

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE SPECIAL MEETING
MINUTES – August 6, 2019**

Page 1 of 6

The Council Business meeting of the Borough Council of the Borough of Caldwell was called to order in the Council Chambers at 7:17PM.

PRESENT: Mayor Kelley, Council President Rodgers, Councilman Capozzoli, Cole, Lace & Schmidt

ALSO PRESENT: Deputy Clerk, Lisa O'Neill, Borough Administrator, Thomas Banker & Borough Attorney, Vincent Nuzzi

ABSENT: Councilman O'Donnell

Adequate notice of this Council Business/Conference meeting was given on January 1, 2019. 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

Mayor Kelley asked for a moment of silence for the victims of the shootings in El Paso and Dayton.

OPEN PUBLIC COMMENTS ON RESOLUTIONS OR ANY TOPIC

Members of the public are invited to comment at this time on ANY issues, whether or not on the agenda

*Mrs. Palmeri, 18 Espy Road, she is concerned about the taxes and the roads all need to be paved.
Hilda Moore, 23 Personette Street, she talked about the pot holes on her street and the large pot hole on Kirkwood. Her cu*

PRESENTATION

1. Caldwell University Students / Online Platform to connect the University, the Borough and our Business Community
2. Proclamations for Eagle Scouts / Timothy Brown, Ryan Stevens & James Stevens

APPROVAL OF MINUTES

July 16, 2019

Moved by Councilwoman Schmidt, seconded by Council President Rodgers. No Discussion. On roll call, Council President Rodgers, Councilman Capozzoli, Lace and Schmidt voted in the affirmative. Councilman Cole abstained. Minutes approved 08/06/19.

PUBLIC HEARING AND ADOPTION OF ORDINANCES

ORDINANCE #1370-19:AN ORDINANCE AMENDING THE BOROUGH CODE, CHAPTER 250 ZONING SECTION 250-11 ITEM C CONDITIONAL USES, OF THE BOROUGH CODE ENTITLED, "RAA RESIDENTIAL DISTRICT"

Moved by Council President Rodgers, seconded by Councilwoman Schmidt. No Discussion. On roll call, all voted in the affirmative. Ordinance Adopted 08/06/19.

ORDINANCE #1371-19: AN ORDINANCE TO AMEND CHAPTER 214 OF THE CODE OF THE BOROUGH OF CALDWELL, THE CHAPTER TITLED "SWIMMING POOLS" TO ADD SECTION 214-1 UNDER DEFINITIONS TITLED "PUBLIC SWIMMING POOL" SECTION 214-2 TITLED "PERMIT REQUIRED; COMPLIANCE WITH CHAPTER" ITEM A & B ADD "OR PUBLIC SWIMMING POOL" SECTION 214-4 TITLED "APPROVAL" ITEM B ADD "OR PUBLIC SWIMMING POOL" SECTION 214-10 TITLED "DISCHARGE OF SYSTEM" ADD "OR PUBLIC SWIMMING POOL" SECTION 214-11 TITLED "DISINFECTION, FILTRATION, RECIRCULATION AND BACTERIOLOGICAL STANDARDS" ITEM B ADD "OR PUBLIC SWIMMING POOL" SECTION 214-14 TITLED "ENCLOSURE" ADD "OR PUBLIC SWIMMING POOL" SECTION 214-15 TITLED "EVENING AND NIGHTTIME USE" ADD "OR PUBLIC SWIMMING POOL"

Moved by Council President Rodgers, seconded by Councilwoman Schmidt. No Discussions. On roll call, all voted in the affirmative. Ordinance Adopted 08/06/19.

PUBLIC HEARING AND ADOPTION OF ORDINANCE

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE SPECIAL MEETING
MINUTES – August 6, 2019**

Page 2 of 6

ORDINANCE #1366-19:CALENDAR YEAR 2019 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

Moved by Council President Rodgers, seconded by Councilman Cole. No Discussion. On roll call, Council President Rodgers, Cole, Lace and Schmidt voted in the affirmative. Councilman Capozzoli voted in the negative. Ordinance Adopted. 08/06/19.

ORDINANCE #1367-19:BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY, APPROPRIATING \$1,250,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,187,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

Moved by Council President Rodgers, seconded by Councilwoman Schmidt. Discussions Ensued. On roll call, all voted in the affirmative. Ordinance Adopted. 08/06/19.

