

**TOWNSHIP OF WEST CALDWELL
PUBLIC MEETING MINUTES
NOVEMBER 4, 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, November 4, 2014 at 7:15 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, Hladik, O'Hern, Wolsky and Docteroff.

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

Pledge of Allegiance

BILLS ORDERED PAID:

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

Councilman O'Hern requested Bill for Hendricks Tax Assessor be removed for further discussion.

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

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, October 21, 2014 be accepted as presented.

Upon the vote being polled, Councilmen Otterbein, Cecere, Hladik, O'Hern, and Docteroff voted in the affirmative with Councilman Wolsky abstaining because of absence.

PROPOSED CONSENT AGENDA:

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

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

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

No. 9544
By: Mr. Otterbein

SUBJECT: RESOLUTION – AUTHORIZING A GRANT APPLICATION AND EXECUTION OF A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE WESTOVER AVENUE RECONSTRUCTION PROJECT IN THE TOWNSHIP OF WEST CALDWELL.

NOW, THEREFORE, BE IT RESOLVED, that the Council of West Caldwell, New Jersey, formally approves the grant application for the above-stated project;

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2015-Westover Avenue Reconstruction -00515 to the New Jersey Department of Transportation on behalf of the Township of West Caldwell.

NOVEMBER 4, 2014

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of West Caldwell and that their signature constitutes acceptance of terms and conditions of the grant agreement and approves the execution of the grant agreement.

No. 9545
By: Mr. Cecere

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

WHEREAS, there appears on the tax records overpayments or otherwise as shown below; and
WHEREAS, the overpayments were created by the reasons indicated below, and the Collector of Taxes recommends the refund or transfers of such overpayments;

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 refunding such overpayments as hereafter shown below:

CODE OF REASONS

- | | |
|---|---|
| 1. Incorrect Payment-Refund | 9. Tax Title Lien Redemption |
| 2. Duplicate Payment-Refund | 10. Homestead Rebate/NJ Saver |
| 3. Vets, Senior Citizen Refund/Allow | 11. Apply Overpayment to Current Year |
| 4. Apply Overpayment to Next Year | 12. Cancellation of Credit of Less than \$5.00 |
| 5. Cancellation of Balance of Less than \$10.00 | 13. Cancellation of Taxes |
| 6. Assessment Changes | 14. Other - Cancellation of Credit Bal. over \$5.00 |
| 7. Tax Appeal | 15. Refund-Dog |
| 8. Overpayment-Refund | 16. Correction |

<u>Block</u>	<u>Lot</u>	<u>Owner Name</u>	<u>Amount</u>	<u>Year</u>	<u>Reason</u>
508	34	Reno & Marlene Mermini	\$14.03	2013/4	8
Water Acct #650				2014/1	

Make check payable to:
Pro Cap 4,LLC
1000 Haddonfield Berlin Road, Suite 203
Voorhees, NJ 08043

No. 9546
By: Mr. Otterbein

SUBJECT: RESOLUTION – REJECTING ANY AND ALL BIDS FOR MEMORIAL PARK PLAYGROUND ACCESSIBILITY IMPROVEMENTS PROJECT.

WHEREAS, the Township of West Caldwell (referred to as the “Township”) solicited bids for the Memorial Park Playground accessibility improvements (referred to as the “Project”) in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, the Township received and opened bids for the Project in conjunction with the aforementioned solicitation on September 30, 2014 at 10:00 a.m., prevailing time, in accordance with the Notice to Bidders (referred to as the “Notice to Bidders” or the “Bid Documents”); and

WHEREAS, the Notice to Bidders and applicable law provide that that the Township is not obligated to make an award and that the Township reserves the right to and is entitled to reject any and all bids; 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 five (5) bidders; and

WHEREAS, a certain bidder submitted a bid that may be determined to be a responsive bid (referred to as the “Responsive Bidder”); and

