

**TOWNSHIP OF WEST CALDWELL
PUBLIC MEETING MINUTES
November 1, 2016**

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 1, 2016 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: Councilmen Cecere, Hladik, Wolsky, Docteroff, Crudele and Councilwoman Canale.

ABSENT: Mayor Tempesta

OTHERS PRESENT: Adam W. Brewer, Business Administrator
Mary S. Donovan, Municipal Clerk
Paul G. Jemas, Esq., Municipal Attorney

Pledge of Allegiance led by Councilman Docteroff.

Councilman Hladik asked for prayers for West Caldwell residents and first responders.

COMMUNICATIONS:

- A-1 A communication from Nikole Monroig, Chief Financial Officer, certifying funds are available under the 2016 Budget of Appropriations – November 1, 2016 Schedule; further certifying that there will be no over-expenditures of any line item in the Budget as a result of this schedule.
- A-2 A communication from Nikole Monroig, Chief Financial Officer, certifying funds are available for resolution number 16-268.
- A-3 A communication from Nikole Monroig, Chief Financial Officer, certifying funds are available for resolution number 16-269.
- A-4 A communication from the Township of Fairfield concerning two ordinances.

All received and placed on file.

BILLS ORDERED PAID:

It was regularly moved by Councilman Wolsky, seconded by Councilman Docteroff that the Bill List as amended 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.

Upon the vote being polled, Councilmen Cecere, Hladik, Wolsky, Docteroff, Councilwoman Canale and Councilman Crudele voted in the affirmative.

APPROVAL OF MINUTES:

On the recommendation of Councilwoman Canale, seconded by Councilman Crudele, it was regularly moved that the Minutes of the Regular Meeting held on Tuesday, October 18, 2016 be approved.

Upon the vote being polled, Councilmen Cecere, Hladik, Wolsky, Docteroff, Councilwoman Canale and Councilman Crudele voted in the affirmative.

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CONSENT AGENDA:

Matters listed within the Consent Agenda have been referred to members of the Township Council for reading and study, are considered to be routine and will be enacted by one motion of the Township Council with no separate discussion. If separate discussion is desired, the resolution may be removed and be subject to a separate roll call.

Council President Cecere asked if any member of the public had any comments on any of the items on the Consent Agenda.

Administrator Brewer reported on the Closed Session item.

It was regularly moved by Councilman Hladik, seconded by Councilman Wolsky, that the eight Resolutions on the Agenda this evening be approved.

There were no comments.

The following eight Resolutions by Consent were made part of these Minutes:

No. 16-266
By: Mr. Wolsky

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 Balance over \$5.00 |
| 7. Tax Appeal | 15. Refund-Dog |
| 8. Overpayment-Refund | 16. Correction |
| | 17. Exempt property - refund |

<u>Block</u>	<u>Lot</u>	<u>Owner Name</u>	<u>Amount</u>	<u>Year</u>	<u>Reason</u>
1002	37	Suburban Mall V LLC	\$ 11,591.67	2011	7
		1 Dodge Drive	\$ 11,612.84	2012	7
		Total:	<u>\$ 23,204.51</u>		

**Make Check Payable to: Michael I. Schneck, Trustee
For Suburban Mall V LLC
301 South Livingston Ave, Suite 105
Livingston, NJ 07039**

1500	8	West Essex Ind Park	\$ 10,630.26	2011	7
		c/o Panel Graphic	\$ 11,202.56	2012	7
		10 Henderson Drive	\$ 1,394.83	2013	7
			\$ 442.56	2014	7
			\$ 3,498.67	2015	7
		Total:	<u>\$ 27,168.88</u>		

**Make Check Payable to: Brach Eichler LLC and West Essex Ind. Park
c/o Panel Graphic
101 Eisenhower Parkway
Roseland, NJ 07068**

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Building Standards Board	\$ 5,500.00		
Administrative and Executive			
Salary and Wages			\$ 5,250.00
Legal Services and Costs			
Other Expense			\$ 75,000.00
Engineering Services and Costs			
Other Expense			\$ 50,000.00
Planning Board			
Salary and Wages			\$ 1,500.00
Garbage Collection and Disposal			
Other Expenses			\$ 10,200.00
Construction Official			
Salaries and Wages			\$ 6,500.00
Terminal Leave			\$ 30,000.00
SUBTOTAL CURRENT FUND APPROPRIATIONS	<u>\$ 413,502.00</u>		<u>\$ 178,450.00</u>
APPROPRIATIONS EXCLUDED FROM CAPS			
Borough of Caldwell - Contract			\$ 15,052.00
Reserve for Prior Year Tax Appeals			\$ 220,000.00
SUBTOTAL EXCLUSIONS	<u>\$</u>		<u>\$ 235,052.00</u>
TOTAL CURRENT FUND APPROPRIATIONS	<u>\$ 413,502.00</u>		<u>\$ 413,502.00</u>

No. 16-268
By: Mr. Hladik

SUBJECT: RESOLUTION – AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH O’TOOLE FERNANDEZ WEINER AND VAN LIEU, LLC TO INCREASE THE CAP FOR LEGAL SERVICES IN THE AMOUNT OF \$25,000 FOR AN AMOUNT NOT TO EXCEED \$50,000.00.

