

**BOROUGH OF WESTWOOD  
PUBLIC MEETING OF THE MAYOR & COUNCIL  
DECEMBER 21, 2010 MINUTES  
MUNICIPAL COMPLEX  
101 Washington Avenue  
7:30 PM Executive Closed Session/8:00 pm Public Session**

**1. Opening of the Meeting:**

The meeting was called to order by Mayor Birkner at 7:30 pm. Mayor Birkner then read the Open Public Meetings Law Statement: "This meeting which conforms with the Open Public Meetings law, Chapter 231, Public Laws of 1975, is a regular Borough Council meeting. Notices have been filed with our local official newspapers and posted on the municipal bulletin board."

**2. Roll Call:**

Mayor Birkner – Present  
Councilmember Grefrath - Present  
Councilmember Phayre - Absent  
Councilmember Quinn - Present  
Councilmember Sciara - Present  
Councilmember Waneck - Present  
Council President Miller - Present  
Borough Administrator Hoffmann – Present  
Borough Attorney Huntington - Present  
Borough Clerk Hughes - Present

**Committee Assignments:**

Finance, Administration & Capital Projects  
Public Properties  
Health & Recreation  
Fire & Ambulance  
Land Use  
Police & OEM

**3. Executive Closed Session:**

**RESOLVED THAT** the Mayor and Council of the Borough of Westwood shall convene in Executive Closed Session to discuss the following matters:

Personnel Matters  
Pending/Potential Litigation  
Attorney's Report

Said discussions are deemed legally confidential pursuant to NJSA 10:4-12(b)

- (7) Litigation or contract negotiation, attorney/client
- (8) Employment matters

The Clerk is directed to keep separate minutes of the meeting which shall be made public Once that matter has been resolved.

**Motion to enter Closed Session with the intention to reconvene in Open Session:** Councilmember Waneck  
Second: Councilmember Sciara

Roll Call: Councilmember Grefrath - Yes  
Councilmember Phayre - Absent  
Councilmember Quinn - Yes  
Councilmember Sciara – Yes  
Councilmember Waneck - Yes  
Council President Miller – Yes

**4. Reopen the Meeting:**

**Motion to reopen the meeting:** Councilmember Waneck

Second: Councilmember Sciara

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 8:03 pm.

**5. Roll Call II:**

Mayor Birkner – Present  
Councilmember Grefrath - Present  
Councilmember Phayre - Absent  
Councilmember Quinn – Present  
Councilmember Sciara - Present  
Councilmember Waneck - Present  
Council President Miller - Present  
Borough Administrator Hoffmann – Present  
Borough Attorney Huntington - Present  
Borough Engineer Senkevich - Present  
Borough Clerk Hughes – Present

**6. Flag Salute**

Council President Miller gave the invocation. Mayor Birkner led those present in the salute to the flag.

**7. Proclamations Honoring Years of Service: Linda Koch, 20 years; Rick Woods, 30 years**

Mayor Birkner noted the employees were not present.

**8. Adoption of Minutes: October 5, 2010 work session; October 11, 2010 special meeting**

**Motion to adopt the minutes of October 5, 2010:** Councilmember Grefrath

Second: Councilmember Waneck

Roll Call: Councilmember Grefrath - Yes  
Councilmember Phayre - Absent  
Councilmember Quinn - Yes  
Councilmember Sciara - Yes  
Councilmember Waneck - Yes  
Council President Miller – Yes

**Motion to adopt the minutes of October 11, 2010:** Councilmember Grefrath

Second: Councilmember Quinn

Roll Call: Councilmember Grefrath - Yes  
Councilmember Phayre - Absent  
Councilmember Quinn - Yes  
Councilmember Sciara - Yes  
Councilmember Waneck - Yes  
Council President Miller – Yes

