

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE MEETING
MINUTES – September 5, 2017**

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The Council Business meeting of the Borough Council of the Borough of Caldwell was called to order in the Council Chambers at 7:01PM.

PRESENT: Council President Cascarano, Councilman Hauser, O'Donnell, Capozzoli, Brown and Rodgers

ALSO PRESENT: Deputy Clerk, Lisa O'Neill, Borough Administrator, Paul Carelli & Borough Attorney, Greg Mascera

ABSENT: Mayor Dassing

Adequate notice of this Council Business/Conference meeting was given on January 1, 2017. Notice was posted on the bulletin board on the first floor of the Borough Hall, One Provost Square, Caldwell, New Jersey. Official newspapers of the Borough were notified of this meeting by mail. Notice was posted and all persons requesting notice were sent same.

PLEDGE OF ALLIGENCE

**APPROVAL OF MINUTES:
August 1, 2017**

Moved by Councilman Capozzoli, seconded by Councilman Rodgers. No Discussion. On roll call, Council President Cascarano, Councilman O'Donnell, Capozzoli and Rodgers, voted in the affirmative. Councilman Hauser and Brown abstained. Minutes approved 09/05/17.

SWEARING IN – POLICE OFFICER

Caldwell Police Department

Kevin O'Neill – Probationary Police Officer

INTRODUCTION OF ORDINANCES

ORDINANCE #1333-17: AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE II, GENERAL LEGISLATION, CHAPTER 109, FIRE PREVENTION OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF CALDWELL, NEW JERSEY

Moved by Councilman Brown, seconded by Councilman Capozzoli. No Discussion. On roll call, all voted in the affirmative. Ordinance introduced 09/05/17.

ORDINANCE #1334-17: AN ORDINANCE AMENDING CHAPTER A270-1 OF THE CODE OF THE BOROUGH OF CALDWELL, BEING THE SCHEDULE OF FEES CHARGED BY THE BOROUGH, SO AS TO SET THE FEES FOR THE COST OF PERIODIC FIRE CODE STATUS INSPECTIONS

Moved by Councilman Capozzoli, seconded by Councilman Brown. No Discussion. On roll call, all voted in the affirmative. Ordinance introduced 09/05/17.

OPEN PUBLIC COMMENTS ON RESOLUTIONS

Moved by Councilman Brown, seconded by Councilman Rodgers to open meeting to the Public.

RESOLUTIONS – CONSENT AGENDA

9-182: AUTHORIZING TAX EXEMPTION DUE TO PERMANENTLY AND TOTALLY DISABLED VETERAN STATUS AS PER N.J.S.A. 54:4-3.30, BLOCK 30.02, LOT 5.01 – 100 CENTRAL AVENUE, CALDWELL, NJ

9-183: AUTHORIZING THE TAX COLLECTOR TO REFUND TAX OVERPAYMENT FOR BLOCK 11, LOT 14, 75 ARLINGTON AVENUE, CALDWELL, NJ 07006

9-184: AUTHORIZING THE TAX COLLECTOR TO REFUND TAX OVERPAYMENT FOR BLOCK 27, LOT 14, 399 BLOOMFIELD AVENUE, CALDWELL, NJ 07006

9-185: AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – James Caldwell HS Swimming Chiefs Booster Club– Off Premise/ Calendar Raffle – 3:00PM – 8:00PM

