

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE MEETING
MINUTES – October 16, 2012**

The council Business meeting of the Borough Council of the Borough of Caldwell was called to order in the Council Chambers at 7:06 PM

PRESENT: Mayor Dassing, Council President Hauser, Councilman Murray, Coyle, O'Donnell and Rodgers

ALSO PRESENT: Lisa O'Neill, Deputy Clerk, and Paul Carelli, Borough Administrator and Gregory Mascara, Borough Attorney

ABSENT:

Adequate notice of this Council Business/Conference meeting was given on January 1, 2012. Notice was posted on the bulletin board on the first floor of the Borough Hall, One Provost Square, Caldwell, New Jersey on January 1, 2012. Four official newspapers of the Borough were notified of this meeting by mail on January 1, 2012. Notice was posted and all persons requesting notice were sent same.

**APPROVAL OF MINUTES:
October 2, 2012**

Moved by Councilman Hauser, seconded by Councilman Murray. No Discussion. On roll call, all present in the affirmative. Minutes approved 10/16/12.

PRESENTATION:
Caldwell Volunteer Fire Department – Gary Garamella

OPEN PUBLIC COMMENTS ON RESOLUTION:

RESOLUTIONS – CONSENT AGENDA

10-223: APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE 2013 ROADWAY IMPROVEMENT PROGRAM PROJECT

10-224: AUTHORIZING THE REFUND OF A TAX OVERPAYMENT PAYABLE TO: SCOTT FINTZY

10-225: AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – Caldwell Volunteer Fire Department / On Premise –Tricky Tray Raffle / December 1, 2012 – 6:00PM – 9:00PM

10-226: AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – Caldwell Volunteer Fire Department / On Premise –50/50 Raffle / December 1, 2012 – 6:00PM – 9:00PM

10-227: RESOLUTION OF THE BOROUGH OF CALDWELL, COUNTY OF ESSEX, STATE OF NEW JERSEY, TO SUPPORT OF THE PASSAGE OF S108/A291 BY THE LEGISLATURE

10-228: AUTHORIZING APPOINTMENT OF PAUL M. CARELLI AS THE TEMPORARY CHIEF FINANCIAL OFFICER OF THE BOROUGH OF CALDWELL UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED

10-229: AUTHORIZING THE BOROUGH ADMINISTRATOR TO PREPARE A REQUEST FOR PROPOSAL FOR THE SOLICITATION OF A PROFESSIONAL SERVICE CONTRACT FOR FINANCIAL MANAGEMENT SERVICES

10-230: RESOLUTION TO ACQUIRE PROPERTY AT 14 PARK AVENUE, CALDWELL, NJ 07006

10-231: AUTHORIZING PAYMENT OF BILLS AND THE ISSUANCE OF CHECKS FOR THE PERIOD THROUGH OCTOBER 16, 2012 FOR 2012 BILLS IN THE TOTAL AMOUNT OF \$2,517,726.54

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10-232: AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – Swimming Chiefs Booster Club / Off Premise –Calendar Raffle / January 15, 2013, February 12, 2013 & March 13, 2013 – 8:00PM – 9:00PM

10-233: RESOLUTION OF THE BOROUGH OF CALDWELL AUTHORIZING THE PURCHASE OF ENERGY GENERATION SERVICES FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

10-235: A RESOLUTION AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT FOR A SURVEYOR, TITLE SEARCH AND ENVIRONMENTAL ASSESSMENT TO GREEN ACRES STANDARDS OF PROPERTY LOCATED AT BLOCK 22, LOT 25.02

CONSENT

Moved by Councilman Coyle, seconded by Councilman Hauser. Discussions Ensued. On roll call, all present voted in the affirmative. Resolutions approved 10/16/12.

Councilman Hauser reported that the quarterly joint recreation has been postponed by West Caldwell.

Councilman Rodgers reported that the flu shots are October 17th, 2:30 – 4:00PM no appointment necessary. The cost is \$25 or Medicare card.

Mayor Dassing reported that she attended a DRMI workshop by Main Street New Jersey it was entitled making your town a must visit destination and it was absolutely fabulous. The Council would be interested in what was put forth today it was an nationally known expert and his company toured probably over a thousand different downtowns in the United States and Canada. She will share with everyone in writing and then they can have a discussion. The Mayor thanked the Fire Department for a great event that they put together on Sunday. Caldwell College had two journalists there and they were filming the whole contest and interviewing people. They are interested in working with us in 2013. She has 50/50 raffles for anyone interested for the Legacy for Literacy Gala.