WHEREAS, the Responsive Bidder submitted a bid in the amount of ninety-two thousand eight hundred forty seven thousand dollars and fifty cents (\$92,847.50) and the amount of the bid of the Responsive Bidder exceeds the Township Engineer’s Project Estimate and therefore the remaining bid substantially exceeds the amount of funds appropriate for the Project; and

WHEREAS, the Local Public Contracts Law provides that a municipality or applicable governmental entity may reject all bids when the lowest responsive bid substantially exceeds the funds appropriate for the required goods and services; 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 Engineer and in conjunction with such review, the governing body of the Township has determined that it is in the better interest of the Township to reject any

NOVEMBER 4, 2014

and all bids in this matter for the aforementioned determinations; and

WHEREAS, the Township desires to re-advertise the Project and to authorize the Township Administrator to arrange to solicit bids for the Project in accordance with applicable laws.

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

1. Any and all bids received and opened for the Memorial Park Playground Accessibility Improvements Project (the "Project") be and are hereby rejected in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. including, but not limited to, N.J.S.A. 40A:13-2 et seq., the Notice to Bidder, the Bid Documents and other applicable laws for the statements and determinations set forth in this Resolution.
2. The Township Administrator and Township officials are hereby authorized and directed to take all action necessary and appropriate to prepare the bid documents for the Project to be re-advertised and to solicit bids for the Project in accordance with this Resolution and applicable laws.
3. All Township officials are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this Resolution.

No. 9547

By: Mr. O'Hern

SUBJECT: ADOPTING THE PERSONNEL POLICIES AND PROCEDURES MANUAL/EMPLOYEE HANDBOOK OF THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, it is the policy of the Township of West Caldwell to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations including, but not limited to Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, the Age Discrimination in Employment Act, the Equal Pay for Equal Work Act, the Fair Labor Standards Act, the New Jersey Law Against Discrimination, the Americans with Disabilities Act, the Family and Medical Leave Act, the Conscientious Employee Protection Act, the Public Employee Occupational Safety and Health Act, (the New Jersey Civil Service Act,) (the New Jersey Attorney General's guidelines with respect to Police Department personnel matters,) the New Jersey Workers Compensation Act, the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) and the Open Public Meeting Act; and

WHEREAS, the Mayor and Council have determined that there is a need for personnel policies and procedures to ensure that employees and prospective employees are treated in a manner consistent with these laws and regulations.

NOW, THEREBY, BE IT RESOLVED by the Township Council that the Personnel Policies and Procedures Manual/Employee Handbook attached hereto is hereby adopted.

BE IT FURTHER RESOLVED that these personnel policies and procedures shall apply to all Township of West Caldwell officials, appointees, employees, volunteers and independent contractors. In the event there is a conflict between these rules and any collective bargaining agreement, personnel services contract or Federal or State law, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail.

BE IT FURTHER RESOLVED that these policies are intended to provide guidelines covering public service by Township of West Caldwell employees and are not a contract. The provisions of these policies may be amended and supplemented from time to time without notice and at the sole discretion of the Township Council.

BE IT FURTHER RESOLVED that to the maximum extent permitted by law, employment practices for the Township of West Caldwell shall operate under the legal doctrine known as "employment at will."

BE IT FURTHER RESOLVED that Genova, Burns, Giantomasi & Website (Joseph Hannon, Esq.) is appointed as Special Counsel - Labor Counsel to advise the Township in personnel matters.

BE IT FURTHER RESOLVED that the Mayor, Township Administrator, and all managerial/supervisory personnel are responsible for these employment practices. The Human Resources Coordinator and Labor Counsel shall assist the Township Administrator, Legal & Personnel Committee and Mayor in the implementation of these policy and procedure revisions as well as the Personnel Manual in sum.