WHEREAS, there exists a need for a Professional Service and the Township has determined to award this contract as a professional service, as defined in N.J.S.A. 40A:11-1 et seq. without obtaining competitive bids or quotations pursuant to the provisions of N.J.S.A. 19:44A-20.5 et seq., and in strict accordance with N.J.S.A. 40A:11-5 et seq.; and

WHEREAS, this professional services contract is contingent upon availability of funds in the Township Budget, and in the event of unavailability of such funds, the Township reserves the right to cancel this professional services contract; and

WHEREAS, Resolution No. 16-012 authorizing execution of a professional services agreement with O’Toole Fernandez Weiner and Van Lieu, LLC for legal services was adopted January 2, 2016 authorizing an amount not to exceed \$5,000.00; and

WHEREAS, Resolution No. 16-236 authorizing execution of a professional services agreement with O’Toole Fernandez Weiner and Van Lieu, LLC for legal services was adopted September 6, 2016 increasing the amount to exceed \$25,000.00; and

WHEREAS, there is a need to further increase the authorized amount by \$20,000.00 for a total not to exceed \$50,000.00 for the calendar year 2016.

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 O’Toole Fernandez Weiner and Van Lieu, LLC for an amount not to exceed \$50,000.00.
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 2016.
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.

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No. 16-269
By: Mr. Hladik

SUBJECT: RESOLUTION – AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH GENOVA BURNS LLC TO INCREASE THE CAP FOR LEGAL SERVICES IN THE AMOUNT OF \$20,000 FOR AN AMOUNT NOT TO EXCEED \$60,000.00.

WHEREAS, the Township of West Caldwell (the “Township”) requires certain legal services to be provided as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5 *et seq.* regarding professional services; and,

WHEREAS, Resolution No. 16-010 authorizing the award of a non-fair and open contract with Genova Burns LLC for legal services was adopted January 2, 2016 authorizing an amount not to exceed \$17,500.00; and

WHEREAS, Resolution No. 16-123, adopted April 5, 2016, authorized an additional \$7,500.00; and

WHEREAS, Resolution No. 16-235, adopted September 6, 2016, authorized an additional \$15,000.00; and

WHEREAS, there is a need to further increase the authorized amount by \$20,000.00 for a total not to exceed \$60,000.00 for the calendar year 2016; and

WHEREAS, Genova Burns LLC has previously completed and submitted a Business Entity Disclosure Certification that certifies that Genova Burns LLC has not made any reportable contributions to a political or candidate committee in the Township of West Caldwell in the previous one year, and that the contract will prohibit them from making any reportable contributions through the term of the contract, 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 Township of West Caldwell will execute an agreement with Genova Burns LLC for an amount not to exceed \$60,000.00.
2. 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. 16-270
By: Mr. Cecere

SUBJECT: RESOLUTION – AUTHORIZING THE APPOINTMENT OF BRIAN W. ZIMMER AS A REGULAR POLICE OFFICER IN THE WEST CALDWELL POLICE DEPARTMENT, EFFECTIVE OCTOBER 20, 2016.

RESOLVED, on the recommendation of the Public Safety Committee and the West Caldwell Police Chief, that Patrolman Brian W. Zimmer, 1 Jefferson Drive, Spotswood, NJ 08884, has ably served his Probationary period beginning October 20, 2015 for the West Caldwell Police Department. Therefore, he is hereby approved as a regular police officer in the West Caldwell Police Department, effective October 20, 2016.

No. 16-271
By: Mr. Wolsky

SUBJECT: RESOLUTION – AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN 19 FAIRFIELD AVENUE, WEST CALDWELL AND THE TOWNSHIP OF WEST CALDWELL.

WHEREAS, there was an error associated with the direct withdrawal associated with Water Utility Account No. 1879-0; and

WHEREAS, Ms. Charlene Sasso’s Water Utility Account (No. 1879-0) was not properly charged in an amount totaling \$1,362.46, creating an outstanding balance in the same amount; and

WHEREAS, Ms. Charlene Sasso accepts and acknowledges her responsibility in paying the Township the total amount due but has requested to do so in a twelve (12) month payment plan, in equal installments of \$113.54, making the payments prior to the 15th of each month.