REPORT OF ADMINISTRATOR:

Paul Carelli thanked the Mayor and Council and everyone here in town that extended their sympathy for him and his family. I like to thank the Borough employees for catering enough food for 50 people in between the wake. I have advertised for a CFO. We had a CFO Consulting Company come in and the Mayor and I met with these two gentlemen. They were here again this pass Monday to meet with the Finance Department to get a feel of what is being done and to make some recommendations and present some type of proposal. We did do an RFP to advertise for some financial management services. My goal is to have it resolved by next meeting. On Thursday we will be having a reverse auction for energy services. The radios will be on by November 6th for Police and Fire. The generator will be on by the end of this month. **Councilman Murray** responded that the generator will provide hot water and heat to the Firehouse, it will give full back up power to the entire Community Center, it will power up all of the lights in the Oval and it will give full back up to the Borough. The feasibility for payroll has been done. I should be getting a report which I will send to Council.

REPORT OF ATTORNEY:

Greg Mascara reported that they will be proceeding with the contract to purchase 27 Personette Street. We have a deposit due on the Contract to seller for \$10,000.00.

10-236 RESOLUTION AUTHORIZING A PAYMENT OF \$10,000.00 TO THE COLUMBIAN CLUB FROM THE OPEN SPACE TRUST ACCOUNT.

Moved by Councilman Hauser, seconded by Councilman Murray. Discussions Ensued. On roll call, all present voted in the affirmative. Resolutions approved 10/16/12.

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OLD BUSINESS:

1. Water Main Project Update - Discussion

PENDING Council Direction:

Resolution 10-234 AUTHORIZING THE AWARD OF A CONTRACT FOR THE BROOKSIDE AVENUE WATER MAIN REPLACEMENT PROJECT TO MATINA & SON, 148 ENGLISH STREET, HACKENSACK, NJ 07601 IN THE AMOUNT OF \$566,600.00

Mr. Carelli, suggested that we hold this until the next meeting because he spoke to contractor and his concern was if we didn't award this tonight we would have to do it by the next meeting to meet the 60 day requirement. That will not affect the Contractor. One of the things that would be an important piece of information, the engineer that we hired to do the water work and the design of the water work in the Cedars will have that report and that estimate on November 1st and there is no need to rush this we can wait until the next meeting. We will have a lot more information as far as finances. Council was in favor of holding this resolution until the next meeting

Councilman Hauser reported that there was misinformation that was published after the last meeting that the Borough could not move forward with the construction work in the Cedars for the paving and water work because there is not an acting CFO right now. As we talked about for 15-20 minutes, that it is not the case. He would like to make sure for the record that that information was reported correctly.

NEW BUSINESS:

1. **Borough Complex Signage**

Mayor Dassing spoke about the complex signage that Colin Corliss would like to put up at the Oval where the round about is outside. Mayor Dassing will let Colin know that he can proceed.

Councilman Kelley raised an issue that he believes is very important to our governing body and to the residents of our town. Councilman Hauser and Councilman Murray are using the Borough email system to solicit contributions and to communicate with the residents of the town for their campaign. On the campaign website the two councilmen are providing the email address assigned to them as Council members. On the same website they have solicited the support in the form of contributions to a fund raiser supporting their re-election. In addition they are requesting that sponsor fees be sent to an address of a Borough Employee. Conflict of interest, theft of services, violation of Borough Ordinances pertaining to Employee involvement and political activities are just some of the topics which I have discussed with the NJ Department of Community Affairs Local Finance Board. The information that I was provided indicated that the best way to get to the answers of the questions raised and in addition to a formal complaint is the NJ Open Public Records Act. I believe the two emails for the Council members and the Borough Employee involved in soliciting contributions should be available to the public. The best way to understand their behavior and decision making was wrong is to think of this town as a business. The Company, our town of Caldwell, would not want their employees using the email system for personnel or other non company related matter. In addition there is a question whether the town is also paying for campaign literature that the two council members are circulating. Did the town pay from the paper and printing cost of this campaign material? On the three different pieces of campaign material that several residents provided to me there is no mention of who paid for the printing of this material. New Jersey Election Law clearly defines the rules which candidates are suppose to operate without the obligatory paid for the campaign to re-elect raises the question as to whether the town is footing the bill for this also.

Councilman Kelley moved to make motion that the Borough Attorney drafts two separate ordinances. One which is crafted to clearly define that the Borough email system nor any assets of the Borough of Caldwell be used for the re-election efforts of an elected official of the Borough of Caldwell. The second ordinance is that Borough Employees cannot be actively involved in the election or re-election efforts for a Borough Council member do to the obvious conflict of interest and sense of indebtedness which would be created by their efforts and participation.

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Mayor Dassing asked Attorney if he had any discussion. **Greg Mascara** responded that he was surprised by Councilman Kelley and that he had not addressed him prior to meeting. I have no response at this point and I will have to look into what he has alleged and I will get back to you. **Councilman Kelley** asked the question to Greg “you are not their campaign attorney are you”? Greg responded “of course not”. **Councilman Kelley** responded I just wanted to clarify that I didn’t need to come to you before I presented this. **Greg Mascara** responded that common practice would be Mr. Kelley, is that the Borough Attorney would be notified of certain allegations before anyone but not that you have. Common practice would be that you would address those issues with me for guidance and just for my knowledge so I wouldn’t be sitting here at a meeting and quite honestly be shocked by what you just read, but that’s up to you.