ORDINANCE #1368-19: BOND ORDINANCE PROVIDING FOR THE PLANNING AND DESIGN FOR BOROUGH HALL IN AND BY THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY, APPROPRIATING \$75,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$71,250 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Moved by Council President Rodgers, seconded by Councilwoman Schmidt. No Discussion. On roll call, all voted in the affirmative. Ordinance Adopted. 08/06/19.

RESOLUTION – For Discussion

Resolution to be discussed prior to consideration

OPEN PUBLIC COMMENTS ON RESOLUTIONS

Moved by Councilman Lace seconded by Councilman Capozzoli to open meeting to the Public.

- 8-184:** AUTHORIZING THE 2019 EQUIVALENT CONNECTION CHARGE OF \$380.91 PER EQUIVALENT CONNECTION, BASED ON THE NUMBER OF EQUIVALENT CONNECTIONS AND THE APPLICATION OF THE SEWER USER AGREEMENTS BETWEEN THE BOROUGH OF CALDWELL AND THE SEWER USER MUNICIPALITIES OF WEST CALDWELL, NORTH CALDWELL, ESSEX FELLS, FAIRFIELD AND ROSELAND
- 8-185:** RESOLUTION TO CANCEL CAPITAL BALANCES
- 8-186:** AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – Parents & Faculty Association of Mount St. Dominic Academy – Off Premise/ 50/50 Raffle – September 22, 2019 – 12:00PM – 4:00PM
- 8-187:** AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – Parents & Faculty Association of Mount St. Dominic Academy – On Premise/ Merchandise Raffle – October 19, 2019 – 6:00PM – 9:00PM
- 8-188:** AUTHORIZING THE ISSUING OF LICENSE FOR RAFFLE. APPLICANT AND APPLICATION HAVE BEEN APPROVED BY THE CLERK'S OFFICE – Caldwell University Alumni Association – Off Premise/ 50/50 Raffle – September 21, 2019 – 12:00PM – 3:00PM
- 8-189:** APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE 2020 CALDWELL ROAD IMPROVEMENTS PROJECT (VARIOUS STREETS)
- 8-190:** RESOLUTION DETERMING THE FORM AND OTHER DETAILS OF \$6,421,000 GENERAL OBLIGATION BONDS, SERIES 2019, CONSISTING OF \$3,291,000 GENERAL IMPROVEMENT BONDS AND \$3,130,000 WATER UTILITY BONDS OF THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY, AND PROVIDING FOR THEIR SALE
- 8-191:** RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES OF WATER UTILITY BONDS OF THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY, INTO A SINGLE ISSUE OF BONDS AGGREATING \$3,130,000 IN PRINCIPAL AMOUNT
- 8-192:** RESOLUTION PROVIDING FOR THE COMBINATION OF CERTAIN ISSUES OF GENERAL IMPROVEMENT BONDS OF THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY, INTO A SINGLE ISSUE OF BONDS AGGREGATING \$3,291,000 IN PRINCIPAL AMOUNT

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE SPECIAL MEETING
MINUTES – August 6, 2019**

Page 3 of 6

- 8-193:** RESOLUTION CERTIFYING THAT ALL MEMBERS OF THE GOVERNING BODY HAVE REVIEWED, AT A MINIMUM, THE GENERAL COMMENTS AND RECOMMENDATIONS SECTIONS OF THE FISCAL YEAR 2018 ANNUAL AUDIT
- 8-194:** RESOLUTION APPROVING THE CORRECTIVE ACTION PLAN FOR THE FISCAL YEAR 2018 AUDIT REPORT
- 8-195:** RESOLUTION AUTHORIZING AN EXECUTIVE SESSION FROM WHICH THE PUBLIC IS EXCLUDED For the Meeting of August 6, 2019
- 8-196:** AUTHORIZING PAYMENT OF BILLS AND THE ISSUANCE OF CHECKS FOR THE PERIOD THROUGH AUGUST 4, 2019 FOR 2019 BILLS IN THE TOTAL AMOUNT OF \$6,249,455.95
- 8-197:** AUTHORIZING REFUND OF OVERPAYMENT, BLOCK 46, LOT 9, 11 Cedars Road, Caldwell, NJ
- 8-198:** AUTHORIZING THE APPOINTMENT OF JOHN T. PELOSI AND CECELIA T. SCOTT AS SUBSTITUTE CROSSING GUARDS IN THE BOROUGH OF CALDWELL EFFECTIVE IMMEDIATELY AT AN HOURLY RATE OF \$16.00 PER HOUR

CONSENT AGENDA

Moved by Council President Rodgers, seconded by Councilman Cole. Discussions Ensued. On roll call, all voted in the affirmative. Resolutions approved 08/06/19.