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- 9-186:** RESOLUTION AMENDING RESOLUTION #8-176 APPROVING AN APPLICATION FOR A SEWER CONNECTION FOR Dino Torluccio, 118 Grandview Place, North Caldwell, NJ
- 9-187:** RESOLUTION AUTHORIZING THE CLEAN UP OF CUTTING THE GRASS AT 32 HILLSIDE AVENUE, CALDWELL, BLOCK 11, LOT 1 AND TO PLACE A LIEN ON THE SAID PROPERTY
- 9-188:** RESOLUTION APPROVING AN APPLICATION FOR A SEWER CONNECTION FOR Dino Torluccio, 14 Pleasant Avenue, West Caldwell, NJ
- 9-189:** AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – Parent Faculty Association of Mt. St. Dominic Academy– Off Premise/ 50/50 Raffle, September 24, 2017 – 12:00PM – 4:00PM
- 9-190:** AUTHORIZING THE REFUND OF A CONSTRUCTION DEPARTMENT PERMIT PAYMENT PAYABLE TO MR. JOHN MARCHETTA
- 9-191:** AUTHORIZING PAYMENT OF BILLS AND THE ISSUANCE OF CHECKS FOR THE PERIOD THROUGH AUGUST 1, 2017 FOR 2017/2016 BILLS IN THE TOTAL AMOUNT OF \$827,959.26
- 9-192:** AUTHORIZING AN AWARD OF CONTRACT FOR THE HANFORD PLACE - LINCOLN TERRACE - WASHBURN PLACE ROADWAY IMPROVEMENTS, NJDOT TRUST FUNDS OF \$235,000 TO D&L PAVING CONTRACTORS, 675 FRANKLIN AVENUE, NUTLEY, NJ 07110 IN THE AMOUNT OF \$408,301.04

CONSENT

Moved by Councilman Rodgers, seconded by Councilman Hauser. No Discussion. On roll call, all voted in the affirmative. Resolutions approved 09/05/17.

NEW BUSINESS

Borough Council

1. Difference Card / Health Insurance

Paul Carelli discussed a Resolution that he would like to place on the next Council meeting which has to do with switching over a contract with a company called EB Solutions which manages what we call the Difference Card. This is the Health care program that we have been working on and if everyone joins in this will save the Borough about \$125,000 per year. The open enrollment for the State Health Benefits Plan starts October 1st so we need to have the paperwork in line to make that transition and we will be staying in the State Health Benefit Plan. The employees will be getting about a 15% reduction in their contributions; the Borough will save about 8 to 9 percent and we will pick up a company that will provide the services for our health care. Discussions Ensued.

Councilman Cascarano discussed that it has come to our attention that a resident who parked on Gould received a ticket for parking in front of their house where it is a 3 hour limit parking zone. His idea which he has discussed with Councilman Capozzoli and Mayor Dassing would be to issue resident stickers for the residents that live on these certain streets where there is 3 hour parking during the day. The purpose of this ordinance was to prevent people from parking on the street all day. His recommendation would be for the streets that have the 3 hour parking that the residents can park on those streets.

Paul Carelli responded that he had a discussion with Greg Mascera and the Chief and they will hopefully have something put together for the next meeting. Discussion ensued.

Councilman O'Donnell responded that Birkendene is in terrible condition and he had a resident request that we pave it especially now that school is open. Paul responded that they were going to check if it is straight mill and pave and we can do that through the co-op. Glenn Beckmeyer will go out and take a look at.

The Council discussed signs and the pricing.

Councilman Cascarano read a statement on an update of the Fire at Orchard Square:

It's been a while, but we have at least some update regarding the Orchard Square fire -- as of last month, the insurance companies concluded their investigations. First, I want to acknowledge that this is obviously a very sensitive topic. I can't imagine what that's like for the victims, nor can anyone here on the dais; nor can hopefully anyone in this room can. God-willing, none of us ever will.

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Naturally, in the aftermath, the victims -- our neighbors -- wanted answers and, for very obvious and good reasons, expected them.

For various reasons, things took a while.

In particular, there were various entities who had their own legal obligations to investigate, for their own purposes. In particular, law enforcement and insurance, which is what ultimately held things up over the past year.

Right after, the governing body and victims, were left in the dark while justifiably concerned citizens demanded answers from them. It's disheartening to hear, but in that immediate aftermath, when things are as fresh as they ever will be, those are the moments when silence is most necessary, due to liability concerns; it's best not to jump the gun and say something or finger the blame towards something inaccurately, and later regret it.

