

## BOROUGH OF WOODCLIFF LAKE

Minutes of Special Closed Session Meeting of the Mayor and Council  
December 15, 2003

Present: Mayor Higgins  
Councilmembers Camella, Glaser, Heinemann, Van Riper and Vogel were present on roll call. Councilwoman Howley was absent  
Also Present: Borough Administrator/CFO Gene Vinci, Lori Sciara, Borough Clerk, Borough Attorney Mark D. Madaio.

Meeting opened at 7 p.m.

### **PURPOSE OF MEETING:**

### **DISCUSSION.**

#### **Tax Assessor Position**

Ms. Potash has rendered her resignation effective January 15. The work load in Woodcliff Lake is more than she anticipated due to the number of tax appeals. She has recommended that this position have two full days dedicated to it. Mr. Vinci stated he has spoken with Mr. Doyle, Administrator/CFO of Montvale re: a possible inter-local assessor agreement. Mr. Campora, tax assessor at Montvale has also resigned. Mr. Doyle stated he would speak to the Mayor and Council of Montvale about this proposal. Mr. Vinci will call Mr. Doyle on 12/16/03 to relay Woodcliff Lake's interest in this inter-local agreement.

#### **School Crossing Guard/Police Matron**

Mayor Higgins summarized an application from the Police Department for a school crossing guard/police matron. All reference checks have been verified by Captain Arnone and Detective Miller. Ms. Ariza speaks fluent Spanish and will be utilized as an interpreter. She will be used as a back-up only with a two hour minimum for a callout.

#### **Hatheway Property Update**

A meeting was held last Thursday night with the Donovan's without the Mayor's knowledge. She stated that the Hatheway Property is important to the Borough. Mr. Vinci stated that this property is listed in the Borough's Master Plan. Mayor Higgins feels that the presence of Ken Glemby at this meeting gives the appearance that this is strictly a real estate deal. This property is important for it's historical value as well as open space. Mayor Elect LaPaglia wants Mr. Glemby to be the point person on this possible acquisition. Mr. Vinci stated the following:

\$1,890,000.00	price requested by the Donovan's
<u>1,650,000.00</u>	highest appraisal amount received by the Borough
240,000.00	amount the Borough is requesting as a tax incentive contribution
50,000.00	amount the Donovan's are willing to give back as a tax incentive contribution

The Donovan's attorney has verbally stated that the Borough has only until the end of January to propose a deal. Mr. Vogel suggested we ask the Donovan's to give the Borough the right of first

refusal. Mr. Madaio stated that the Borough is giving the Donovan's every benefit of the doubt. The Council should schedule one session with the Donovan's in good faith. If the property is necessary for municipal needs, the Borough can condemn the property. It was asked if the Borough could condemn any subsequent owner of this property. Mr. Madaio stated that is a situation the Borough does not want to get into. Make the Donovan's an offer and then end the negotiations. Mr. Camella asked to see the original appraisal paperwork from the two companies hired by the Borough. This item will be put on the closed session agenda for the next meeting.

#### **Administrator, Administrator/CFO and CFO**

Interviews will be held starting Tuesday, December 16, 2003. Approximately 30 resumes have been received, with the majority being for administrator. The job qualifications required at least five years municipal experience. Most of the applicants did not have the minimum required number of years. The Search Committee is hoping to have a new administrator in place by February 1, 2003.

Mayor Higgins asked Mr. Vinci to step out of the room. Mayor Higgins stated that Mr. Vinci would stay as CFO but he wanted to be paid. It was the agreement of the Council that Mr. Vinci should be retained until the end of the year. Mr. Glaser would contact Mr. Vinci to see what rate of pay he was seeking. Mr. Vinci returned to the closed session meeting.

#### **Electrical Sub-Code Official**

The current electrical Sub-Code Official Richard Dougherty is retiring as of 12/31/03. Mr. Saluzzi has interviewed three candidates and has submitted the name of Gerald Hennessy to the Council for their approval. Mr. Hennessy would only be working at Woodcliff Lake, unlike most sub-code officials who work for multiple towns. His pay would be \$2,600.00 less than Mr. Dougherty's. It was the consensus of the council that if Mr. Saluzzi is satisfied, so is the Council.

#### **Tri-Boro Radio Room Budget**

Mr. Van Riper received the 2004 budget from Tri-Boro Radio. In this budget is an \$18,000.00 line item for moving expenses. Mr. Van Riper stated that a meeting will be held on Tuesday, December 16<sup>th</sup> to go over this proposed budget. Mr. Van Riper stated that at this meeting he would report that the Borough of Woodcliff Lake does not want to pay for expenses related to the new building in Park Ridge. Presently we already pay 1/3 of the cost to run the present building in Park Ridge. Mr. Van Riper feels that consolidation of services is going to be the way to go as far as municipal services in the future.

Mr. Madaio reported that he and Mr. Vinci will meet Tuesday, December 16<sup>th</sup> to produce one set of redacted closed session minutes. After all redactions have been made, the council will receive copies of the minutes for their approval.

Mr. Madaio asked why snow removal at 25 Woodland Road is on the agenda. Mr. Glaser stated that the resident had informed him he would be in the audience tonight. It was decided to keep this item on the agenda.

Meeting adjourned at 8p.m.

Respectfully submitted,

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Lori Sciara, Acting Borough Clerk  
12/017/03

## BOROUGH OF WOODCLIFF LAKE

Minutes of Special Closed Session Meeting of the Mayor and Council  
December 1, 2003

CONFIDENTIAL

Present: Mayor Higgins  
Councilmembers Camella, Heinemann, Howley, Van Riper and Vogel were present on roll call. Councilman Glaser arrived at 7:40 p.m.  
Also Present: Borough Administrator/CFO Gene Vinci, Lori Sciara, Acting Borough Clerk, Borough Attorney Mark D. Madaio and Mayor Elect Joseph LaPaglia

Meeting opened at 7 p.m.

