

**TOWNSHIP OF WEST CALDWELL
PUBLIC MEETING MINUTES
AUGUST 5, 2014**

A Regular Meeting of the West Caldwell Mayor and Council, in the County of Essex, New Jersey, was held in the Public Meeting Room, 30 Clinton Road, West Caldwell, New Jersey, on Tuesday, August 5, 2014 at 7:45 P.M.

The Township Clerk announced that adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act.

PRESENT: Mayor Tempesta, Councilmen Otterbein, Cecere, O'Hern, and Wolsky.

ABSENT: Councilmen Hladik and Docteroff

OTHERS PRESENT: Adam Brewer, Township Administrator
Paul G. Jemas, Township Attorney
Mary S. Donovan, Township Clerk

Pledge of Allegiance

Mayor Tempesta asked the residents for special prayers for the family of Jack McCormack, a long-time resident of West Caldwell and volunteer whose passing was a loss for the community.

APPROVAL OF MINUTES:

On the recommendation of Council President Otterbein, seconded by Councilman O'Hern, it was regularly moved that the Minutes of the Regular Meeting held on Tuesday, July 15, 2014 be accepted as presented.

Upon the vote being polled, Councilmen Otterbein, Cecere, O'Hern, and Wolsky voted in the affirmative.

BILLS ORDERED PAID:

It was regularly moved by Councilmen Wolsky, seconded by Council President Otterbein that the Bill List as amended by the Chief Financial Officer be attached to the Minutes and be paid and that the Mayor, Clerk and Treasurer be authorized to sign the necessary warrants for their payment.

Upon the vote being polled, Councilmen Otterbein, Cecere, O'Hern, and Wolsky voted in the affirmative, except Councilman Cecere abstained on check number 1970.

PENDING ORDINANCE:

The Township Clerk read the title of an Ordinance entitled "No. 1765 AN ORDINANCE TO ESTABLISH THE REIMBURSEMENT OF ADMINISTRATIVE AGENT'S FEE FOR THE SALE OF AN AFFORDABLE HOUSING UNIT" and stated that the Ordinance had been published and posted as a Pending Ordinance in the manner required by law and was now due for a hearing and further consideration.

Mayor Tempesta stated that this was the time for a public hearing and asked if anyone wished to be heard.

No one responded and it was regularly moved that the Public Hearing be closed.

Upon the vote being polled, Councilmen Otterbein, Cecere, O'Hern, and Wolsky voted in the affirmative.

It was regularly moved by Councilman Cecere, seconded by Councilman Wolsky that the Ordinance be passed on second reading.

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Upon the vote being polled, Councilmen Otterbein, Cecere, O’Hern, and Wolsky voted in the affirmative.

The Township Clerk read the title of an Ordinance entitled “No. 1765 AN ORDINANCE TO ESTABLISH THE REIMBURSEMENT OF ADMINISTRATIVE AGENT’S FEE FOR THE SALE OF AN AFFORDABLE HOUSING UNIT”.

It was regularly moved by Councilman Cecere, seconded by Councilman Wolsky that the Ordinance be passed on third and final reading and that it be published as a passed Ordinance in the manner required by law.

Upon the vote being polled, Councilmen Otterbein, Cecere, O’Hern, and Wolsky voted in the affirmative.

Administrator Brewer recommended that the Council delete the resolution for Ms. Nestor because she has taken another position elsewhere and also to remove the resolution on natural gas online auction from the consent agenda for further discussion.

PROPOSED CONSENT AGENDA:

It was regularly moved by Council President Otterbein, seconded by Councilman Wolsky, that the fifteen Resolutions on the Agenda this evening be read by consent.

Upon the vote being polled, Councilmen Otterbein, Cecere, O’Hern, and Wolsky voted in the affirmative.

The Township Clerk read the following fifteen Resolutions by Consent, attached and made part of these Minutes:

No. 9488
By: Mr. O’Hern

SUBJECT: RESOLUTION – AUTHORIZING GOVERNOR’S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FISCAL GRANT EXTENSION JULY 2014 – JUNE 2019.

WHEREAS, the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, the Township Council of West Caldwell, County of Essex, State of New Jersey, recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and,

WHEREAS, the Township of West Caldwell Council, further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Township of West Caldwell Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Essex.