**9. Reports of Committees and Officials:**

**A) Mayor's Report**

**1) Westvale Park**

Mayor Birkner reported that the lightpoles have been installed at Westvale Park. The project is in the final phases. He spoke to PSE&G today, and they are expediting the meter to finalize electrical service. Mayor Birkner announced that the Borough received and deposited \$325,215 from the Bergen County Open Space Trust Fund. Process worked exactly as previously presented for receipt of full amount requested. He noted there are many to thank for the procurement of funding, including neighboring municipalities, Mr. Hoffmann, Mr. Herr, and the Council for recognizing grant opportunities and capitalizing on them. The Borough has received reimbursements in excess of \$500,000 to date. The remainder will be approved and received upon submission of final invoices.

**2) Irvington Street NJDOT Project**

Mayor Birkner announced that the NJDOT Irvington Street project is complete.

**3) HUMC**

Mayor Birkner noted it was publicized late last week that HUMC has finalized a request for a call for a new Certificate of Need for a new hospital at the site of the former PVH. This new path will essentially allow HUMC to maintain its right to continue the appeal process on the previous Certificate of Need and keep the process open to them. Mayor Birkner explained the history of the previous Certificate of Need. HUMC is now petitioning for a brand new Certificate of Need that would be void of holes that could be exploited by detractors. It is anticipated that the review of documentation submitted will take 1-3 months. Mayor Birkner is very optimistic that it will be approved. If it is, the Certificate of Need process begins anew, including 2 new hearings, one in the Westwood area and one in Trenton. Mayor Birkner is very confident that this is the right path. From resident feedback he believes there is no reduction in enthusiasm for a new hospital at the PVH site. Mayor Birkner thanked the Governing Body for their continuing support and efforts, as well as local the legislators. Most importantly it has been the residents that have stepped up time and time again to support the endeavor. They will be called on again as the fight continues for the hospital.

**B) Engineer's Report**

**1) Bi-weekly Report**

Dr. Boswell reviewed the bi-weekly report, a copy of which is attached.

**2) Westvale Park**

Dr. Boswell reported that Westvale is 98% complete. The project is just awaiting electric service. He noted that there has been a large congregation of formerly migratory birds on site. Geese eat grass. The Borough will be taking over responsibility for the field probably in

January. The most effective method of geese control is a Border Collie. He has contacted a company called Geese Police about providing a Border Collie for \$1200 a month, from February through June. That would total \$6,000. Dr. Boswell pointed out that the Borough can purchase a Border Collie for \$5,000, which could be a shared cost with the County. However, someone would have to care for the dog. Mayor Birkner said it is an interesting approach. He has brought his dog to the park to chase geese and it works well. Dr. Boswell said it is something to look at for next year. In Allendale there are goose patrol dogs that wear ID vests and can go off leash in the park to chase the geese.

Council President Miller asked if the Borough will be responsible for the park in January. Dr. Boswell replied that once the electric is installed the Borough takes responsibility. Council President Miller asked what happens if there is a problem with the facility come May. Dr. Boswell explained that the project will be under the maintenance bond phase. Council President Miller assumed the contractor's responsibility doesn't change whether the Borough has a dog or not. Dr. Boswell said if sod is perfect but the geese consume it, it could be an issue. Council President Miller asked if geese prefer sod over grass. Dr. Boswell said it doesn't matter to them. Council President Miller asked if sod increased the risk. Dr. Boswell answered no. Council President Miller asked if the dog needs a handler. Dr. Boswell said there needs to be a person responsible in charge. Councilmember Waneck asked if that person is then an employee, in which case what about insurance, stipend, etc. Dr. Boswell said if Geese Police is used then there is no responsibility for the Borough. Council President Miller pointed out that with K9s the Police Officer is paid overtime, so if an employee is taking care of the dog there could be additional issues. Councilmember Waneck has heard of an instance when the dog ran away. Mayor Birkner asked about the Allendale dog owners that volunteer to have their dogs accredited as goose dogs. Dr. Boswell said yes, then the dog gets a vest to identify it and can run off leash to chase geese. Councilmember Waneck listed the costs incurred for dog ownership. She believes it may be more cost effective to hire the Geese Police. Dr. Boswell said chemical treatments would be prohibitively expensive, besides which one mow and it's gone. He thinks a dog is the best option and most effective.