### PURPOSE OF MEETING:

### DISCUSSION.

#### Well Testing

Correspondence from resident Charles Ticho re: the well tesing 500 feet from his home was discussed. Mr. Ticho stated that the residents on Allen Drive have never been notified that a well is being considered in this location. Bill Beattie from Park Ridge Water has stated to Mr. Vinci that this was just a test on the well and that the testing will take approximately a year and a half before completion. Park Ridge Water will be responsible to mitigate any problems should the water supply to these homes be compromised.

#### Indemnification of Bob Campora vs. Frank Ryan

Mayor Higgins commented that Mr. Ryan called to tell her that it is illegal to indemnify and defend Bob Campora since he should be considered an independent contractor. Mr. Madaio stated that this is not a true statement and the Borough will defend Mr. Campora if it becomes necessary.

#### Affordable Housing – Declaration of Covenants

Mr. Madaio reported that he had discussed with Mr. Van Dam whether fences were permitted on Centennial Way. A resident of Centennial Way had previously requested to put a fence on her property. Mr. Madaio reported that the Declaration of Covenants permit the construction of fences and that fences are also permitted by Borough Ordinance. This particular resident needs an extra layer of consent since her fence would be constructed on the top of a Borough drainage easement. Mr. Camella stated that he would like the opinion of the Affordable Housing Board on this issue. Mr. Vinci stated he would talk to Ronnie Appelle and Warren Feldman. It was the consensus of the Council to apprise the Affordable Housing Board of their decision to deny this fence request because the plans do not comply. The resident is free to reapply with different plans.

Mr. Madaio stated that the Master Plan was adopted by the Planning Board in 2002. Mr. Madaio gave the Council a draft of changes to the Zoning Ordinance sometime in July. There has been

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no action taken on this ordinance. Duplicate copies will be given to all councilmembers and a copy will also be given to Paul Kaufman and Mary Verducci.

Mr. Vinci stated that Mr. Catherwood's property is addressed in Boswell Engineering's report. Boswell Engineering has stated that a current topographic and boundary survey of Mr. Catherwood's property needs to be done. This proposal was submitted on November 3, 2003.

The report from Kinsey Associates was discussed. Mr. Vinci stated that John Belle is the professional that is being paid by the Borough to oversee the lighting project on the fields. It is the consensus of the council that a visit to the fields is necessary. Steve Silverman, Joanne Howley, Jeff Schneider, Gene Vinci and Mayor Higgins will walk the field. A letter will then be written to John Belle comparing the items on his list dated 12/1/03 and the items the council feels need to be repaired/repaired properly. A meeting will then be scheduled to meet with John Belle to show him the Borough's concerns. The Borough is still holding the Performance Bond on Margonis Electric and has not fully paid the contractor.

Mr. Vinci stated that a resolution is on tonight's consent agenda to authorize H2M to prepare a Train Station Area Improvement Plan for the Borough. H2M has also submitted a proposal for the preparation of a base survey to be utilized for the design of intersection improvements. Mr. Vinci continued that Train Station Committee felt that in order to make the application more viable, some modifications to an unsafe intersection might be necessary. Because this is a county road, the county would be responsible for all construction costs. Mrs. Howley stated that she would like a second proposal for this survey. It was the consensus of the council to have Boswell Engineering submit a proposal for this survey also.

Mr. Vogel commented on the website maintained by Michael Hogan in the negative. All councilmembers agreed.

Meeting adjourned at 8p.m.

Respectfully submitted,

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Lori Sciara, Acting Borough Clerk  
12/03/03

## BOROUGH OF WOODCLIFF LAKE

Minutes of Special Closed Session Meeting of the Mayor and Council  
November 17, 2003

Present: Mayor Higgins  
Councilmembers Camella, Glaser, Heinemann, Howley, Van Riper and Vogel  
were present on roll call.  
Also Present: Borough Administrator/CFO Gene Vinci, Lori Sciara, Acting  
Borough Clerk, Borough Attorney Mark D. Madaio and Mayor Elect Joseph  
LaPaglia

Meeting opened at 7 p.m.

### **PURPOSE OF MEETING:**

### **DISCUSSION.**

**Resignation of Borough Administrator/CFO** - Mr. Gene Vinci, Borough Administrator/CFO has resigned, effective 12.16.03. He has accepted the Administrator position at neighboring Park Ridge. A bi-partisan search committee has been formed by Mayor Higgins, with the input of Mayor elect LaPaglia. This committee will be announced at the end of the Public Meeting tonight. The search committee will place ads on the League website for an administrator and administrator/CFO or a CFO.

**Closed session minutes – Hogan Request** - Mayor Higgins stated that the cost of processing OPRA requests is astronomical. These requests are taking up an enormous amount of employee time. Mayor Higgins has asked for a resolution to be put on the next agenda to up the cost of copying from the current 25 cents per page to the state's prices of 75 cents for pages 1-10; 50 cents for pages 11-20 and 25 cents for any pages over 20. The Mayor continued that she is frustrated that work is not being done because employee's are busy with OPRA requests. She feels that we go out of our way to accommodate residents and their requests. Mr. Madaio and Mayor Higgins both agreed that the answer to the OPRA dilemma lies in the legislature. Mr. Madaio stated that generally speaking, any personnel items contained in closed session minutes would never become a public record. He stated that the council should carefully review Mr. Hogan's request for closed session minutes is pending. As soon as these minutes are redacted and approved by the council, they will be released to the public. Mr. O'Brien's request for unredacted closed session minutes will not be granted as the Borough and Mr. O'Brien are in litigation.

There is a resolution on tonight's agenda to reject the bid for the Renovations to the Old Mill Pool. The bid amount exceeds the funds available for the project.

A letter giving a brief history of **Nancy Ahren's** claims and appeals for unemployment from Ruderman and Glickman was given to the council for informational purposes only.

**H2M Associates – Beautification Project-** the Beautification Committee has had quite a few meetings with Capital Alternatives. H2M has submitted a proposal to handle the beautification project. H2M will do three (3) different schematics of the proposed design for the council to review. Mr. Vinci stated that the critical part of this project is the intersection of Woodcliff Avenue and Broadway. This configuration of the road will be a key part of the design. The County would visit Woodcliff Lake to assess and present their recommendation of a plan for this project. Woodcliff Lake would have the final say on any changes.