No. 9548

By: Mr. Otterbein

SUBJECT: RESOLUTION -- AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICE AGREEMENT WITH MASER CONSULTING, P.A. IN AN INCREASED NOT TO EXCEED AMOUNT OF \$8,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$13,000 IN THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, pursuant to the requirements under the Local Public Contracts Law, the following resolution be and is hereby adopted:

NOVEMBER 4, 2014

WHEREAS, there exists a need for environmental consulting services for a petroleum-impacted soil on Franklin Avenue. This project includes survey, design and construction management services;

WHEREAS, Resolution No. 9538 authorizing execution of a professional services agreement with Maser Consulting for environmental consultation was adopted October 21, 2014 for an amount not to exceed \$5,000;

WHEREAS, because of the nature of the oil spill and the ongoing roadway construction on Franklin Avenue, the amended cost is \$8,000; and,

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requirements that the resolution authorizing the award of contract for "Professional Services" without competitive bidding must be publicly advertised.

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

1. The Township of West Caldwell will execute an agreement with Maser Consulting, P.A., 400 Valley Road, Suite 304, Mount Arlington, NJ 07856 in accordance with the attached proposal.
2. Whereas, the contract was awarded through a fair and open process, pursuant to N.J.S.A. 19:44A-20.4 et seq., in that the vendor was awarded a professional services appointment for the year 2014.
3. All Township officials are hereby authorized and directed to take any and all action necessary and appropriate to effectuate the terms of this Resolution.

No. 9549

By: Mr. O'Hern

SUBJECT: RESOLUTION – AUTHORIZING I.U.O.E. LOCAL 68 CHARITY FUND, INC. ON PREMISE 50/50 RAFFLE, DECEMBER 4, 2014, LICENSE NO. 370, ID NO. 535-4-363-2.

WHEREAS, I.U.O.E. Local 68 Charity Fund, Inc has submitted a Raffle License Application No. RA 370, ID No. 535-4-363-2, for an on premise 50/50 Raffle to be held on December 4, 2014; and,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Caldwell, hereby approves Raffle License Application No. RA 370; and,

BE IT FURTHER RESOLVED that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

No. 9550

By: Mr. Cecere

SUBJECT: RESOLUTION – APPOINTING MATTHEW T. GRAZIOSA AS POLICE DISPATCHER FOR THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, the Township of West Caldwell desires to appoint a Police Dispatcher; and

WHEREAS, Matthew T. Graziosa, 147 Ravine Avenue, West Caldwell, NJ 07006, is willing and able to serve as a Police Dispatcher in the Police Department 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. Matthew T. Graziosa is appointed as Police Dispatcher, effective November 5, 2014, at a salary of \$29,400, in accordance with the salary ordinance.

No. 9551

By: Mr. Cecere

SUBJECT: RESOLUTION – APPOINTING OF CONOR MCCLAY AS AN AUXILIARY FIREFIGHTER OF THE WEST CALDWELL VOLUNTEER FIRE DEPARTMENT.

RESOLVED, on the recommendation of the Chief of the West Caldwell Volunteer Fire Department that the following be designated as an Auxiliary Firefighter for the West Caldwell Volunteer Fire Department, effective November 4, 2014:

Conor McClay, 23 Grover Lane, Caldwell, NJ,

NOVEMBER 4, 2014

No. 9552

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 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. Attorney/Client Privilege – Historical Society: Crane House lease; Area in Need of Rehabilitation
2. Potential Litigation – 2013 CDBG grant: 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.

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

Upon the vote being polled, Councilmen Otterbein, Cecere, Hladik, O'Hern, Wolsky and Docteroff voted in the affirmative, except Councilmen Otterbein, Cecere and O'Hern abstained on resolution no. 9551 because they are members of the West Caldwell Fire Department.

COMMITTEE REPORTS:

PUBLIC SAFETY COMMITTEE:

Councilman Cecere reported the following:

1. Two new police officers will be sworn in by December.
2. Leaves should be bagged in West Caldwell.

NOVEMBER 4, 2014

3. Coyotes are in the area and residents should be careful.
4. There will be a street naming of McNish Way on November 15 at 2 pm.