Councilmember Waneck asked to be provided the light specifications in order to calculate the costs of running the lights. Dr. Boswell will provide the average at today's rate of power for the next meeting. Mr. Hoffmann will supply the kilowatt cost.

### **3) Traffic Resignalization**

Dr. Boswell presented a revised two-phase plan for the intersection improvements around the train station that would make Park Avenue a two way street, meet the deed restrictions of Veterans Park, and not sacrifice parking in the area.

Councilmember Waneck voiced concern about whether the funding will be available, since all Count projects are to be reevaluated as of January 1<sup>st</sup>. Dr. Boswell pointed out that money had already been bonded for the project, which is very important to traffic mobility in the

County.

Councilmember Grefrath emphasized the need to ensure there is enough parking for the library. Councilmember Sciara suggested all parking in the Veteran's Park area be by resident sticker only.

**C) Council Liaison & Committee Reports**

**1) Finance, Administration and Capital Projects:**

**a) Memorial Bench Program**

Councilmember Grefrath announced that the memorial bench brochures have been distributed.

**2) Police and OEM:**

**a) Consulting Services relating to Accreditation**

Council President Miller discussed the need for the accreditation consulting services of the Rodgers Group. He noted that at some point this will no longer be necessary. Councilmember Waneck asked if this will be part of the 2011 budget or part of private duty funds. Mr. Hoffmann explained that it has been requested in the 2011 PD budget. Council President Miller said if not approved as submitted there are other sources for this.

**3) Fire and Ambulance:**

Councilmember Sciara wished everyone a happy holiday.

**4) Public Properties:**

Mayor Birkner noted that Councilmember Phayre had a business commitment and was unable to attend.

**5) Land Use:**

No report.

**6) Health and Recreation:**

**a) Recreation Update**

Councilmember Quinn announced that the Recreation Director has two sponsors for the banner program already.

**b) Board of Health Update**

Councilmember Quinn advised that the Board of Health is still negotiating with Northwest for next year's services.

**c) Library Update**

The Library Master Plan committee has completed its survey, which will be distributed to

help assess the needs of the community.

Councilmember Quinn noted there was a snag with the energy audit at the Library due to the condenser unit evaluations. The money will go towards a boiler in the future instead.

**D) Attorney's Report**

No report.

**E) Administrator's / Clerk's Report**

**1) Recodification**

Mrs. Hughes reported on the status of the recodification.

**10. Agenda/Public Forum:**

**Motion to open the Agenda/Public Forum:** Councilmember Sciara

Second: Councilmember Grefrath

Voice Vote: A voice vote was taken with all present voting in the Affirmative.

Bruce Meisel, 263 Center Avenue – discussed the need for reserving parking in Veterans Park for shoppers to access the area stores. Mr. Meisel suggested revisiting the parking on Park Avenue that is reserved for the church only. He said the Parking Authority planned a similar parking plan 14 years ago. He advised that the Borough Planner has a plan that would piggy back on the Boswell plan to aesthetically connect the park with Westwood Avenue.

John Clark, 71 Harrington Avenue – asked the total price for Westvale Park, excluding capping. Mayor Birkner said it is \$2.6 million. Mr. Clark said the longest he has sat in traffic on Third Avenue is three minutes. He voiced his concern with spending on the intersection improvements, and spending overall. Mayor Birkner pointed out that in the past three years the municipal portion of taxes have only gone up 1%.

Michael Meisten, 58 Kingsbury – asked about the zoning ordinances. Mr. Huntington recommended Mr. Meisten save his comments for the public hearing.