Meanwhile, like the rest of the governing body, I have been particularly concerned with this matter, and specifically the following: what occurred? Why it occurred? Was it preventable? What can we do to prevent this in the future?

Obviously, we all know "what" happened, and the next step is to figure out the details.

As is required under the Uniform Fire Code, the Municipal Fire Official is tasked with "investigating or causing to be investigated all fires resulting in loss of life or damage to property." Thus in the days following the fire, Jim Alvine, conducted an investigation.

Next, the Essex County Prosecutor's Office investigated, found no evidence of foul play, and concluded its investigation. The insurance companies, well, that's a little bit more complicated. In this case, it appears that they decided to pay the claims, sharing the costs among the carriers.

Meanwhile, I continued to investigate to find out as many details as I could. I recently was able to contact one of the attorneys representing the insurance carriers, and before that, conducted as much of an investigation as I could, along with the rest of the Public Safety Committee: Councilman Capozzoli, Mayor Dassing, and the brass of both the Caldwell Police Department, and Caldwell Volunteer Fire Department.

Here is what we know, based on the independent investigators, including Mr. Alvine:

A short while prior to the fire, excavation work was done in the area, near natural gas pipelines which lead to the house where the fire originated;

Eyewitness testimony indicated that fire was observed from soil/underneath house;

The rate of speed of burning was so rapid, it was as if the fire burned from the front of the house to the back, rather than bottom up, as a fire normally does;

The fire was not under control until PSE&G showed up and shut off gas, DESPITE the fact that the CVFD arrived on scene within 10 minutes and had 500 gallons of water on the fire from its tanker; BEFORE any water was even tapped from any hydrants.

On top of this, additional acts of God and awful luck culminated from the perfect storm of events -- specifically, overarching power lines fell, rendering the fire department unable to put any water on the homes until the electricity (also by PSE&G) was shut off; meanwhile the winds that day created an easy environment for the fire to spread to other homes.

In the most unfortunate turn of events, it left neighbors of ours homeless, and stripped them of their belongings.

Under legal standards: rules of evidence, burdens of proof, topics which can absorb hundreds of hours' worth of law school classroom time, the attorney could not conclusively state that the fire was a gas fire. Thus the companies are paying out the claim. However, he could not rule out that this was a gas fire, and, based on the facts I've gathered and my own opinion, that remains the most likely scenario.

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This information answers the first three of four questions: we know what happened, we're pretty sure we know why it happened, and are also near certain that, unfortunately, it couldn't be prevented due to the fire source, winds that day, and electrical and gas issues.

Which brings us to the most important question: how could we prevent this?

Obviously, I wish we could prevent things from going wrong, and not need police or firefighters to begin with. But that's not to say that there aren't ways to decrease the odds of such occurrences or at least mitigate the damage.

First, a lot has been said about our volunteer fire department. I want to reiterate first and foremost that the CVFD was present within ten minutes, with water on the fire, and did everything they could have possibly done according to state mandated protocol. They acted with the utmost professionalism.

Let me be clear: the CVFD are true professionals, and the Caldwell Community, are fortunate to have them. Whenever there is a fire, and I've seen it first hand, next door to my house, and at Fresca, they run into the flames while all of our God-given instincts would tell us to run away. They are dedicated to their community.

Let's talk about another topic which has been discussed quite a bit: the water pressure.

The original water mains were installed roughly 100 years ago. In 1991, the Borough did a study on this very issue and determined that upgrades were needed. Those upgrades began, and were stopped, for reasons I still can't figure out, from a governing body in place nearly twenty years ago, in 1998.

The water main upgrades did recommence beginning in 2006. Were those upgrades never halted, according to the Borough engineer, we would have been done long before November of 2016. However, sadly, based on what we know, it seems unlikely that the fire could have been controlled until the gas and electricity was shut off.

Despite the unfounded accusations which have been made -- which I believe are largely with the intent of public manipulation and for personal gain -- the members of the CVFD all knew the nature of the water mains; the types of water mains on each street, and, importantly, which hydrants were connected to those mains. There is a map in the firehouse, which I have seen myself.