NOW, THEREFORE, BE IT RESOLVED by the Township of West Caldwell, County of Essex, State of New Jersey hereby recognizes the following:

1. The Township of West Caldwell Council does hereby authorize submission of a strategic plan for the Caldwell / West Caldwell Municipal Alliance grant for the 2014 fiscal year (July 1, 2014 – June 30, 2015) in the amount of:

- A) DEDR \$ 27,700.00 (West Caldwell Township to administer DEDR Funds)
- B) Cash Match \$ 17,500.00 (West Caldwell Township Pays \$6,000)
- C) In Kind \$ 54,950.00

TOTAL ALLIANCE BUDGET (A+B+C) = \$100,150.00

2. The Township of West Caldwell Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

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No. 9489

By: Mr. Hladik

SUBJECT: RESOLUTION – APPOINTING MICHAEL E. MAGUIRE AS A MEMBER OF THE LIBRARY BOARD OF TRUSTEES OF THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, the Township of West Caldwell desires to appoint a member to the Library Board of Trustees; and

WHEREAS, Michael E. Maguire, 65 Annin, West Caldwell, NJ 07006 is willing and able to serve as member of the Library Board of the Township of West Caldwell; and;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Caldwell, in the County of Essex, as follows:

1. Michael E. Maguire is appointed as a member of the Library Board in accordance with N.J.S.A. 40:56A-1 and N.J.S.A. 45:55D-23, effective August 5, 2014 until December 31, 2014.
2. All Township officials are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this Resolution.

No. 9490

By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING PAYMENT PLAN FOR CRANE’S MILL UNPAID UTILITY BALANCES.

WHEREAS, Crane’s Mill, 459 Passaic Avenue, West Caldwell, NJ 07006, owes \$104,634.94 in previously unbilled water and sewer bills;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Caldwell, in the County of Essex, as follows:

1. Crane’s Mill will pay \$5,813.05 monthly, beginning September 2014 and ending December 2015.
2. All Township officials are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this resolution.

No. 9491

By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING ANNUAL REPORT OF AUDIT FOR THE YEAR 2013.

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, The Annual Report of Audit for the fiscal year ended December 31, 2013 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations," and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have reviewed and familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A Local Officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

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NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of West Caldwell, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

No. 9492
By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING APPROVAL OF CHANGE ORDER #4 IN THE AMOUNT OF \$6,900.00.00 FOR THE MEMORIAL PARK FIELD LIGHTING PROJECT FOR THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, the Governing Body of the Township of West Caldwell previously awarded the contract for the Memorial Park Field Lighting Project to Quality Electric, in the amount of \$730,691.00 (the “Contract”); and

WHEREAS, it has been determined that certain changes to this Contract are necessary; and

WHEREAS, during the course of the Contract, it was discovered that the following minor modifications were required:

1. Removal of trees

WHEREAS, the cost for these modifications is \$6,900.00 and results in a 0.94% increase over the original Contract amount;

WHEREAS, these minor modifications represent no substantial change to the quality or character of the items or work provided or the overall Contract amount;

WHEREAS, the Chief Financial Officer has certified in writing that funds are available for the payment of these minor modifications; and

WHEREAS, based upon the recommendations of the Township Administrator, Construction Official and the project Architect, the Governing Body wishes to approve this change order; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Caldwell, in the County of Essex as follows:

1. The above listed change order to the Contract for the Memorial Park Field Lighting Project to Quality Electric be and hereby is approved.
2. A written amendment to the contract shall be executed covering the changes made by said change orders.
3. The appropriate municipal officials are hereby authorized to execute said change orders.
4. The change to the contract price is as follows:

| | |
|---|--------------|
| Original Contract Price | \$730,691.00 |
| Amount of Previous Change Orders | 73,141.40 |
| Amount of Change Order #1 | 6,900.00 |
| New Contract Price with All Change Orders | \$810,732.40 |
| Percent Increase of Change Order #3 | 0.94% |
| Percent Increase of all Change Orders | 10.95% |

No. 9493
By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING REFUNDS, OVERPAYMENTS OR CANCELLATIONS IN THE RECREATION OFFICE.