PUBLIC HEARING ON THE 2019 MUNICIPAL BUDGET

Members of the public are invited to comment at this time on the 2019 Municipal Budget

ADOPTION OF THE 2019 MUNICIPAL BUDGET

Heidi Wohlleb – Nisivoccia LLP
Budget Document – Sheet 41/42

Councilman Schmidt read a statement:

They say that nothing worthwhile comes easily. I would say that in the case of this budget. When I first heard about the tax increase that this budget requires, I wasn't happy. Taxpayer money is hard earned money. I thought of the many people in our community for whom these extra dollars per month may be one increase too many. I thought about the many residents who are still reeling from their federal taxes and the cap on the State and Local Tax deductions. I thought of this increase going on top of the tuition payments I make every month for my two kids in college. But on a closer look, there is no waste here.

I did what I always do when faced with something like this. I did my research. This budget is careful, it's conservative and it basically comes down to the cost of doing the work of local government. It comes with a long term plan that will work towards lowering our taxes. We've got bills to pay and necessary repairs to our infrastructure to attend to.

We need to make urgent repairs. When I was sworn in last January, I knew there were many things that needed doing. I had no idea how much. Every single Borough roof is leaking. Come here on a rainy day to find an array of plastic tarps and buckets to catch the many leaks. Court has had to be cancelled. The police keep plastic tarps over their equipment when it rains inside. Our Wastewater plant which serves our surrounding communities is at 95% capacity, but I didn't know that its equipment has been in need of repair for years. Caldwell Council is the Sewer Commission, so Caldwell has been responsible to make investment decisions and share in those costs. I knew the parking deck had problems, but now we know for sure that it is beyond repair. These are all necessary maintenance issues that have been delayed far too long and have grown from being minor problems into major projects.

We need to pay our bills and pay our employees. I've been here working three days a week and I have come to know the hard-working people who keep Caldwell running. There is no fat in this organization. When the clerk is out, our construction department assistant steps in. When the director of human services is out, the clerk has to cover for her. When the construction department closes, the clerk covers. When two people happen to be out at the same time, there's no one. Our broadcast tonight is taken care of by a very dedicated volunteer, Bob Colaizzo. Let me repeat - This is as lean as an organization can be.

We need to cover the cost of statutory contractual increases. The team here at the Borough works hard and they need a living wage, the security of pensions and healthcare. But the reality of this in Caldwell is that the increase in police salaries and wages alone represents 48% of this year's increase. Add pensions, social security and equipment the police budget represents 63% of this year's increase.

We need to shore up our foundation in order to grow: All these years it's been about no tax increases, but from what evidence I see here, there has been no investment, no maintenance and no cohesive plan.

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE SPECIAL MEETING
MINUTES – August 6, 2019**

Page 4 of 6

First we have to pay the bills and fix what is broken.

Next, we work the plan. It is the first step towards an ambitious vision for Caldwell.

Now we can look forward to creating four self-sustaining utilities that will be paid for by those who use our parking, our water & sewer systems and our Community Center.

Next year, we look forward to merging our police with West Caldwell so we can lower the taxpayer burden for salaries and benefits.

This is about the vision, planning and courage necessary to bring our beautiful town up to its own unique potential. I will tighten my belt and pay more taxes because I believe in Caldwell.

This year's budget is an investment in our future

Councilman Lace read a statement:

We voted to introduce the 2019-2020 budget for public debate on June 25th, and tonight we are voting to adopt it. Local budgets reflect what we value as a community and consider to be priorities. This year's financial realities present us with some difficult, but necessary decisions. Simply put, we have an additional \$484,712.32 that we must spend to meet our current obligations. Previous years' budgets have sacrificed necessary repairs, adequate personnel, and an emergency surplus in order to keep tax rates artificially low. We have now reached a point where this is no longer an option.