Jeffery Ebert, 212 Third Avenue – voiced his concerns with the effect of the intersection plan on the traffic at Third and Elm. Councilmember Sciara pointed out that if traffic is made two way on Park it will lighten traffic on Elm. Councilmember Grefrath agreed.

**Motion to close the Agenda/Public Forum:** Councilmember Waneck

Second: Councilmember Quinn

Voice Vote: A voice vote was taken with all present voting in the affirmative.

**11. Ordinances of First & Final Reading:**

**Ordinances on Final Hearing**

10-28 An Ordinance to Amend Chapter 65C, Land Use and Development Regulations of the Borough of Westwood Section 65C-112 Entitled Limited Business District 1

**BE IT RESOLVED** that Ordinance #10-28 entitled “An Ordinance to Amend Chapter 65C, Land Use and Development Regulations of the Borough of Westwood Section 65C-112 Entitled Limited Business District 1”, having hereby been read by title, shall have a hearing held on this date.

**Motion to open the public hearing:** Councilmember Waneck

Second: Councilmember Grefrath

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Absent

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

Councilmember Sciara asked for clarification on where the LB 1 zone is located. Councilmember Waneck explained it is along Broadway from the border of Hillsdale to the car wash at Lake Street. She noted there are two additions to the use in the zone, which are item #3, retail stores not exceeding 2500 sq feet, and item #19, passenger car rental uses, which are already permitted in the LB2 a little bit further up the road.

**Public Comments:**

No comments.

**Motion to close the public hearing:** Councilmember Waneck

Second: Councilmember Grefrath

Voice Vote: A voice vote was taken with all present voting in the affirmative.

**BE IT RESOLVED** that an Ordinance known as #10-28 be passed on final reading and that a Notice of Adoption of said Ordinance be published in the official newspaper according to law.

**Motion for final adoption:** Councilmember Waneck

Second: Councilmember Grefrath

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Absent

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

- Council President Miller – Yes
- 10-29 An Ordinance to Amend Chapter 65C, Land Use and Development Regulations of the Borough of Westwood Section 65C-112.2 Entitled Limited Business District 3

**BE IT RESOLVED** that Ordinance #10-29 entitled “An Ordinance to Amend Chapter 65C, Land Use and Development Regulations of the Borough of Westwood Section 65C-112.2 Entitled Limited Business District 3”, having hereby been read by title, shall have a hearing held on this date.

**Motion to open the public hearing:** Councilmember Waneck

Second: Councilmember Grefrath

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Absent

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

Councilmember Waneck clarified that the LB 3 zone is on Kinderkamack starting at Dominos to the border of Emerson. There are currently a number of vacant car dealerships in that district. This ordinance will allow additional uses in order to encourage businesses to come into the area. There were some interested parties who walked away to avoid the Zoning Board. Councilmember Waneck reviewed the additional uses being suggested, including a mixed use of residential on the top level of buildings with professional/medical on the first floor. If a mixed use were approved it would increase buffers between the development and existing residential areas. She noted that the ordinance was discussed and approved by the Planning Board at their last meeting.

**Public Comments:**

Bruce Meisel, 263 Center Avenue – had sent a letter to the Planning Board regarding this ordinance. Mr. Meisel agrees conceptually but believes the ordinance is flawed. He pointed out that the ordinance does not define parking for a sports facility. Mr. Meisel believes local hardware store is not clearly defined by the ordinance. He suggested that local hardware be defined by square feet, and sports facility be defined better. Mr. Meisel said while the problems with the ordinance could be addressed by the Master Plan review, those changes will not be written until summer or fall, and the time of decision law will go into effect in May.

Councilmember Sciara suggested the ordinance be tabled at this time. He pointed out that if judged by the two existing sports facilities, allowing a gym in that area would put parking into the surrounding residential area.

