless somebody from the township actually saw a violation being done, he would not advise DEP be called on a tax payer. If the tax payer calls and says my neighbor did this, he would advise the neighbor to call. Lavery said if she reported it to DEP and they are not sending enforcement out here....Enz said she asked if they had asked anybody about it. Lavery said when he got her letter, he told de Boer not do anything, after he read the letter, because all of the issues were things she should enforce on her own, as she allegedly saw the things. The remainder of the charges were all things she has brought up on numerous occasions, trying to draw the Township into the litigation between her and the neighbor. Lavery said, by her own admission, there is a court order that she entered into or court settlement she entered into that apparently she believes they are not abiding by. He has asked for a copy of the order, so if there is anything not covered, he could recommend to the Township they may want to follow up on, she did nothing. Enz said if they want eight pages of gobbledy goop, she can get that. Enz said the original copy she did sign, she did not sign this. Kovacs, asked whatever paperwork she has should be provided to the Township, the Township Attorney has to look at it.

Enz said this started years ago when they wanted the road paved. She disagreed, it was a perfectly good solid road. She asked the committee go look at it before they voted on it. The Committee, Engineer and even the Attorney went up and looked at it. The next meeting you decided to keep maintaining the road and not pave. That is when this started. The following week she started this campaign and it is still going on. Enz said the neighbor is still driving in and out of her driveway. Enz said Lavery had asked for pictures and she had some. This has been going on for weeks, since she got gravel. She is going to get hit, she cut her off the other day. There is no reason why she cannot go across the road from her barn. There is no reason for her to come up through the woods and use her driveway. Its as simple as that. Kovacs again asked her to bring in her paperwork so the attorney can see it.

Enz said she was going to leave a list of what she wants, it is very simple. The list consider of five things: (1) must remove 3 large boulders back into stone row; (2) must stop placing smaller rocks along edge of property line "in the traveled way;" (3) must stop approaching people in the Enz drive; ((4) must amend both deeds to reflect use of drive by farm and (5) should close gate opening opposite Enz mailbox and use gate at their barn. It is not a complicated issue, she just wants that. She will pursue this. The rocks keep moving in and out of her driveway and she is tired of it. Enz said, if they are not sure, the picture of the log is where she put it so the gravel did not travel and to keep her out of her driveway. Lavery said he wanted to give her some unsolicited advice, do not do anything illegal. It was his understanding that when she dropped the log on the property, she came in and told that she had done it. Enz said she knows the neighbor has called. Lavery said, in his opinion she is trying to draw the Township to fight this battle that she cannot settle with her neighbor. Enz said she will bring in the paperwork she has, but it is not signed.

Public portion ended at 7:55 p.m. Klingel made a motion to close the public portion of the meeting, Elbassiouny seconded. All were in favor.

#### NEW BUSINESS

1-4 Klingel made a motion to approve Sue Berger and Dianne Edwards attending a UCC Seminar "What In Your Report in Clinton, NJ on October 22, 2010, also approve the request from Dianne Edwards to attend a seminar "Unlock Mysteries of Grant Writing Process at Warren County Community College on October 26 and approve the request from Peter de Boer to attend Grant Writing in Newark, NJ on October 28 and 29, 2010, Kovacs seconded.

ROLL CALL: Klingel, yes; Kovacs, yes; Elbassiouny, yes;

5. Pohatcong Creek Watershed Native Plant Arboretum - Anthony Pasquini was present to discuss this project. He said the arboretum is located on Mine Hill Road, Pohatcong Natural Area and was originated as a Rutgers Project. It was planted by Warren Hills students in the fall of 2002. He has planted new things, weeded and maintained it since then, with some help from the DPW. The Rush Log Cabin, picnic area, trail system and arboretum, comprise the exceptional municipal park. The project shows a display garden of the local native trees and shrubs found in the Pohatcong Creek Watershed area.