Mr. Vogel stated that Task 1( Background Analysis) for \$2,500.00 and Task 2 (Community Needs Analysis) for \$2,500.00 are unnecessary. He continued that the Borough will apprise the company of any infractions against Borough ordinances. Tasks 1 and 2 can be produced in - house. Mrs. Heinemann will ask H2M if they will omit the first two tasks.

**21 Daniel Court – Drainage Feasibility Study** – Mr. Vinci stated that this issue has been pending for years. Dr. Pazwash was asked to prepare a proposal to see if there is a remedy for this long standing drainage problem. Mr. Camella asked why this was considered a town problem. Mr. Vogel stated that Boswell Engineering should be paying for this study since they were the engineers that approved this project in the beginning. The problem is that the garage is lower than the street. Mr. Vinci stated that the Borough needs to ascertain whether or not the water backs up from the municipal line and we need to find the primary source of water. The study needs to be done before we can put an cost estimate on repairs. It was agreed that this resident deserves relief. It was because of the Drainage Committee looking into all trouble areas within the Borough that this issue at Daniel Court resurfaced.

**Catherwood Property** – There will be a meeting with Mr. Catherwood on Tuesday, November 25, 2003 to discuss the options.

**Hatheway Property** – A resolution is on tonight’s consent agenda to accept the appraisal summary from the State of New Jersey, Department of Environmental Protection, Green Acres Program. This is standard procedure. When Green Acres approved the grant, they request two appraisals. They then take the average of the two for the appraisal summary. Mrs. Heinemann asked why we did not receive the Bergen County Open Space Grant. Mr. Vinci stated that the Borough did not receive any grant money for this project because the Hatheway Property sale is not finalized. This does not preclude us from applying for the Open Space Grant again in March.

**Tax Appeals** – Mr. Madaio reported on the following:

**Merson** – Ms. Potash has stated that there was an error in her previous memo. The actual settlement price is \$1,050,000.00. Mr. Madaio explained that originally there was a square footage error on this property. Visually the house appeared to have more square footage than it actually did. Once the house was inspected, the tax assessor was able to ascertain the correct square footage. Mr. Madaio stated that there is no immediate rush on this tax appeal. It was the consensus of the council to prepare the stipulation of settlement on the Merson property.

**Mack-Cali** – Ms. Potash has stated that the stipulations are floating around somewhere. She regards them acceptable “as is”; however, she would like to see 2003 rolled in. This appeal pre-dates the revaluation. Commercial properties are assessed by their income producing ability. This appeal was originally settled by Manny Toskos.

**Bob Brown** – has stated that the value of his house is being lowered because of the Salt Bin/DPW Addition. Mr. Saluzzi has stated that all work is being done to specifications. It was the consensus of the council to have Mr. Brown put in writing what he is requesting from the Borough.

Meeting adjourned at 8p.m.

Respectfully submitted,

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Lori Sciara, Acting Borough Clerk  
11/21/03

**BOROUGH OF WOODCLIFF LAKE**

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Minutes of Special Closed Session Meeting of the Mayor and Council  
November 5, 2003

Present: Mayor Higgins  
Councilmembers Camella, Glaser, Heinemann, and Howley were present on roll call. Councilmembers Van Riper and Vogel were absent  
Also Present: Borough Administrator/CFO Gene Vinci, Lori Sciara, Acting Borough Clerk, and Borough Attorney Mark D. Madaio and Mayor Elect Joseph LaPaglia

Meeting opened at 7 p.m.

**CONFIDENTIAL**

**PURPOSE OF MEETING:**

**DISCUSSION.**

**Nancy Ahrens vs. Board of Review** – Ms. Ahrens applied for unemployment benefits and was originally denied benefits for the first five weeks immediately following the waiting period, but was subsequently granted benefits. The five week period ran from 8/11/02 through 9/21/02. Ms. Ahrens appealed this waiting period. A memo was received from the Superior Court of New Jersey, Appellate Division stating that her appeal was denied.

Some councilmembers commented that they did not know Ms. Ahrens had collected unemployment benefits at all. Mr. Vinci stated that the Labor Attorney has been handling this case since the beginning. Mr. Vinci stated that he would make a copy of the Ahrens file for all councilmembers to review. Mr. Madaio stated that he would call Mr. Ruderman, the labor attorney, to review this case.

**Hatheway Property** - Mr. Vinci stated that there is a way the tax code could be used to mitigate the difference between buyer and seller. This concept is called a “Bargain Sale”. The difference between the consideration paid and the fair market value is a charitable deduction. Mr. Vinci is waiting for a call from the seller’s attorney, Mr. Hall to discuss this sale.

**Hogan Request – Closed session minutes** – Mrs. Howley and Mayor Higgins both stated that they thought personnel matters could never be disclosed to the public. Both Mr. Madaio and Mr. Vinci were under the impression that as long as the item has been resolved, names are part of the record. It was stated that the Forensic Audit was never to be released to the public; however, this audit was referred to several times in the closed minutes. Mrs. Heinemann suggested that the closed session minutes not be released until the council receives a written opinion from Mr. Madaio as to the legality of releasing personnel matters. Mr. Madaio stated that the request from Mr. Hogan and the release of the closed session minutes are two separate issues. Once the minutes are reviewed and made available to the public, the Borough will comply with Mr. Hogan’s request.

**Musquapsink Brook Bank Stabilization and Stream Restoration – result of bid opening -**

Mr. Madaio stated that the Borough engineer reviews the bids and then relays to him the apparent low bidder. Mr. Madaio then checks the documents for compliance. There was a minor issue with the paperwork of the low bidder, Conquest Industries. In the standard bid package there is a Consent of Surety page. The insurance company signs this page and the contractor is to counter sign. The contractor did not sign the Consent of Surety. Mr. Madaio stated that the contractor's signature is a meaningless gesture since it is the insurance company who is guaranteeing that the contractor will be able to provide a performance bond should they receive the contract. This contract award is on the consent agenda for vote at tonight's public meeting and Mr. Madaio stated that this contract can be awarded to Conquest Industries.