WHEREAS, there is a need to issue refunds for Recreation programs and Pool Utility memberships collected in the Recreation Office as shown below; and

WHEREAS, the Director of Recreation recommends the refunds;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of West Caldwell that the proper officers be and they are hereby authorized and directed to transfer funds or issue checks to clear the refunds as shown below:

| <u>Name</u> | <u>Amount</u> | <u>Reason</u> |
|--|---------------|------------------------------------|
| Beth Faherty 17 Wilson Terrace West Caldwell, NJ 07006 | \$125.00 | Refund for Basketball camp/injured |

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No. 9494
By: Mr. Cecere

SUBJECT: RESOLUTION – AUTHORIZING RULES AND REGULATIONS FOR THE TOWNSHIP OF WEST CALDWELL POLICE DEPARTMENT.

WHEREAS, pursuant to N.J.S.A. 40A:14-118, the Mayor and Council have created by Ordinance the Township of West Caldwell Police Department; and

WHEREAS, pursuant to N.J.S.A. 40A:14-118, the Mayor and Council, as the appropriate authority, have the inherent right, power and authority to, among other things, adopt and promulgate rules and regulations for the government and operation of the Township of West Caldwell Police Department; and

WHEREAS, the Mayor and Council have previously approved the adoption and implementation of the Township of West Caldwell Police Department Rules and Regulations (the "Rules and Regulations"), and the Police Department Policy Handbook (the "Handbook") as attached; and

No. 9495
By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING SETTLEMENT OF 2012 TAX APPEAL – 1104 BLOOMFIELD AVENUE LLC V. TOWNSHIP OF WEST CALDWELL, BLOCK 1800, LOT 26.

WHEREAS, an appeal of the real property tax assessment for tax year 2012, involving Block 1800, Lot 26, has been filed by the Taxpayer; and

WHEREAS, the proposed settlement agreement has been reviewed and recommended by the Township Tax Assessor; and

WHEREAS, settlement of said matter is more fully set forth below is in the best interest of the Township of West Caldwell.

NOW, THEREFORE, BE IT RESOLVED, by the Township of West Caldwell, New Jersey, as follows:

1. Settlement of the 2012 tax appeal is hereby authorized as follows:

1104 Bloomfield Avenue Year: 2012

| Original Assessment | Settlement Amount |
|----------------------------|--------------------------|
| \$995,700 | \$750,000 |

2. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provider by Taxpayer.

No. 9496
By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING SETTLEMENT OF 2012 TAX APPEAL – 1090 BLOOMFIELD AVENUE CORP V. TOWNSHIP OF WEST CALDWELL, BLOCK 1800, LOT 25.

WHEREAS, an appeal of the real property tax assessment for tax year 2012, involving Block 1800, Lot 25, has been filed by the Taxpayer; and

WHEREAS, the proposed settlement agreement has been reviewed and recommended by the Township Tax Assessor; and

WHEREAS, settlement of said matter is more fully set forth below is in the best interest of the Township of West Caldwell.

NOW, THEREFORE, BE IT RESOLVED, by the Township of West Caldwell, New Jersey, as follows:

1. Settlement of the 2012 tax appeal is hereby authorized as follows:

1090 Bloomfield Avenue Year: 2012

| Original Assessment | Settlement Amount |
|----------------------------|--------------------------|
| \$909,000 | \$700,000 |

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2. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provided by Taxpayer.

No. 9497

By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING A REVIEW OF COMPLIANCE WITH PRIOR ANNUAL CONTINUING DISCLOSURE OBLIGATIONS AND PARTICIPATION IN THE SECURITIES AND EXCHANGE COMMISSION'S MUNICIPALITIES CONTINUING DISCLOSURE COOPERATION INITIATIVE.

WHEREAS, the above-defined Issuer has previously issued one or more series of bonds, including in the past five (5) years pursuant to one or more preliminary and final official statements (collectively, the "Bonds"); and

WHEREAS, in connection with the issuance of such Bonds, the issuer covenanted with Bondholders to provide certain secondary market disclosure information on an annual basis to the Nationally Recognized Municipal Securities Information Repositories (pre-2009) and to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access Data Port (2009 to present) ("EMMA"), which secondary market disclosure information may consist of one or more of the following: audited financial statements, municipal budgets, other financial and operating data and ratings changes; and

WHEREAS, the Securities and Exchange Commission (the "SEC") has recently focused attention on what it alleges is widespread failure of local government issuers across the nation to meet their continuing disclosure obligations and misrepresentation through material misstatements in an official statement (innocently, inadvertently or otherwise) of past compliance with continuing disclosure obligations; and