Councilmember Waneck stated that Mr. Meisel's letter was shown to both Mr. Snieckus and Mr. Lydon, who felt the ideas had merit to explore in the Master Plan review. They did not see any glaring errors in the ordinance. Mr. Meisel disagreed. Councilmember Waneck pointed out that the existing lot sizes are not large enough for a Lowes or Home Depot to build on. If more than one lot were purchased it would be addressed by the Board.

Bruce Meisel - interjected that the Board couldn't deny the application at their level if someone joined lots. He suggested adopting and correcting it in 30 days, or tabling and fixing the ordinance. Mr. Meisel thinks it should be adopted ultimately. Councilmember Waneck said the same Planner Mr. Meisel is saying should fix it is saying it is okay. Mr. Meisel reiterated that it's a defective ordinance.

John Lamb, 50 Chestnut Ridge Road – suggested a change in the use of the word neighborhood in the ordinance. Mr. Lamb said he foresees an assemblage of lots. Regarding sports training facility, he cannot find a definition for that term, which is why Mr. Meisel, suggested the change. Mr. Lamb urged that the ordinance be changed.

Michael Meisten, 58 Kingsbury – from prospective of an individual on the residential block, Mr. Meisten is concerned with the potential safety impact. Mr. Meisten is concerned with exist/entrances onto Kingsbury, increased traffic on the dead end road, and the street becoming a makeshift parking lot. He is not opposed to land development, and understands the need for additional tax revenue. He emphasized the importance of having the true intent of the ordinance illustrated as best as possible by the words on the page.

**Motion to close the public hearing:** Councilmember Waneck

Second: Councilmember Grefrath

Voice Vote: A voice vote was taken with all present voting in the affirmative.

Councilmember Grefrath asked if adding the parking definition and square footage is a major amendment. Mr. Huntington said the changes are such that the Borough must readvertise and go through some procedural steps. He noted that any time except late December the Governing Body can leave an ordinance open, but cannot introduce an ordinance in one year and adopt it in a subsequent year. Mr. Huntington advised that although Councilmember Sciara suggested tabling the ordinance, would choose not to adopt at this time and then reintroduce next year for procedural correctness.

Council President Miller questioned whether the Borough is exposed to any risk if the ordinance is not approved. Mr. Huntington said the Zoning Ordinance is in place now, so there is no risk in that sense. The risk is the usual in government, whatever any advantage to the public might be lost by inaction. He sees no great vulnerability to the Borough with the ordinance in place now. The new ordinance will make the area more attractive to development. The Governing Body is left with balancing the needs.

Mayor Birkner asked if the ordinance modifications have to go back to the Planning Board. Mr. Huntington said the Governing Body can choose to draft its own ordinance. Since the ordinance seems to be 99% complete, the Governing Body can do changes at this level, reintroduce, send it to the Planning Board for their comments on the changes only, then bring back to adopt, which eliminates another step.

Mr. Huntington said he could contact Mr. Snieckus, incorporate the suggested changes into the ordinance, and have it ready for the first meeting in January.

Council President Miller wanted clarification on the time of decision law. Mr. Huntington explained. Council President Miller mused that the community better served to have it right in the beginning. Mr. Huntington agreed. Mayor Birkner said waiting one or two months doesn't put the Borough under any exposure. Councilmember Grefrath is in favor of making better uses.

Councilmember Waneck pointed out that this ordinance would not be part of the recodification.

**Motion to withdraw Ordinance 10-29 and reconsider in 2011**

Motion: Councilmember Sciara Second: Councilmember Quinn

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Absent

Councilmember Quinn – Yes. She keeps seeing Jefferson Avenue and that situation with traffic. She doesn't want to see it rushed into again, or even if it is different would like to look at it a little longer.

Councilmember Sciara – Yes. He echoed Councilmember Quinn's concern with traffic. This is a residential area, and it must be defined for them. He apologized to Councilmember Waneck for the short sightedness not addressing these issues earlier.