**Raymond Brothers Landscaping** – The bill from this contractor for remedial work on the field was pulled from a previous meeting and is on the revised bill list for approval at tonight's public meeting. Mr. Vinci, Mrs. Howley, Ed Barboni and Tom Raymond did a site visit to the field on October 28, 2003. Mr. Raymond stated that any follow up work will be done in the spring. Mr. Vinci stated that the Borough will pay Raymond Brothers and will then back charge Margonis Electric.

John Belle is trying to correct the problems with Margonis Electric, as reflected by his memo giving Margonis Electric until November 7, 2003 to address the problems. Mayor Higgins reported that work was being done today on the fence. She asked the council to look into a switch that could still be live on the fence. Mr. Madaio stated that the Borough electrical inspector and/or John Belle will be contacted tomorrow to check the status of this switch. Mayor Higgins commented that a Mr. Silverman requested that he be a part of the repair process to the field. The association is preparing to spend approximately \$20,000 to lay clay on the field .

**George Catherwood** – Mr. Vinci reported that a wet detention basin is being proposed to be built on this property. Mr. Pazwash from Boswell Engineering has stated that there are issues with Mr. Catherwood as to the exact location of the Musquapsink Brook on the map. A topographic survey will be necessary for the preparation of plans for a proposed detention pond. This topographic survey is an information item only and will be put on the agenda for the next meeting for authorization.

Mrs. Howley asked how piping has become a detention basin. She also asked the cost of the detention basin. Mr. Vinci answered that there is no cost estimate as of yet. There is an estimate of \$200,000. for the culvert. Mr. Vinci continued that the Borough would have to acquire Mr. Catherwood's property as an open space project. The Borough would apply to Green Acres and the Bergen County Open Space for grants. The hydrologist, Hormoz Pazwash, has recommended the idea of a wet detention basin.

Mayor Higgins stated the Borough's options: 1) do nothing, let the flooding continue. This is morally wrong; 2). pipe the distance allowable by the DEP; 3) construct either a dry or wet detention basin.

Mr. Camella stated that the main concern is getting the water off of Woodcliff Avenue. Mr. Glaser asked for a written comparison of the alternatives from the hydrologist. Mrs. Howley stated that if the Borough does not receive grant money, the Borough should not spend taxpayer dollars to purchase this land. Mr. Vinci stated that he will request a written analysis from Mr. Pazwash.

Mrs. Heinemann stated that the Borough cannot allow the flooding to continue.

## **TAX APPEALS – Mr. Madaio reported on the following:**

**Merson vs. WCL** – This appeal involved a dispute as to the actual square footage of the house. Tax Assessor Barbara Potash has stated that the property was assessed utilizing 7600 sq. ft. instead of 3767 sq ft. She advises that the Borough will not win this appeal in Court because it is an error on the part of the Borough and must be corrected. The new settlement value is \$1,250,000 vs. the 2003 value of \$1,675,500.

**Ingersoll Rand** – Tax Assessor Barbara Potash has spoken with their agent and advised that the Borough would not entertain a reduction for 2004 right now and that they should file a Tax Court Appeal in 2004. This would give the Borough more time to review this appeal.

**Fallon** – Tax Assessor Barbara Potash is still reviewing this appeal. This appeal is close to needing an appraisal. A court date has been scheduled for December. A resolution to authorize an appraisal should be place on the November 17, 2003 agenda. The Borough does not have to

**Mack-Cali/Timplex** – Tax Assessor Barbara Potash has spoken with Bob Campora and he agreed to the 2001 and 2002 settlements but does not remember anyone drawing up a stipulation to sign. Before she can recommend any settlement, she would need to know if there is a 2003 appeal that is being settled. Mr. Madaio stated that since these stipulations must have Manny Toskos's signature. Mr. Madaio will speak with Mr. Toskos to review these appeals.

### **Ridge vs. Planning Board – Paul Kaufman is handling this appeal.**

**Ryan vs. Woodcliff Lake** – Mr. Frank Ryan has filed a complaint against the Borough, Bob Campora, Alice Lee, Jack Doyle, Judge Pizzutto and the Bergen County Board of Taxation. Mr. Ryan allegations are that his taxes are too high and a that a conspiracy has been formed to selectively deny him information. Mr. Madaio has filed on behalf of Bob Campora and Jack Doyle to indemnify and defend in this issue. This complaint was sent to MEL/JIF because it seeks monetary damages. Dorsey, Fisher and King, general counsel to the MEL had advised that it will provide a defense and indemnification for compensatory damages. Mr. Madaio will answer on behalf of the Borough for punitive damages.

**Old Mill Pool** – Mr. Madaio stated that Borough has already received opinion letters from himself and Boswell Engineering. The new bid received is approximately \$400,000 over the available funds for this project. The increase of the base bid was due to the addition of new walls around the pool to alleviate any seams. Therefore, funding, not the award of the bid, is the issue at hand.

Mrs. Howley asked if the Borough could make an emergency appropriation for the \$400,000. Mr. Vinci stated that renovations to the pool is not an operating expense. He has never heard of funding a capital project with emergency appropriations. This appropriation would have to be reflected as a deferred charge in the 2004 budget and taxes would have to be raised to cover the funding. Mr. Vinci continued that this is a capital project, not an emergency.

Mrs. Howley asked Mr. Vinci to check with the auditors. If the council waits any longer, the pool will not open by 2004.

Mr. Madaio stated that he has expressed his opinion in writing and does not recommend using

these specifications. He continued that the DCA does not approve of any "design build" project or element in project specifications. The DCA recommends using only the best, most complete and most extensive possible independent bid specifications which are prepared and monitored by an independent engineering firm and bid out to Contractors who have no relationship to the firm. He reiterated that he is not here to interfere. If the council is uneasy about the "design build" concept, call the DCA. If the council wants to speak with an independent attorney, consult one. If the DCA says this type of project is not permitted, then it is not permitted.

Mr. Camella stated that other municipalities use the "design build" concept. Could the Borough just start renovations? Mr. Madaio stated that there is not a problem when things go right. The problem will be when/if something goes wrong.

Discussion began as to what the penalties from the DCA would be if renovations were to begin. Mr. Camella and Mr. Glaser asked that the contractor alter his bid to provide for a mechanism to control change order costs. All agreed that there should be a "clerk of the works" to oversee renovations. Mayor Higgins stated that all these things add on to the cost and she is not in favor of awarding this bid. She also expressed concern as to "how long can we string the residents along"?