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

1. A twelve (12) month payment plan is authorized for Water Utility Account No. 1879-0, wherein equal installments of \$113.54 will be paid, prior to the 15th of each month, satisfying an outstanding balance of \$1,362.46.
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. 16-272
By: Mr. Hladik

SUBJECT: RESOLUTION – AUTHORIZING MUSIC AND MORE BOOSTER CLUB ON PREMISE 50/50 RAFFLE, NOVEMBER 17, NOVEMBER 19, AND NOVEMBER 20, 2016, LICENSE NO. 384, ID NO. 535-5-35501.

WHEREAS, Music and More Booster Club has submitted a Raffle License Application No. RA 384, ID No. 535-5-35501 for an on premise 50/50 raffle to be held November 17, November 19, and November 20, 2016; and,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Caldwell, hereby approves Raffle License Application No. RA 384; 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. 16-273
By: Mr. Hladik

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:

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.

Administrator Brewer reported on the closed item sessions

1. Contract Negotiations – Joint Police Dispatch with Borough of Caldwell; Municipal Services Act – Heritage of West Caldwell
2. Litigation – Dominate v. Township of West Caldwell; PBA out of rank pay grievance

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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 Councilman Hladik, seconded by Councilman Wolsky that the eight Resolutions listed be adopted.

Upon the vote being polled, Councilmen Cecere, Hladik, Wolsky, Docteroff, Councilwoman Canale and Councilman Crudele voted in the affirmative.

COMMITTEE REPORTS:

PUBLIC SAFETY:

1. There was no report.

LEGAL AND PERSONNEL:

Councilman Hladik reported on the following:

1. There was a volunteer appreciation party held on October 19 and it was well attended. The volunteers were thanked for their service.

Councilman Hladik also urged residents to vote on November 8.

FINANCE:

Councilman Wolsky reported on the following:

1. The staff is continuing their work on the 2017 Budget.
2. Environmental Commission sponsored a clean up of Wrensch Park several weeks ago and it was a success.
3. The Environmental Commission's Swap meet was cancelled because of the rain and will be rescheduled.

PUBLIC WORKS:

Councilman Docteroff reported on the following:

1. Water main replacement work is approximately 50% to 70% completed on Eastern Parkway. Once that work is finished, the Caldwell Gardens paving and water main work will be completed.
2. There will be a Camp Wyanokie budget meeting on December 3. All are invited.

PARKS AND RECREATION:

Councilwoman Canale reported on the following:

1. The Board of Health will meet on Wednesday, November 2 at 7 pm. All are invited.
2. Fall sports are winding down and winter sports will begin soon. There is a baseball clinic on Wednesday night.

TECHNOLOGY AND SHARED SERVICES:

Councilman Crudele reported on the following:

1. Senior bus for Caldwell/West Caldwell will be providing transportation on November 8 election day. Please call Maria Burak for a ride or notify the municipal clerk.

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ADVISORS' REPORTS:

Clerk Donovan stated today was the last day to apply for a vote by mail ballot although residents can travel to the Clerk's office by Monday, November 7 by 3 pm to apply to vote. Also, part-time board workers will be used as greeters for voters at Harrison, Washington and Jefferson schools.

MAYOR'S REPORT

There was no report.

INVITATION TO CITIZENS FOR DISCUSSION:

Lauren Green, 49 Parkview Avenue, had some concerns about the work being done in her neighborhood and the staging of equipment and the starting time of the contractors. Council President Cecere and Administrator Brewer stated they would reach out to the contractor to ascertain that the work is being done according to the contract.

ADJOURNMENT TO CLOSED EXECUTIVE SESSION:

Council President stated that the Council reserves the right to come out of closed session and vote on any matters.

On the motion of Councilman Hladik, seconded by Councilman Wolsky, the meeting adjourned at 7:36 pm to Closed Session.

Upon the vote being polled, Councilmen Cecere, Hladik, Wolsky, Docteroff, Councilwoman Canale and Councilman Crudele voted in the affirmative.

On the motion of Councilman Wolsky, seconded by Councilman Docteroff, the meeting reconvened to open session at 7:59 p.m.

Upon the vote being polled, Councilmen Cecere, Hladik, Wolsky, Docteroff, Councilwoman Canale and Councilman Crudele voted in the affirmative.

ADJOURNMENT

There being no further business before the Council, on a motion from Councilman Hladik and a second by Councilman Docteroff, the meeting adjourned at 8:00 pm. All were in favor.

Mary S. Donovan
Township Clerk