Councilmember Waneck - No. While she respects those who spoke and agrees with the points brought up, she would have preferred amendments after the ordinance was done. She doesn't want the public to think the ordinance was rushed. It was brought to the Council in the fall, went to the Planning Board, then back to the Council. Time was spent on this ordinance.

Council President Miller – Yes. With all due respect to the Planning Board, it is important that they are independent. The pending change in the law makes planning even more difficult. He believes the Borough needs to make ordinances as perfect as possible.

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10-30 An Ordinance To Amend Chapter 65C-121 Of The Borough Code, Said Ordinance Being Entitled "Wireless Telecommunications, Towers And Antennas"

**BE IT RESOLVED** that Ordinance #10-30 entitled "An Ordinance To Amend Chapter 65c-121 OfThe

Borough Code, Said Ordinance Being Entitled “Wireless Telecommunications, Towers And Antennas””, having hereby been read by title, shall have a hearing held on this date.

**Motion to open the public hearing:** Councilmember Waneck

Second: Councilmember Grefrath

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Absent

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

Councilmember Waneck noted there is no change to this ordinance whatsoever. It is being readopted to correct possible procedural issues.

**Public Comments:**

No comments.

**Motion to close the public hearing:** Councilmember Waneck

Second: Councilmember Grefrath

Voice Vote: A voice vote was taken with all present voting in the affirmative.

**BE IT RESOLVED** that an Ordinance known as #10-30 be passed on final reading and that a Notice of Adoption of said Ordinance be published in the official newspaper according to law.

**Motion for final adoption:** Councilmember Waneck

Second: Councilmember Grefrath

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Absent

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

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**12. Presentation of Bills, Financial Reports and Resolutions:**

Mayor Birkner advised that the following Resolutions would be enacted in one motion. Councilmembers who wished to remove any Resolution(s) to be voted upon separately, had the opportunity to do so at this time, and said Resolutions would be considered separately. Councilmember Waneck asked what was incorporated in vegetative waste. Mr. Hoffmann explained it is leaves. Councilmember Waneck asked if this superseded the cooperative plan. Mr. Hoffmann said it is the backup plan.

**Resolutions as Consent Agenda:**

- a) **Resolution #10-295: Bill List & Statement of Cash**
- b) **Resolution #10-296: Approving Boswell Engineering Recommendation Dated 12/2/2010 Authorizing Payment to Hutton Construction in the Amount of \$51,802.80 and a Contract Modification Proposal of Acceptance Form Which Reduces the Contract Amount by \$7,516.55**
- c) **Resolution #10-297: Authorizing Payment of Voucher to Let It Grow for Westvale Park Project**
- d) **Resolution #10-298: Chapter 159 – Click It or Ticket**
- e) **Resolution #10-299: 2011 Animal Shelter Contract with the County of Bergen**
- f) **Resolution #10-300: Authorizing Repair to DPW Truck**
- g) **Resolution #10-301: Award of Bid for Marketing and Disposal of Recyclables**
- h) **Resolution #10-302: Authorization to Bid for the Disposal of Vegetative Waste**
- i) **Resolution #10-303: Approval of Westwood Baseball Association Application to Consume Alcoholic Beverages on Public Property**
- j) **Resolution #10-304: Raffle License #401-PFO Pascack Valley High School**
- k) **Resolution #10-305: Resolution Calling On The State Legislature And The Governor To Exempt The Reserve For Uncollected Taxes From The 2% Cap**

**Motion to adopt resolutions #10-295 through #10-305:** Councilmember Grefrath

Second: Council President Miller

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Absent

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

**13. Adjournment:**

**Motion to adjourn:** Councilmember Sciara

Second: Councilmember Miller

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 9:42 pm.

Attest:

*(signed) Karen Hughes*

Karen Hughes, RMC, Borough Clerk

Proofed by: Denise Holmes, Deputy Clerk