It was the consensus of the council that a decision would be made before the November 17, 2003 meeting.

Meeting adjourned at 8:40 p.m.

Respectfully submitted,

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Lori Sciara, Acting Borough Clerk  
11/7/03

## **BOROUGH OF WOODCLIFF LAKE**

### **Minutes of Special Closed Session Meeting of the Mayor and Council October 20, 2003**

Present: \_\_\_\_\_  
Mayor Higgins  
Councilmembers Camella, Glaser, Heinemann, Howley, Van Riper and Vogel  
were present on roll call.  
Also Present: Borough Administrator/CFO Gene Vinci, Lori Sciara, Acting  
Borough Clerk, and Borough Attorney Mark D. Madaio.

Meeting opened at 7 p.m.

#### **PURPOSE OF MEETING:**

#### **DISCUSSION.**

#### **LEGAL**

Mr. Vogel asked that all closed session minutes be held until they can be read thoroughly by the council. The minutes are not public until the council votes on them. It was decided to return Mr. Hogan's payment for these minutes and advise him that they will be released to him upon council approval.

Mr. Vogel stated that he would like to talk about closed session and confidentiality. There has been several articles posted on a personal website [www.pascackpeople.com](http://www.pascackpeople.com) about past and present employees of Woodcliff Lake. Chief Jannicelli called Mr. Vogel today and stated that his name appeared on this website in the negative. Mr. Vogel specifically sighted an article re: "Woodcliff Lake and the Township of Washington may sue each other over GSP Exits 168 & 171". The article states that "Mayor O'Reilly said a councilmember in Woodcliff Lake is trying to sue Washington Township to put a light at the end of the Parkway Exit at 168".

Mr. Vogel stated that the only time the matter of "suing" came up was in closed session. Therefore, there is a leak and the council needs to find out "who has the mouth". Leaking closed session information has to stop

A discussion began as to whether this comment was said in open or closed session. Mr. Vogel stated that a comment like this would certainly be in open session minutes. Mr. Camella suggested that Jon Vogel call Mayor O'Reilly to ask who the councilmember in Woodcliff Lake is.

Another article entitled "Montvale and Woodcliff Lake – the Jack Doyle Story" was referenced. This was the article that prompted Chief Jannicelli's call to Mr. Vogel. The article insinuated that Mr. Doyle reallocated funds in the Builder's Escrow Account to himself and that Chief Jannicelli and other town officials protected his activity. Prosecutor Molinelli's office has been notified. Several members of the council asked about libel suits. Mr. Madaio stated that anyone can be sued for libel if they meet the standards.

**Westervelt-Lydecker House** – there is a default judgment against the former tenants. Mr. Madaio will try to collect these funds, approximately \$3,500.00. Although not a large sum of money, it is a matter of principal.

**Sunrise Assisted Living** – the settlement documents are complete.

**Kevin O'Brien** – the judge in the case had previously directed Mr. O'Brien to name the Water Company as a defendant. Paul Herten is the Water Company's attorney. At the time of the amendment of the claim, Mr. O'Brien added an Environmental Rights Act Claim, which is an act against polluters, not property owners.

**The Ridge at Saddle River** – There is a Civil Action Case Management Order vs. the Planning Board and the Ridge at Saddle River L.L.C. Paul Kaufman is representing the Borough. Mr. Madaio explained that this is another big scatter shot complaint – one count for essentially civil rights violation. Mr. Madaio advised that the Borough should send this action to our Risk Manager as damages are possible. Mr. Vogel asked if this litigation has anything to do with sewer hook ups. Mr. Madaio stated that the Borough is not named as a party in that matter. However, he will re-check the complaint just to be sure.

**Campora/Doyle v. Ryan** – Mr. Madaio stated that he received a letter from John Doyle stating that there were not ethic violations re: Francis Ryan. He has not received this letter from Bob Campora. Mr. Vogel asked that Mr. Madaio be certain that in the course of discovery, should an ethic violation become apparent, Mr. Campora and Mr. Doyle know they must incur the cost of litigation.

**Jackie Marcus (fence issue)** – It is the consensus of the council that no fences are permitted on Centennial Way. Mr. Madaio will Mr. Van Dam to inquire whether he has a copy of the original Centennial Way regulations.

**Mandle vs. WCL** – Paragraph 11 of the agreement states that work can be done on the property; however, two public hearings must be held. Mr. Madaio stated that the three homeowners cannot ban together to veto any work as long as the hearings were held and notification of affected property owner is complete. Mr. Vogel and Mrs. Howley were under the impression from previous borough attorneys that no work could be done at the field at all. Mr. Madaio again stated that Paragraph 11 clearly states that work can be done on the field as long as two public hearings are held. Paragraph 11 is a realistic provision.

**Margonis Electric/Athletic Field Lighting** – Mr. Vinci met with John Belle from Kinsey Associates along with Ed Barboni and Joanne Howley. A final punch list of items that still are in need of repair was given. The Borough will not pay the contractor unless John Belle signs off and becomes responsible for the job. Letting the children play on the fields is making a bad situation worse. There are also dangerous wires sticking out of the fence. Mr. Vinci was directed by the council to contact Mr. Belle and let him know that the Borough wants an answer as to this final punch list by the end of the week or new contractors will be hired to finish the job.

**Old Mill Bid Specs** – Comment letters on the new specifications for the Old Mill were sent to the council from Boswell Engineering and Mr. Madaio. To date, one contractor has picked up the specifications. Mrs. Howley asked if RJR Engineering has to come pick up the specifications and pay for them. Mr. Vinci stated that he RJR does have to come in and pay. Mr. Madaio stated that council should read the comment letters from himself and Boswell Engineering before the bid opening scheduled for Friday, October 24, 2003. It was the consensus of the council that no sense of impropriety is had because a bidder also prepared the specifications. Mr. Madaio stated that the council should just wait for the bids. It will be what it will be. Mr. Vinci stated that he does not want to speak too much to RJR Engineering as he does not want it to seem that he is pushing the job his way.