Pasquini said that now they have an opportunity to complete and transform this project into a full-fledged professional arboretum. He asked if the Public Works Department could edge the beds, mow the tall grasses and place hardwood oak chips around each grouping of plants. This would facilitate the placement of identification plaques, with common name and botanical name with aluminum posts to signify the botanical and common names for each plant species in the arboretum. He requested that Washington Township bring this remarkable project to completion as part of the Washington Township Municipal Park System. It is an educational resource and a recreational resource for township residents and students of the area.

Pasquini would like to see the Township or another organization fund the plaques for the plant groupings. The cost would be between \$800 and \$1200 to do this. This would also make the project easier to take care of by the DPW. Pasquini said he would be available to work with DPW on identifying the plants. Klingel asked if Rutgers would help with plaques. Pasquini said there is no more funding left to do this. de Boer said they have worked with Pasquini in the past and will help where necessary. The Mayor said, at this time, the Township can have the DPW help where necessary, but the plaques will have to wait until another time. Kovacs told Pasquini to advise the Township, before the end of the year, exactly what he wants and they will consider during budget time. (public portion ended at 8:11 p.m.)

#### REPORT FROM OFFICIALS

Michael Kovacs had nothing to report.

Robert Klingel had nothing to report.

Mayor Samir Elbassiouny advised the public that the November meeting would be Monday, November 15, 2010. Also, if any Committee Person is interested in going to League of Municipalities, let him know so they can register and get tickets. de Boer was told by the Mayor to advise Finance that Klingel will also be attending.

Mayor Elbassiouny said that Mary Ann O'Neil, Township Clerk, who has served the Township with an outstanding dedication for 17 years is retiring. She has done a great job and served the residents of the Township gracefully as well. She is an outstanding individual. She was always there to help the Committee. She was the first Clerk in Warren County History to become a Master Municipal Clerk and so far, the only one in Warren County to hold this title. She never shied away from getting better and making the job of the Committee easier. Obviously, you know the right hand is the person actually in the office doing all the work. He was sad she was leaving, but wished her well. He thanked her for all she has done for the Township. The official date of retirement is January 1, 2011. Kovacs commented, he and Palazzi interviewed O'Neil 17 years ago. If he knew she was going to leave so soon, they never would have hired her.

Elbassiouny said they will evaluate where they are personnel wise and possibly put out a notice to get some resumes in to fill the position. They will need someone to review resumes and do interviews. Kovacs volunteered to do this. Klingel will do if Kovacs is unavailable. They will review the resumes and bring information to Committee. de Boer asked if they wanted to do an ad for an Administrative Assistant. It was decided to advertise for a Clerk and Deputy Clerk. Klingel made a motion to advertise for a Clerk and a Deputy Clerk, Kovacs seconded.

ROLL CALL: Klingel, yes; Kovacs, yes; Elbassiouny, yes.

#### PAYMENT OF BILLS

Klingel made a motion to pay the bills, Kovacs seconded.

ROLL CALL: Klingel, yes; Kovacs, yes; Elbassiouny, abstain.

#### EXECUTIVE SESSION

Klingel made a motion at 8:14 p.m. to approve Resolution 10-157 Resolution Authorizing Executive Session of the Washington Township Committee for a meeting not open to the public in accordance with the provisions of the New Jersey Open Public Meetings Act N J S A 10:4-12, Kovacs seconded. All were in favor. Lavery said they would be discussing five items, a personnel matter, two attorney/client privilege matters, two contractual matters and one pending litigation.

The doors were opened. Kovacs made a motion to come out of Executive Session at 9:22 p.m., Klingel seconded. All were in favor.

Lavery said they discussed (1) Attorney/Client Matter on the Solar Farm Issuer, (2) Contractual Matter on Shared Service with Washington Boro, (3) Litigation, Wolfe vs Washington Township, (4) Attorney/Client Matter on Fairway Mews and Contractual Matter, Shared Service Mansfield, Code and Construction Office. Copies of these minutes will be available at such time the Township determines there is no harm to the public interest.

There being nothing further to come before the Committee, Klingel made a motion to adjourn at 9:22 p.m., Kovacs seconded. All were in favor.

Respectfully submitted,

Mary Ann O'Neil RMC/CMC/MMC  
Township Clerk