PUBLIC WORKS & WATER:

Council President Otterbein reported the following:

1. St. Charles Avenue and Mt. Herman Way reconstruction design is underway. A public information meeting for the residents of those streets will be scheduled over the winter.
2. Essex Place Water Main Extension plans are under review. It is anticipated that the project will begin in late 2014.
3. The Township received a \$244,000 grant from the New Jersey Department of Transportation for the reconstruction of Francisco Avenue.
4. Kirkpatrick Pump station update project will begin this month.
5. 2013 NJDOT Municipal Aid for Richard and Franklin Avenue Reconstruction - a progress meeting was recently held. It is anticipated that the project will be completed in mid-November.
6. Memorial Park bleachers have been relocated and the project close out should be completed in November.
7. The tanks for the DPW Fuel Depot project have been delivered and it is anticipated that the project will be completed in November.
8. A meeting concerning the Henderson Drive water main extension is scheduled to take place on November 7.
9. A municipal aid application has been submitted for the reconstruction of Westover Avenue.

PARKS & RECREATION COMMITTEE:

Councilman Hladik reported the following:

1. The pool committee had their end of the season meeting and he thanked the volunteer citizens for their hard work. Next season, movie nights and open house will continue. The photo ID system will be in place for next season and Councilman Docteroff was thanked for his work on the new system.
2. Marketing continues for ideas on creating new membership levels for the pools and Gabe DiMasi was thanked for his hard work and his attendance at a recent meeting of 20 area pool directors.
3. The baseball clinic for grades 2 through 8 will continue on Sundays and on November 23 will be the travel team tryouts.

LEGAL & PERSONNEL COMMITTEE:

The Township Clerk read the title of an Ordinance No. 1769 entitled "AN ORDINANCE REPEALING THE CONTENTS OF CHAPTER FIVE (5) OF THE MUNICIPAL CODE ENTITLED "PERSONNEL."

WHEREAS, Chapter Five (5) of the Municipal Code of the Township of West Caldwell is entitled "Personnel"; and

WHEREAS, the Township of West Caldwell has undertaken a review and analysis of the Township's Personnel Policies and Procedures by the Mayor, Council, the Township's Administrative Staff and professional consultants, which review and analysis included, but is not limited to, a review of such Personnel Policies and Procedures with applicable personnel and employment laws and the requirements or recommendations of the Township's insurance and other professional consultants; and

WHEREAS, the Mayor and Council, in consultation with the Township's Administrative Staff and the Township's professional consultants has determined that it is in the best interest of the Township to update and modify the Township's Personnel Policies and Procedures and, among other things, in conjunction with such an endeavor; and

WHEREAS, the Mayor and Council have further determined that it is necessary, appropriate and in the best interests of the Township to repeal the provisions of Chapter Five (5) of the Municipal Code and to establish and adopt, in lieu and replacement thereof, the Township of West Caldwell Personnel Policies and Procedures Manual/Employee Handbook;

NOVEMBER 4, 2014

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

Section 1. Chapter Five (5) of the Municipal Code, entitled "Personnel" is repealed and replaced as set forth in this Ordinance.

Section 2. If any article, section, subsection, paragraph, sentence, clause, phrase or other part of this Ordinance is adjudged or held or deemed to be unconstitutional or invalid, such judgment or decision will not affect and will not invalidate the remainder of this Ordinance, but such judgment or decision will be confined in its effect to such article, section, subsection, paragraph, sentence, clause, phrase or other part of this Ordinance that is directly involved in the controversy in which said judgment or decision will have been rendered and all other provisions of this Ordinance will remain in full force and effect.

Section 3. This Ordinance will take effect immediately upon passage and publication in accordance with applicable laws.

It was regularly moved by Councilman O'Hern, seconded by Councilman Wolsky that the Ordinance be passed on first reading; that it be published and posted as a pending Ordinance in the manner required by law and that the Public Hearing be held on Tuesday, November 25, 2014.

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

FINANCE AND WELFARE COMMITTEE:

There was no report.

COMMUNITY PLANNING, DEVELOPMENT & TECHNOLOGY COMMITTEE:

There was no report.

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, Hladik, O'Hern, Wolsky, and Docteroff voted in the affirmative.

Council adjourned at 7:35 pm to reconvene to Closed Session.

Mary S. Donovan
Township Clerk