**Mack-Cali/Timplex Tax Appeals** – Barbara Potash has been apprised of this matter and is evaluating the proposed settlement. Once she is done with her evaluation, she will let Mr. Vinci know so that he may put it on the next closed session agenda.

### PERSONNEL

**Tax Assessor workload** – because of the number of commercial tax appeals pending and the lack of an assessor for a month, Ms. Potash is in need of clerical assistance. Liz Barnaba, the summer intern, will be returning in December. Ms. Potash is spending most of her time on the appeals. Her current hours are 4:30 – 7:30 two days a week. Ms. Potash has stated that the revaluation company did not obtain entry into a number of homes and she is concerned about the validity of the appraisals. As per the revaluation company, commercial appraisals have risen approximately 15 million dollars, to 43 million from 28 million. Ms. Potash is having difficulty defending these numbers.

Meeting adjourned at 8:05 p.m.

Respectfully submitted,

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Lori Sciara, Acting Borough Clerk  
10/22/03

## **BOROUGH OF WOODCLIFF LAKE**

Minutes of Special Closed Session Meeting of the Mayor and Council  
October 8, 2003

Present: Mayor Higgins  
Councilmembers Camella, Glaser, Heinemann, Howley, Van Riper and Vogel  
were present on roll call.  
Also Present: Borough Administrator/CFO Gene Vinci, Lori Sciara, Acting  
Borough Clerk, and Borough Attorney Mark D. Madaio.

Meeting opened at 7 p.m.

### **PURPOSE OF MEETING:**

### **DISCUSSION.**

#### **Personnel**

##### **DPW Superintendent Request – Holiday Pay to be put into base pay**

Mr. Vinci stated that this is a previous request made by the DPW Superintendent. The Chief and Captain of Police receive this benefit. Mr. Vinci feels giving this benefit to Mr. Barboni would be good for morale. By putting the 6 day, lump sum holiday pay into his base pay, it will cost the Borough less than \$60.00 per year for their pension contribution.

Mr. Glaser asked if this benefit would be given to Mr. Barboni's successor. It was decided to deal with that issue when/if it should arise.

The consensus of the council was to grant Mr. Barboni's request to put his 6 vacation days into his base pay.

#### **Legal**

##### **Release of closed session minutes of 2002-2003 to Mr. Hogan –**

Mr. Vogel stated that no minutes can be released to the public until the council votes that they may be made public. Copies of all closed session minutes from 2002-2003 will be given to the council for their approval. Redactions have been made/suggested by the Borough Attorney, Borough Administrator and Acting Borough Clerk. Mr. Madaio agreed with Mr. Vogel that it is not the request that is being questioned, it is the fact that the minutes are not ready for release to the public as of yet.

##### **Francis Ryan v. Woodcliff Lake – memo from Mark Madaio and JIF Claims –**

Borough Attorney Madaio has filed an answer on behalf of the Borough and Bob Campora. A resolution will have to be adopted by the Council agreeing to indemnify and defend the various employees and ex-employees in this matter. We have received correspondence from Bob Campora and John Doyle requesting indemnification and legal defense by the Borough of Woodcliff Lake. The Borough has an indemnification ordinance, Chapter 16. Mr. Madaio is requesting a resolution be placed on the next consent agenda for the Borough defend and

indemnify Mr. Campora and Mr. Doyle. The Borough will act in the same accordance should Alice Lee contact the Borough.

Mr. Vogel stated that the Borough does not know if Mr. Doyle and the others acted out of the scope of their employment with the Borough. Mr. Madaio stated that he will write the letter to state that the Borough will represent and indemnify the ex-employees with stipulations and reservations.

A copy of the Ryan Complaint was sent to JIF, and was informed that the Fund policies do not provide coverage to the Borough for this incident and the claim was denied.

#### **Letter from resident - 5 Centennial Way-**

There had been a question as to whether or not the owner of 5 Centennial Way was renting his affordable housing unit. The owner has advised Borough Attorney Madaio that he works many hours and is not always home. He admits that other people do reside in the home, however. He stated to Mr. Madaio that he will be moving out next year. Mr. Madaio stated that the Affordable Housing Board has been copied on this matter.

#### **Borough of Hillsdale re: Use of field –**

The attorneys, administrators and mayor's of the Borough of Woodcliff Lake and Hillsdale met with the park and recreation department. The Borough of Woodcliff Lake has until October 20, 2003 to reinstate the complaint against the Borough of Hillsdale. Mr. Madaio stated that he does not feel the reverter clause in this case will amount to much. He continued that if we file a lawsuit against the Borough of Hillsdale, we will never be able to obtain a peaceful solution to this issued. The Borough of Hillsdale has stated that that are interested in converting the paper street near the property into a parking lot. Since there is now an evident interest to Hillsdale to settle this amicably, the Borough of Woodcliff Lake should keep the doors to negotiations open.

#### **Whiteweld Basin/Advance Realty – black lined version**

As per the Borough's previous request, Mr. Madaio has removed the Borough of Woodcliff Lake as a party to this agreement. The council is satisfied and Mark Madaio will draw up a resolution for the council's signature.

#### **Tax Appeals – Borough Attorney Mark Madaio –**

**Sunrise** – Tax Assessor Barbara Potash and Borough Attorney Madaio went over the Sunrise Tax Appeal at length. Mr. Madaio stated that Ms. Potash showed tremendous diligence, getting up to speed on these tax appeals. Ms. Potash was introduced to the mayor and council. Joanne Howley stated that she is concerned that the assessment decreases in the improvement side, not the land. Ms. Potash stated that she agreed to settle the appeal, with council approval, as long as Sunrise withdrew the year 2003. 2003 would be the year the Borough would take the biggest hit. Mr. Vogel asked the repercussions of trying this appeal rather than settling. Ms. Potash stated that if we try this case in 2003, the Borough would incur losses in 2004 and 2005. Mrs. Howley asked if there would be any further repercussions if we were to agree to settle. Ms. Potash stated that by settling this appeal, Sunrise will withdraw their appeal for 2003.