WHEREAS, in an effort to remedy these perceived issues, the SEC has implemented the Municipalities Continuing Disclosure Cooperation Initiative (the "SEC Initiative"), a limited-time program ending at 12:00 a.m. on September 10, 2014, that encourages issuers of municipal bonds, including the Issuer, to self-report possible material misstatements or omissions, made in the past five (5) years in an official statement regarding compliance with prior continuing disclosure obligations; and

WHEREAS, should the SEC determine that an issuer has made material misstatements in an official statement regarding compliance with prior continuing disclosure obligations, issuers participating in the SEC Initiative agree to accept certain non-monetary penalties, in lieu of unknown, and, by all accounts, hefty monetary and non-monetary penalties the SEC has threatened on issuers that do not participate in the SEC Initiative; and

WHEREAS, by participating in the SEC Initiative, issuers agree to accept the following penalties, if imposed by the SEC (i) compliance with a cease and desist order in which the issuer neither admits nor denies the findings of the SEC, (ii) implementation of policies, procedures and training regarding continuing disclosure obligations, (iii) compliance with all existing continuing disclosure undertakings, (iv) cooperation with any further SEC investigation, (v) disclosure of settlement terms in any final official statement issued within five years of the date of institution of the proceedings, and (vi) production to the SEC of a compliance certificate regarding the applicable undertakings on the one year anniversary of the proceedings; and

WHEREAS, on July 24, 2014, the Division of Local Government Services issued Local Finance Notice 2014-9 (i) alerting local governments to the SEC Initiative, (ii) strongly recommending that local governments examine their continuing disclosure contractual obligations and past official statements in order to determine if it is advisable for an issuer to participate in the SEC Initiative and (iii) cautioning local governments that fail to complete a disclosure assessment in connection with the SEC Initiative will likely have difficulty accessing capital markets, difficulty in receiving timely approvals of the Local Finance Board or Director of the Division of Local Government Services, as applicable, and decreased scores on the future "Best Practices Questionnaires"; and

WHEREAS, the Issuer desires to conduct a disclosure audit which will (i) summarize the results of the Issuer's prior compliance with its secondary market disclosure obligations and (ii) compare those results to the statements made by the Issuer in its official statements regarding past compliance (the "Disclosure Audit"); and

WHEREAS, the Issuer further desires to retain the services of disclosure specialist to conduct the Disclosure Audit; and

WHEREAS, based on the results of the Disclosure Audit, and weighing heavily the known, non-monetary penalties that may come through the Issuer's participation in the SEC Initiative versus the unknown, and, by all accounts, hefty monetary and non-monetary penalties the SEC has threatened on issuers that do not self-report, the Issuer further desires to delegate to the Chief Financial Officer, in consultation with the Issuer's general counsel, bond counsel, auditor and other finance professionals, the power to prepare and submit all documentation required to enter the Issuer's Bond issues into the SEC Initiative, as necessary;

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NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE ISSUER, AS FOLLOWS:

Section 1. The Issuer hereby authorizes completion of the Disclosure Audit.

Section 2. The Issuer hereby authorizes the Chief Financial Officer to engage the services of a disclosure specialist to complete the Disclosure Audit; provided that the award of any contract in connection therewith meets the requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).

Section 3. In the event, the Disclosure Audit reveals that the Issuer may have made a material misstatement regarding the Issuer's compliance with prior continuing disclosure undertakings, the Issuer hereby authorizes and directs the Chief Financial Officer to prepare and submit all documentation necessary to enter the Issuer's applicable Bond issues into the SEC Initiative.

Section 4. Any action taken by the Chief Financial Officer, or any other officer of the Issuer, with respect to the Disclosure Audit, the engagement of a disclosure specialist and participation in the SEC Initiative is hereby ratified and confirmed.

Section 5. This resolution shall take effect immediately.

No. 9498

By: Mr. O'Hern

SUBJECT: RESOLUTION – APPOINTING CHERYL ANN GEANNETTE AS PART-TIME DEPUTY COURT ADMINISTRATOR FOR THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, the Township of West Caldwell desires to appoint a Part-time Deputy Court Administrator; and

WHEREAS, Cheryl Ann Geannette, 17 Peach Tree Avenue, East Hanover, NJ 07836, is willing and able to serve as the Part-time Deputy Court Administrator in the West Caldwell Court for the Township of West Caldwell; and;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Caldwell, in the County of Essex, as follows:

1. Cheryl Ann Geannette is appointed as Part-time Deputy Court Administrator, effective August 6, 2014, at an hourly rate of \$25.00, in accordance with the salary ordinance.
2. All Township officials are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this Resolution.