Mayor Dassing responded that I think you need time to digest it and if you can provide a copy of what you just read to the Borough Attorney will take a look at it.

Councilman Kelley responded that I think there is a vote on the table for these two ordinances for the Borough Attorney to prepare those.

Discussions Ensued.

Councilman Hauser responded that if in fact we have done anything incorrectly apologizes and we’ll rectify the situation certainly nothing intentional and some of the allegations you’ve made are across the board false.

10-237: BOROUGH ATTORNEY DRAFT TWO SEPARATE ORDINANCES ONE WHICH CRAFTED TO CLEARLY DEFINE THAT THE BOROUGH EMAIL SYSTEM NOR ANY ASSETS OF THE BOROUGH OF CALDWELL BE USED FOR THE RE-ELECTION EFFORTS OF AN ELECTED OFFICIAL OF THE BOROUGH OF CALDWELL. THE SECOND ORDINANCE IS THAT BOROUGH EMPLOYEES CANNOT BE ACTIVELY INVOLVED IN THE ELECTION OR RE-ELECTION EFFORTS FOR A BOROUGH COUNCIL MEMBER DO TO THE OBVIOUS CONFLICT OF INTEREST AND SENSE OF INDEBTEDNESS WHICH WOULD BE CREATED BY THEIR EFFORTS AND PARTICIPATION.

Moved by Councilman Kelley, seconded by Councilman Rodger. Discussions Ensued. On roll call, Councilman O’Donnell and Murray had no response. Councilman Hauser and Coyle abstained.

Councilman Coyle asked the question do we need ordinances in the town for standing laws, rules, County rules? **Greg** responded that it is never a good idea to duplicate something that is already a state law but sometimes as a matter of practice Boroughs Municipalities. **Councilman Coyle** responded that it seems frivolous in that regard. Discussions Ensued

Councilman Murray responded that while we are at it why we don’t do a nepotism law so Councilman can’t have their daughters work at the Community Center when they demand it at the director. **Councilman O’Donnell** responded that on a conflict of interest was the attorney that Councilman Kelley had been speaking to back in January who was your campaign attorney there was no mention of that on your disclosure forms. It’s donation of kind and you represented one of his clients in a meeting trying to sway this Council against taking action. So go back to January and get a full record of what was discussed and we will discuss that at next meeting. Councilman Kelley has done nothing but criticize the hard work of others since he joined this body. In a letter to the editor he was described as lacking integrity. I agree with that. He has no character, no integrity. He’s useless. He brings nothing to the table. Lack of integrity and that’s how you described it and that’s what is going on here tonight.

OPEN PUBLIC MEETING:

Joseph Norton, 57 Arlington Avenue – spoke about Robert’s rules, rules and regulations that we all should follow. Councilman O’Donnell doesn’t want to vote he can abstain as Council President Hauser did. The point of the ethics is why I am here tonight. I am disappointed with the tone of tonight’s last fifteen minutes. My question Mayor is if there is a complaint from a citizen of the town that has to do with their right to vote or support anybody that they choose. Who do they file a complaint with? Do they go to the Mayor, Borough Administrator or Attorney? Greg responded if they are alleging trespass you go to Police Chief, if you are alleging a violation of constitution rights your redress is generally to the court system but generally directed to the Town Attorney.

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James Jorgensen, Liaison of Essex County – reported that he spoke to the County and the contractor that was doing the job for you is responsible for it. This is on Westville and Brookside the water main.

Diane Lilly – NJ Tomato Press, I write about all levels of Government if you are not at work during the time you are going to work on a campaign I believe that it is legal. I know from the Governors office the County Executive they are not allowed to communicate with me like if they want to put an ad in or talk to me from their work time if they want to go to lunch call me at night or email me from home. **Greg Mascara** responded that is my understanding.

On a motion made by Councilman Hauser and seconded by Councilman Coyle, unanimously affirmed, the Council moved into Executive Session at 8:01PM.

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. **Greg Mascera** responds that the Executive Session will be discussion of a new litigation matter **Mr. Ingris, Gleason 2 litigation and Personnel.**

The Executive Session was adjourned and upon a motion by Councilman Coyle, seconded by Councilman Kelley, the Council Business Conference Meeting was opened to the public and the press at 8:13P.M.

There being no additional business to be conducted a motion to adjourn the meeting was made by Councilman Hauser, seconded by Councilman Coyle, unanimously affirmed by all members present, the meeting was adjourned at 8:13P.M.

Prepared by: _____
Lisa O'Neill, Deputy Clerk

DATE