Mr. Vogel asked if Sunrise were an incoming producing business. Ms. Potash said they were and that their occupancy rate is a big factor in assessing their taxes. An occupancy rate of 50% or less is not good for the Borough. Mr. Vogel asked what the cost would be to go to trial. Ms. Potash estimated it would cost approximately \$30,000 to take this appeal to court. Ms. Potash continued that she does not believe in settlements; however, this appeal settlement is the most

cost effective option to the Borough. Ms. Potash stated that this appeal could reach into 2005 depending on the trial date. This case has been assigned to a hard judge and it has been sitting for some time. The Borough is not ready to try this case next month. This is a trial of opinions, the judge opinion, the assessors opinion etc.

Mr. Vogel reiterated that the Borough should fight this appeal, with all due respect to the assessor. It was the consensus of the council to approve this approve this tax settlement.

**The three residential appeals, Horn, Bader and McGovern** were discussed with Ms. Potash. Ms. Potash stated that during the revaluation process, errors are made. When researching these three properties in particular, she looked at every house on each of the three blocks. The three houses in questions were higher taxed than smaller houses on the blocks. There was no justification for these numbers.

Mr. Vogel stated that he disagreed with the Bader assessment. He stated that the Bader home was one of the largest ones on Blueberry Drive. Ms. Potash stated that there was one home larger with a lower tax assessment. Ms. Potash stated that if the Borough were to go to trial, the years affected would be 2003, 2004 and 2005. Mr. Vogel stated that irregardless of cost, the Borough should fight all tax appeals.

Mr. Camella stated that Borough could lose a lot of money if we go to trial.

**Roll Call:**

Mr. Camella:	settle the three residential appeals
Mr. Glaser:	settle the three residential appeals
Mrs. Heinemann	settle the three residential appeals
Mrs. Howley:	settle the three residential appeals
Mr. Van Riper	settle two residential appeals, except the Bader property
Mr. Vogel	settle two residential appeals, except the Bader property

Mr. Madaio stated that Manny Toskos is starting to receive correspondence re: settlement on the Mack Cali, Timeplex LLC, and Mack Property Company #4. Ms. Potash stated that the tax year 2003 is pending; there has been a settlement for the years 2001, 2002 but she cannot find the stipulation for 2003. Ms. Potash and Mr. Madaio will find the stipulation of settlement in questions. This item will be carried for another work session and Ms. Potash will evaluate these tax appeals as she has down with the other appeals. There are also some open building permits on these properties.

**Tri Borough Agreement –**

Mr. Van Riper had asked Mr. Madaio to research what the obligation of Woodcliff Lake is should Tri-Borough determine to construct a new building and seek to pass those costs on to its members. Mr. Vogel asked if prior permission by a previous council was ever given to Tri-Borough for construction. He does not understand how Tri-Borough could assume the Borough would be willing to share these costs. Mayor Higgins stated that she is sure there was no prior binding or authorization from a previous council. Mr. Van Riper stated that the new building is being built in a flood plain.

Mr. Madaio assured that council that he sees no obligation for the Borough of Woodcliff Lake to participate in this new building construction.

Mr. Van Riper brought two news articles to the Council's attention. One letter was signed by the Woodcliff Lake Fire Department and one letter was signed by an individual. He stated that the

members of the Fire Department made references to the newspapers about the school board election. Mr. Van Riper stated that he does not approve as an agency of the Borough should not take a position on a Board of Education budget. He feels there should be reprimand. Mr. Vogel stated that Mrs. Howley, as Fire liaison, should simply remind the members that they should not publicly take a position on controversial issues.

**Hatheway Property negotiations-**

The Hatheway Property appraised value is \$1.6 million, as per the Borough's appraiser. Mr. Donovan is stating the property is worth \$1.9 million. Mr. Vinci feels \$1.9 million is out of line. Mr. Vinci stated that the Borough will only get funding up to the appraised value. Mr. Vogel requested that Mr. Vinci speak to Lerch, Vinci and Higgins to see what tax benefits are available, and then negotiate with the Donovan's.

Meeting adjourned at 8:05 p.m.

Respectfully submitted,

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Lori Sciara, Acting Borough Clerk  
10/14/03

**BOROUGH OF WOODCLIFF LAKE**

Minutes of Special Closed Session Meeting of the Mayor and Council  
September 22, 2003

**CONFIDENTIAL**

**DRAFT**

Present: Mayor Higgins  
Councilmember's Camella, Glaser, Heinemann, Howley, and Vogel were present on roll call.  
Also Present: Borough Administrator/CFO Gene Vinci, Deputy Clerk Carol Valentino and Borough Attorney Mark D. Madaio

Meeting opened at 6:50 p.m.

**Purpose of Meeting:**

**Rejection of Old Mill Bids** – Mark Madaio referred to his letters of September 17<sup>th</sup> & 18<sup>th</sup>, 2003 advising the Mayor & Council to reject all bids for the following reasons:

1. The bid exceeded the estimated amount previously submitted by RJR.
2. Bid alternates cannot be used as subsequent change orders.
3. Vagueness in contract specs may not promote competitiveness.
4. The "design-build" concept is questionable.
5. Receipt of only one bid may not promote competition.

Mr. Vogel then asked why we are in a closed session. Mr. Madaio explained that "potential litigation" and "attorney client privilege" would be an issue if meeting was opened to the public. Mr. Madaio also stated that contractual concerns are not the same as statutory compliance in terms of accepting the bid. Mayor Higgins then asked why was the acceptance of the bid placed on the September 15<sup>th</sup>, agenda in the first place. Mr. Vinci explained that there was a sense of urgency from the public as well as the council to take action. Mr. Madaio again said to reject all bids tonight and to tighten specifications up tomorrow with Boswell & RJR Engineering

Ms. Howley asked if Boswell looked over the specifications prior to the bid opening and Mayor Higgins stated that our engineer always reviews the specs. Ms. Howley then asked why Boswell Engineering is citing problems with the specs now instead of prior to the bid opening. Mr. Madaio stated that our engineer cannot approve a bid that is vague in manner and again pleaded to reject all bids. Ms. Howley stated that the specs reflect 8,500 square feet of concrete which in her opinion is much more that is needed. Mr. Madaio reiterated that the bid should be rejected.