No. 9499

By: Mr. Cecere

SUBJECT: RESOLUTION – APPROVING THE APPOINTMENT OF THOMAS GARGIULO AS A JUNIOR FIREFIGHTER OF THE WEST CALDWELL VOLUNTEER FIRE DEPARTMENT.

RESOLVED, on the recommendation of the Chief of the West Caldwell Volunteer Fire Department that Thomas Gargiulo, 31 Francisco Avenue, West Caldwell, NJ, be designated as a Junior Firefighter of the West Caldwell Volunteer Fire Department, effective August 5, 2014.

No. 9500

By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING SETTLEMENT AGREEMENT WITH AL & JOHN FOR UNPAID SEWER BALANCES.

WHEREAS, Al & John, 147 Clinton Road, West Caldwell, NJ 07006, owed unpaid sewer balances from January 1, 2013 to March 31, 2014.

WHEREAS, Al & John has agreed to pay the aforementioned unpaid sewer balances;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Caldwell, in the County of Essex, as follows:

1. Al & John will pay \$80,000 for unpaid sewer balances from January 1, 2013 to March 31, 2014. The payment will satisfy any and all charges for the period.
2. All Township officials are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this resolution.

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No. 9501

By: Mr. O'Hern

SUBJECT: RESOLUTION – AUTHORIZING AWARD OF CONTRACT TO MATINA & SON, INC. IN THE AMOUNT OF \$275,000.00 FOR THE REPLACEMENT OF WATER MAINS ON FRANCINE AVENUE FOR THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, the Township of West Caldwell (referred to as the “Township”) solicited bids for the replacement of water mains on Francine Avenue in the Township (referred to as the “Project”) pursuant to a fair and open process in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, the Notice to Bidders and the Bid Documents have been reviewed by the Township governing body, the Township’s staff and the Township’s professional consultants including, but not limited to Omland Engineering Associates, Inc., the engineering consultant to the Township (referred to as the “Township Engineer”); and

WHEREAS, the Township received bids in response to the solicitation from three (3) bidders; and

WHEREAS, the Township Engineer and the Township’s staff undertook a completeness review of the submitted bids on the Project; and

WHEREAS, the Township has determined, based upon the review, analysis and evaluation of the Township’s staff and the Township Engineer that the lowest bid amount was submitted by John Garcia Construction Co., Inc. (referred to as “John Garcia”) and that the bid submitted by John Garcia has a material defect in accordance with applicable laws with the failure to provide two years of financial statements, which financial statements are required and necessary and therefore the bid submitted by John Garcia is therefore not responsive and that such bid is not qualified to be considered pursuant to the terms and conditions of the Notice to Bidders and applicable laws; and

WHEREAS, the Township has determined, based upon the review, analysis and evaluation of the Township’s staff and the Township Engineer that next lowest bid amount was submitted by MSP Construction Corp. (referred to as “MSP”) and that the bid submitted by MSP has a material defect in accordance with applicable laws with the failure to provide two years of financial statements, which financial statements are required and necessary and therefore the bid submitted by MSP is therefore not responsive and that such bid is not qualified to be considered pursuant to the terms and conditions of the Notice to Bidders and applicable laws; and

WHEREAS, the Township has determined, based upon the review, analysis and evaluation of the Township’s staff and the Township Engineer that the next lowest bid amount was submitted by Matina & Son, Inc. (referred to as “Matina”) and that the bid submitted by Matina is in compliance with the Notice to Bidders and Bid Documents and may be determined to be a responsive bid; and

WHEREAS, Matina submitted a bid with a Base Bid in the amount of Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00)

WHEREAS, the amounts of the aforementioned bids submitted by Matina are below the Township Engineer’s Project Base Bid; and

WHEREAS, the Township Engineer has recommended to the Mayor and Council that the Township award a contract to Matina for the Project for the amount Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00).

WHEREAS, the Township's Chief Financial Officer has certified that sufficient funding is available for this Project.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of West Caldwell, in the County of Essex and State of New Jersey that the governing body hereby approves of and awards a contract to Matina & Son, Inc. (referred to as “Matina”) for the Project for the Bid submitted by Matina in the amount of Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00) in accordance with the aforementioned statements and determinations set forth in this Resolution; and

BE IT FURTHER RESOLVED, that the Mayor, the Township Clerk and the Township Administrator are hereby authorized and directed to execute, deliver and exchange a contract in a form and with terms consistent with this Resolution, the Bid Notice, the Bid Documents and applicable laws, as approved by the Township Attorney; and

BE IT FURTHER RESOLVED, that all Township officials are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this Resolution.