Essential infrastructure, personnel, and balances are exactly that, essential, and they must be maintained. But they haven't been. For example, the Borough knew for 9 years that there was a very serious overflow problem with its sewer line on Passaic Avenue. Here are some photographs & documents related to 408 Passaic Avenue that are public record and that I am showing with permission. 1. Here is an overflowing sewer line with sandbags by the house. 2. Here is a close-up of the overflow. 3. Here is raw sewage coming through the front door into the living room. 4. Here are 6 separate police reports over 9 years that all detail raw sewage flooding into 408 Passaic Avenue. 5. Here is a copy of the engineer's report from 2010, 9 years ago, that informs the Borough that our sewer inflow is the cause of residential flooding and requires "immediate attention." On August 15th of last year, I was contacted by Paula Molinsky of 408 Passaic Avenue in West Caldwell who was dealing with sewage from a Caldwell sewer line that was just pictured underneath Passaic Avenue. She was exasperated after a decade of dealing with this problem without any permanent solution from the Borough. The sewer system capacity was so overstressed that during heavy rainfall, raw sewage was overflowing the manhole cover and literally flowing straight into her house, leaving sanitary items in her front yard and sidewalk, Class III contaminations. The historic flood we had on August 11th of last year was the just the latest in long series of flooding issues in her home. You can imagine what that was like for her. I visited her house and saw it firsthand, and it would outrage any of us. This excessive strain on Caldwell's Sewer Plant was enough to put the Borough in violation of the Clean Water Act and the Water Pollution Control Act last year. The Council appropriated \$575,000 at the end of last year to begin repairs, but no significant work was ordered. Earlier this year, this Council authorized an Infiltration and Inflow study for \$96,000 and then another \$82,000 to begin immediate repairs on the Passaic Avenue sewer lines, which have prevented further occurrences of overflowing sewage. That INI study was actually recommended 9 years ago by our sewer operator. Why has it taken 9 years to appropriate the required funds and necessary repairs? In 2015 the Council did negotiate a better contract with the sewer operator, but the fundamental sewer capacity problem was not resolved. Nevertheless, they gave themselves a 52% pay raise by increasing their Sewer Commissioner salaries. 52%, an extra \$21,000 per year taken from property tax dollars at time when raw sewage from a Caldwell sewer line was flooding into a resident's home. And in 2017 the Sewer Commission never had a single meeting. Are you kidding me? You can't make this stuff up. That is an abuse of public funds, lack of proper oversight, and an insult added to literal injury. Everyone wants low taxes, but no responsible government would adopt them at the expense of the physical health of our residents and neighbors. I am fed up, frankly, with hearing about previous years' low tax rates when the underlying fiscal strategy lead directly overflowing sewage, violations of federal law, inadequate staffing, and depleted savings. I understand that residents are upset that taxes are increasing. So am I. This is not an easy decision to make. But I am more upset that we have been forced into this position. Facts matter. Math is real. Numbers don't lie. Just this past Friday, the Tax Department notified the Borough that it was understaffed and requested additional personnel to help meet its current work load. The 2018 Financial Audit states in its Corrective Action Plan "The Borough does not maintain an adequate segregation of duties with respect to the recording and treasury functions...This is due, in part, to the limited number of personnel of the Borough." At the end of last year, the NJ DEP threatened to place a moratorium on our sewer plant unless we act decisively. Homes that have been flooded with sewage from Caldwell sewer lines are right down the road. These things cannot be ignored, and it is time to stop kicking the can down the road.

That's also the opinion of other residents affected by years of lack of adequate oversight. One of them wrote a Letter to the Editor this past July 25th. "All of these issues - the sewage lines and the sewage plant capacity, the storm water sewers in the area, where the rain water goes and the system being overwhelmed by storm water - need to be addressed and now...These problems cannot continue to be kicked down the road; they are real, they are here, and they will only grow in severity." We don't have a choice of not having a functioning sewer plant because more units will be tying into our sewer system from the surrounding area in the very near future. We don't have the choice of having roads partially collapsing or having our Police equipment requiring plastic coverings to protect it from leaking ceilings. We don't have the choice of not having essential personnel for continued services. We have inherited this situation, and now this Council must fix it.

Elected officials are elected to make difficult decisions. Keeping tax rates artificially low with unsustainable practices is easy. Raising taxes is difficult even if done responsibly. This budget has been judiciously constructed

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE SPECIAL MEETING
MINUTES – August 6, 2019**

Page 5 of 6

so that taxes are used wisely to fund current operations and with an eye towards savings in the future. Caldwell must look to its both immediate and long-term fiscal health in a responsible way, and I believe the FY 2019-2020 budget is the beginning of that process.

Moved by Council President Rodgers, seconded by Councilman Lace. Discussions Ensued. Council President Rodgers, Councilman Cole, Lace, Schmidt voted in the affirmative. Councilman Capozzoli voted in the negative. 2019 Municipal Budget adopted 08/06/19.

COUNCIL COMMITTEE REPORTS

Borough Council Members

Councilman Lace reported that the Community Center continues to have a great summer in terms of summer camp and additional guest's revenues. Nevertheless, they do have a wish list that has been communicated to all the council members and are awaiting word as to whether any of those items will be delivered, because our director strongly believes that before we transition the Community Center to a utility those items need to be in place.