As Chief Garamella stated previously, he dispatched that information to other responding companies, as is the standard protocol in a mutual aid company. Because of that, the members established a secondary water supply, a lengthy and labor-intensive operation. Incoming volunteer mutual aid fire companies needed to lay out over 1000 feet of large diameter supply line to support the firefighting efforts at this fast moving fire - fast moving because of the likely gas issues, and exasperated by the power line issues.

Today, I can report that we are nearly done with the upgrades across the entire Borough, and, in the meantime by the end of last year, connected the closed loop on Orchard Square main to another main, to provide water pressure from two sides rather than one.

Additionally, tonight we introduced an ordinance which will require homes sold in Caldwell to have an explosive gas detector before a Certificate of Occupancy is issued. Currently, only smoke and carbon monoxide detectors are required. When I first began to gather information, and believed this was likely a gas fire, I immediately became interested in preventive measures. With that, Mark Guiliano and I have researched and discussed the viability of such an ordinance, and we're finally ready to move forward. I'd like to thank him for his assistance on this.

Regardless of whether or not you are selling or purchasing a home in Caldwell, please considering buying and installing an explosive gas detector. They are currently available at Ace.

I can't imagine that in local government it gets much harder than having to look members of our community in the face and tell them that, the fact that they lost everything they own, very likely could not have been prevented under any circumstances. If it does, I don't want to know. Moving forward, as a governing body, we will continue to learn and seek new, creative, preventive

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measures to avoid future tragedies, and to continue to recruit top emergency responders, and equip them properly.

REPORT OF BOROUGH ADMINISTRATOR:

Paul Carelli reported:

- As far as the Green Acres Grant we were approved up to \$542,000 and he has submitted everything back in August and he has received some feedback from Green Acres and they are looking for a few other things. They also asked if we had any charges to add to that and one being the cost of the preliminary assessment report. The reimbursable amount is \$491,145.
- The Community Center will have their shut down for annual cleaning and maintenance in the pool, the pool deck and locker rooms.
- The Grits and Screening testing report that was done at the sewer plant did come back and it appears it is not hazardous waste.
- As far as the parking lot we have authorized some concrete testing and he did receive the results. He forwarded to Glenn Beckmeyer and Paul read his comments from an email; The test shows some areas the chloride has penetrated deeper in the slab. This, in the long run, will cause continuing rusting of the steel pans which support the concrete slabs. The steel pans are the main tension support of the slabs. There is no rebars or wire mesh that was installed for tension. There is wire mesh but that was installed for temperature only (surface cracking) and that does not appear to be installed in the proper place as well. We are also going to need to do a visual inspection (and maybe a structural test of the steel pans) of the entire bottom of the deck for rusting and steel pan failures. We are preparing a report with our findings with cost estimates to 1) repair the area presently closed, 2) repair separate areas over a few years to replace the entire deck and 3) repair the entire deck in one replacement job. I am hoping this report will be completed by next week. Discussion Ensued.

Councilman Hauser thanked Paul getting the truck on the agenda which was discussed with the DPW. Also, he wants to know where we stand with the street sweeper, are we on our own, are we with Essex Fells or West Caldwell. Paul responded that Mario had the street sweeper fixed and right now it's holding its own. As far as he knows West Caldwell sweeps only 3 times a year and Essex Fells doesn't have a need for a street sweeper.

REPORT OF BOROUGH ATTORNEY:

Greg Mascera reported that in regards to Your Way contract the issue was in regards to Hatfield, Erwin and Elm paving project where there were overages because of the delay of Your Way. We have made the claim to Your Way's adjuster the claim was a full package of cost estimates the original bid, bidding document, the request for payments throughout the process, the approval of payments, the letters in the interim reserving our rights rejecting to the performance under the contract. Greg hopes to receive a reply before the next meeting if not he will follow up. There has been another law suit that has been filed since the last meeting filed by Lieutenant Geary. The JIF has assigned the same attorney's to represent the Borough as are representing Chief Bongiorno in the Marinaro lawsuit. The attorneys have been instructed that they will defend this vigorously and that the Borough has no intention in settling this lawsuit. Just like they have no intention in settling the first lawsuit Chief Bongiorno has had his name tracked through the mud and in his opinion has been treated unfairly and unjustly. Chief Bongiorno is a man of integrity and character and his reputation needs to be defended and the attorney's representing the Borough and Chief Bongiorno will do that vigorously.