No. 9502

By: Mr. O'Hern

SUBJECT: RESOLUTION – AUTHORIZING AN EXECUTIVE SESSION FROM WHICH THE PUBLIC IS EXCLUDED.

WHEREAS, The Township of West Caldwell (the “Township” or the “public body” has been duly created and is validly existing as a public body corporate and politic of the State of New Jersey pursuant to applicable laws of the State of New Jersey; and

WHEREAS, The Township constitutes a “public body” as such term is defined in the New

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Jersey Open Public Meetings Act, constituting Chapter 231 of the Pamphlet Laws of 1975 of the State of New Jersey, N.J.S.A. 10:4-6 et seq. and the acts amendatory thereof and supplemental thereto (the “Open Public Meetings Act”); and

WHEREAS, the Open Public Meetings Act permits a public body, as such term is defined therein, to exclude members of the public from portions of any “meeting”, as such term is defined therein including N.J.S.A. 10:4-12(b) et seq., under certain limited circumstances which include, but are not limited to, (a) a discussion of pending or anticipated litigation in which the public body is or may become a party, or (b) a discussion of any matters which fall within the attorney-client privilege, or (c) a discussion of a collective bargaining agreement including the negotiation of the terms and conditions thereof, or (d) a discussion regarding the purchase, acquisition or lease of real property with public funds or (e) a discussion of involving the employment, appointment or termination of employment of an existing or prospective public officer or employee; and

WHEREAS, the governing body of the Township has determined that and is of the opinion that such circumstances presently exist that permit the governing body of the Township to discuss the matters set forth in this Resolution in executive session; and

WHEREAS, the matters set forth in this Resolution are within the exceptions and the limited circumstances set forth in N.J.S.A. 10:4-12(b) et seq., the governing body of the Township desires to conduct a portion of the meeting in an executive session from which members of the public will be excluded.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWNSHIP OF WEST CALDWELL, in accordance with the provisions of The Open Public Meetings Act, that the governing body of the Township hereby determines to conduct a portion of the meeting in an executive session from which members of the public will be excluded in accordance with the provisions of Open Public Meetings Act; and

BE IT FURTHER RESOLVED, that the aforementioned executive session will be limited to matters relating to the following items and which matters involve, as applicable, pending and anticipated litigation involving or expected to involve the Township, matters which fall within the attorney-client privilege, matters regarding the discussion of a collective bargaining agreement, matters relating to purchase, acquisition or lease of real property with public funds or matters relating to personnel:

1. Contract Negotiation – PBA
2. Potential Litigation – DM Fernandes

BE IT FURTHER RESOLVED, that the minutes of each executive session will be prepared and maintained by the Township and with regard to each of the matters discussed in executive session; and

BE IT FURTHER RESOLVED, that the minutes relating to a particular matter discussed will be made available to members of the public – (a) at such time as the matter no longer requires confidentiality as permitted by applicable laws, (b) upon the completion of a pending or anticipated litigation, or (c) upon such matter no longer falling within the attorney-client privilege, (d) upon the completion of a collective bargaining agreement including the negotiation of the terms and conditions thereof, or (e) upon the completion of a purchase, acquisition or lease of real property with public funds, or (f) as such disclosure may otherwise may be required by the Open Public Meetings Act.

Council President Otterbein stated that “the rule of necessity” applies on the upcoming vote on the consent agenda because two councilmen are absent.

It was regularly moved by Council President Otterbein, seconded by Councilman Wolsky that the fifteen Resolutions read by consent be adopted as amended.

Upon the vote being polled, Councilmen Otterbein, Cecere, O’Hern, and Wolsky voted in the affirmative.

Administrator Brewer discussed the resolution “AUTHORIZING THE PURCHASE OF NATURAL GAS SUPPLY SERVICES FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE” and recommended that the Council vote on an amended resolution with a different strike price as follows: 12 month period 75 cents/therm; 18 months 73 cents/therm and for 24 months, 71 cents/therm.

Mayor Tempesta affirmed that after the auction if the Council doesn’t want the offered price, the Council can reject the offer. Administrator Brewer agreed the Council doesn’t have to accept the offer.