Councilwoman Schmidt reported On July 27th, the Library Board of Trustees held an emergency meeting to establish a Search Committee in order to find a replacement for our current Director, Claudine Pascale, who will be leaving her position on August 31, 2019.

The following Search Committee members were selected and approved by vote:

Edith LaChac

Ruth Jaffe

John Donovan, Board President

Susan Gartland, Library Foundation President

A job listing will be written and posted shortly.

NEW BUSINESS

Borough Council

Councilman Lace reported that a number of us have discussed the Street Fair in terms of availability from Kiwanis for non-profits and he would like to raise the issue if Kiwanis is not allowing non-profits to buy a vendor table for the same prices as any other member would. He would like at the next meeting having a resolution that would allow non-profits on a first come first serve basis to use the Town Green, to set up there so that the visitors to the Street Fair who want to see the various non-profits that are here in Caldwell, that are a very important part to our Community, will have an opportunity to do that without having to pay \$175.00 to set up a table at the Street Fair.

REPORT OF COUNTY LIAISON

Patricia Keenan reminded everyone to go to the County website to see the exciting events coming up. 2019 Essex County Senior Citizens Juried Art Show is at the Essex County Hospital Center on August 7th from 10AM to 12noon.

NEW BUSINESS:

Councilman Lace received an email from Chief Bongiorno who sent a letter from the County regarding crosswalks along Bloomfield Avenue that extends between St. Al's and Dunkin Donuts. The letter from the County says "to help abate these potential crossings the County of Essex asks the Borough of Caldwell to eradicate as soon as possible this existing crosswalk to avoid any mishaps". This letter is dated December 28, 2006.

REPORT OF MAYOR

John Kelley reported that there has been communication with an email that Lisa has received from Linda Von Nessi pertaining to the elections because of the impact it will have on the voting at the Community Center she is waiting for a response back and we need to provide some kind of time frame so they can make decisions on alternative solutions. The schools will be closed on Election Day and Dr. Heing volunteered the schools to be available that day. The Mayor spoke to the Msg. at St. Al's about the crosswalk and the concern on Bloomfield Avenue this crosswalk is not a legal crosswalk.

REPORT OF CHIEF OF POLICE:

Chief Bongiorno thanked everyone who came out tonight and supported our National Night Out. He would like to thank Sgt. Pellegrino who coordinated the event, the Community Center Director, Rosemarie and her staff and Maria Burak. It was a great opportunity to talk and be relaxed. He also wants to remind all residents to continue to lock your vehicles.

REPORT OF BOROUGH ADMINISTRATOR

Tom Banker reported:

- Glenn Beckmeyer has signed off on the remedial plans for Forest and Harrison and he contacted the Engineer for the developer who has acknowledged that he has the approval to proceed but they have not started.

**BOROUGH OF CALDWELL
COUNCIL BUSINESS/CONFERENCE SPECIAL MEETING
MINUTES – August 6, 2019**

Page 6 of 6

- He has detailed discussions with Mark Hendricks who is appraising the properties at 14 Park Avenue, Post Office and all of the public parking sites. Discussion continued on parking sites.
- Box Car did a survey of Caldwell as to the private parking and they will supply a proposal.
- He is meeting on Thursday on COAH strategy and what are proposal will be to the court.
- We will have this month a report that will permit the council to consider the declaration of the entire Borough in need of rehabilitation and we will likely by our next council meeting to present a proposal for redevelopment plan for downtown Caldwell utilizing the declaration for redevelopment.
- We have had discussions with the local Post Master and she supports the idea of making a transition to a smaller site.
- Phil LiVecchi is two towns away from the contracts.
- We are actively negotiating with West Caldwell regarding the police consolidation concept and he hopes by the first meeting in September there may be a concrete proposal.
- We had a problem at our plant with PSE&G they tested the backup system and in the process managed to do something that caused beats that normally allow the flow out to the river not open which caused a flood internally. Discussion continued on the problem.

REPORT OF BOROUGH ATTORNEY

Vince Nuzzi reported that in regards to the speed limit it turns out a simple idea to lower the speed limit has turned out to be a problem. He will reach out to Sgt. Pellegrino tomorrow. With regards to the litigations we are in the process of finishing the deposition with two of the three plaintiffs.

There being no additional business to be conducted a motion to adjourn the meeting was made by Councilman Lace, seconded by Councilman Cole unanimously affirmed by all members present, the meeting was adjourned at 8:57PM.

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

DATE