REPORT OF POLICE CHIEF:

James Bongiorno thanked the Mayor and Council for the swearing in of Officer O'Neill tonight working as quickly as you did replacing one of the officers that left the department. With Kevin's background not only with law enforcement he was a Deputy at the Essex County Sheriff's Office and an employee of Caldwell Public Works. He is familiar with the community not only growing up in the community but working in public works too and thank you for that. School is opening this week and he asks that the motorists please be extra vigilant we will have crossing guards in the roadway and a lot of children walking to school. There will be more pedestrian traffic so please be aware of that and allow extra time for traveling especially in and around the schools.

Councilman O'Donnell responded that he knows it is West Caldwell but as he travels down Lane Avenue and makes the left onto Bloomfield there are a couple of students that are literally running for their lives crossing Bloomfield Ave and they are crossing before the guard gets there at 8AM.

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Chief Bongiorno responded that they have changed the time this year and the guards will be at their post at 7:45AM.

REPORT OF ESSEX COUNTY LAISON:

Patricia Keenan reported that all seniors are invited to the 12th Annual Essex County Senior Wellness Day on Tuesday, September 26th from 10:00AM – 2:00PM at the Codey Arena. It is an event that is free to all senior residents in the County.

OPEN PUBLIC MEETING:

Moved by Councilman Capozzoli, seconded by Councilman Hauser to open meeting to the Public.

Mr. John Harte, 27 Orchard Square had question on the fire and the likely hood is gas caused the fire. He spoke about the investigations that were done on his property.

On a motion made by Councilman Capozzoli, seconded by Councilman Hauser unanimously affirmed, the Council moved into Executive Session at 8:11P.M.

Mayor Dassing read the following statement: BE IT HEREBY RESOLVED in accordance with the provisions of N.J.S.A. 10:12 and 13, the public shall be excluded from the Executive Session of the Governing Body which is being held for the discussion of the following subject matters: 1. Pending or anticipated litigation or contract negotiation; 2. Personnel matters; 3. This Executive Session shall continue for an indefinite period of time and upon termination of the Executive Session, the Governing Body may choose to resume the public portion of the meeting. The discussion, which shall be conducted in closed session, shall be disclosed upon termination of litigation or contractual matter, upon resolution of the personnel matter with consent of said person or persons and as provided by N.J.S.A. 4-12 but in no case later than two (2) years from this date. These minutes shall be available as soon as the matter is resolved or not later than two years hence. The Executive Session will be discussion of PBA Contract and Litigation updates.

The Executive Session was adjourned and upon a motion by Councilman O'Donnell seconded by Councilman Brown , the Council Business Conference Meeting was opened to the public and the press at 8:32 PM.

9-193: BOROUGH OF CALDWELL COLLECTIVE BARGAINING AGREEMENT WITH WEST ESSEX PBA LOCAL 81 (CALDWELL UNIT)

Moved by Councilman O'Donnell, seconded by Councilman Brown. Discussions Ensued. On roll call, Council President Cascarano, Councilman O'Donnell, Brown and Rodgers voted in the affirmative. Councilman Capozzoli abstained. Councilman Hauser voted in the negative. Resolution approved 09/05/17.

There being no additional business to be conducted a motion to adjourn the meeting was made by Councilman O'Donnell, seconded by Councilman Capozzoli unanimously affirmed by all members present, the meeting was adjourned at 8:36PM.

Prepared by: _____
Lisa O'Neill, Deputy Borough Clerk

DATE