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No. 9503

By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING THE PURCHASE OF NATURAL GAS SUPPLY SERVICES FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE.

WHEREAS, Township of West Caldwell has determined to move forward with the EMEX Reverse Auction in order procure natural gas for Township of West Caldwell; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) (the “Act”) authorizes the purchase of natural gas supply service for public use through the use of an online auction service; and

WHEREAS, Township of West Caldwell will utilize the online auction services of EMEX, LLC, an approved vendor pursuant to the Act, waiver number EMEX LLC-1, located at www.energymarketexchange.com; and

WHEREAS, EMEX, LLC is compensated for all services rendered through the participating supplier that a contract is awarded to; and

WHEREAS, the auction will be conducted pursuant to the Act;

WHEREAS, if the auction achieves a price of \$0.75/therm or less for a 12 month term, a price of \$0.73/therm or less for an 18 month term, or a price of \$0.71/therm or less for a 24 month term; Township of West Caldwell may award a contract to the winning supplier for the selected term.

FURTHER RESOLVED, that the Township Council of the Township of West Caldwell be and hereby is authorized to execute on behalf of the Township of West Caldwell any natural gas contract proffered by the participating supplier that submits the winning bid in the EMEX Reverse Auction if the auction achieves a price of \$0.75/therm or less for a 12 month term, a price of \$0.73/therm or less for an 18 month term, or a price of \$0.71/therm or less for a 24 month term; Township of West Caldwell may award a contract to the winning supplier for the selected term.

It was regularly moved by Council President Otterbein, seconded by Councilman Wolsky that the above resolution be adopted as revised.

Upon the vote being polled, Councilmen Otterbein, Cecere, O’Hern, and Wolsky voted in the affirmative.

COMMITTEE REPORTS:

PUBLIC SAFETY COMMITTEE:

Councilman Cecere reported the following:

1. Captain Gerard Paris, Patrolman Greg Reusch, Cpl. Leonard Santiago and Detective Paul Mazzeo of the West Caldwell Police Department and Captain David Black of the West Essex First Aid Squad were honored for saving the life of Sgt. Fred Arnold of the Caldwell Police Department.
2. The Environmental Commission will be giving out the Beautification Awards at the Shop-Rite Concert on Thursday, August 7, 2014.

PARKS & RECREATION COMMITTEE:

In Councilman Hladik’s absence, Councilman Cecere reported the following:

1. The movie night at Westville Pool was very successful and the next movie night will be held August 22, 2014 at the Cedar Street Pool and the movie will be “Sand Lot”.
2. The senior luncheon will be held Wednesday, August 6, 2014 at the Westville Pool.
3. There may be an adults only night at one of the Township’s pools.

COMMUNITY PLANNING, DEVELOPMENT & TECHNOLOGY COMMITTEE:

In Councilman Docteroff’s absence, Councilman Cecere reported the following:

1. The pool modules are in place and the photo IDs will begin production possibly this season but definitely next season. It will let the Council know who uses the pool.

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PUBLIC WORKS & WATER

Council President Otterbein reported the following:

1. There are continuing and upcoming public works projects for the Township and they all are moving ahead.

LEGAL & PERSONNEL COMMITTEE:

Councilman O'Hern reported the following:

1. Councilman O'Hern discussed hiring for the Court and the difficulties of hiring a part-time person for the Court. He suggested that they not hire another part-time person for now.

Mayor Tempesta also discussed the difficulties of the hiring for the Court because it is state mandated and asked Administrator Brewer to see if the titles required for the Court are a statutory requirement of the State.

FINANCE AND WELFARE COMMITTEE:

There was no report.

MAYOR'S REPORT:

Mayor Tempesta acknowledged the life-saving efforts of the West Caldwell police officers. Mayor Tempesta also discussed the Beautification Awards and mentioned the awardees: Cav-West, West Caldwell Care Center, Rooms Unlimited, Plumber Local 24, and Toyota USA.

INVITATION TO CITIZENS FOR DISCUSSION:

There were no comments from the public.

ADJOURNMENT:

There being no other business, it was regularly moved that the meeting be adjourned.

Upon the vote being polled, Councilmen Otterbein, Cecere, O'Hern, and Wolsky voted in the affirmative.

Council adjourned at 8:12 pm.

Mary S. Donovan
Township Clerk