DRAFT CONFIDENTIAL

Mr. Vogel then asked Mr. Madaio if he had reviewed the specs prior to the bid opening. Mr. Madaio answered in the affirmative. Mr. Vinci at that time stated that Boswell did receive the specs, however, and ultimately did not approve. Ms. Howley at that time said to stop the "blaming game". Mr. Madaio stated that the facts were that Boswell Engineering had reviewed the specs and could not sign-off.

Mayor Higgins at that time stated that valuable time has been lost which was noted by all members. Ms. Howley asked what would happen if we receive only one bid again? Mr. Madaio stated that we would proceed in the same manner, however we need to have a clean, crisp rejection of the current bid.

Meeting adjourned at 7:15 p.m.

Respectfully submitted,

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Carol Valentino, Deputy Clerk 9/23/03

**BOROUGH OF WOODCLIFF LAKE**

Minutes of Special Closed Session Meeting of the Mayor and Council  
September 15, 2003

*redacted*  
*released*  
*3/20/06*

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Present: Mayor Higgins  
Councilmembers Camella, Glaser, Heinemann, Howley, Van Riper and Vogel  
were present on roll call.  
Also Present: Borough Administrator/CFO Gene Vinci, Acting Clerk Lori Sciara  
and Borough Attorney Mark D. Madaio

Meeting opened at 7:10 p.m.

**Purpose of Meeting:**

**Award of Contract** – Mr. Vinci reported on the award of the contract(s) for the Landscape Planting to Pat Scanlan Landscaping and the Brick Paving Work and Irrigation Work to Countryside Gardens Landscaping, Inc. at Borough Hall. When the bids were received, the specifications were broken down into 3 separate components, A, B, and C. Pat Scanlan Landscaping was a few hundred dollars lower than Countryside Gardens Landscaping overall. However, by breaking up the bid, the Borough was able to save approximately \$5,000. Mr. Madaio and the Division of Community Affairs have assured the borough that this is permissible, and each of the contractors has accepted their portion of the bid in writing.

**Appointment of Tax Assessor** – Mr. Vinci stated that he and the Mayor had interviewed two candidates for the Tax Assessor position. One candidate was the full-time assessor in Lyndhurst, the other candidate is the p/t assessor in New Milford and Westwood. New Milford and Westwood presently have an inter-local agreement for the assessor position. Mr. Vinci and the Mayor both recommend the hiring of Barbara Potash as interim tax assessor for the Borough. Ms. Potash's rate of pay would be \$350.00 per week for 6 hours, Monday and Thursday, 4:30 p.m. – 7:30 p.m. Mr. Vinci is negotiating an inter-local agreement with New Milford and Westwood, whereas the Borough of Woodcliff Lake would be responsible for 20% of the tax assessor's compensation.

Mrs. Howley asked how many years Ms. Potash has been in the pension system. She wanted Mr. Vinci to check which town would be responsible for her retirement benefits should she retire while employed by the Borough of Woodcliff Lake. This appointment would be an interim one. By statute, the appointment of a tax assessor would begin on July 1, 2004 for a statutory 4 year term.

Mr. Vogel asked the salary of Bob Campora, the previous assessor. Mr. Vinci stated that Mr. Campora was paid approximately \$19,000.

It was the consensus of the Council to approve this mayoral appointment of Ms. Potash as interim tax assessor.

**Police Captain Arnone – contract** – Mr. Vinci and Mr. Madaio both made changes as per the council's request. Noted was the language tied into the benefit grievance issue that is pending with the P.B.A. After Mr. Vinci confirms the dollar amounts in the contract, a copy will be given to Captain Arnone who has stated he will turn the contract over to his attorney for review.

**Whiteweld Basin/Drainage Easement – Advance Realty** - Mr. Madaio stated that he has no problem with the agreement; however, he does not understand why the Borough is a party to this agreement in the first place. The drainage easement reflects a modification to the detention basin to be maintained by Mack-Cali. Mr. Glaser asked if there were any risk or benefit by participating in this agreement. Mr. Vogel stated that Mayor and Council originally set up meetings with Diamond Construction (Advance Realty's predecessor) and Mack-Cali in order to solve the drainage issue that was mandated by the County.

Mr. Madaio has spoken to Mr. Bronkesh, attorney for Advance Realty who indicated that "time was of the essence". Mr. Madaio stated that he does not wish to "thwart" any previous talks with all parties. Mr. Vogel stated that if it is only a legal issue, he would agree with Mr. Madaio. However, he does not want the deal to fall apart should the Borough no longer be involved. Mr. Vinci stated that it is important for the Borough to communicate the Borough's position to Mr. Bronkesh. Mr. Madaio would add language stating that at the very least, an intention of this easement agreement would be to receive the blessing of the Woodcliff Lake Planning Board.

**Sunrise Assisted Living** – Mr. Madio has spoken with Bob McNerney, an appraiser who needs to know by the first Mayor and Council meeting in October if the Borough will be going to trial on this appeal. He will advise the Borough of his necessary lead time. Mrs. Howley and Mr. Vogel both agreed that they did not like the basis of this appeal. The assessment was based on the land not on the improvements. Mr. Madaio continued that at the August meeting, the Council determined to have Mr. Campora address the Council's questions. Mr. Madaio has requested the mandatory trial date be adjourned for 30 days in order for the Council to speak with Mr. Campora. He recommended that the Borough make an immediate determination on hiring an appraiser.

**Bruce Whitaker, Esq./Cell Tower Attorney** – it was the consensus of the Council that Mr. Whitaker should continue as the attorney representing the Borough on the cell tower issue. Mr. Whitaker has been involved with this issue for the past 4-5 years. Mr. Vinci will contact Mr. Whitaker and ask him to continue. Mr. Vinci will also check the budget to be sure there are funds available to retain Mr. Whitaker.

**Hillsdale Field** – Mayor Higgins stated, "The clock is ticking". October 20, 2003 is the cut-off to go to court on this issue. Mayor O'Reilly has told Mayor Higgins he would not meet on this issue until after the election. As previously stated, Mr. Madaio does not think the Borough has a great case against Hillsdale. However, all agreed that a meeting of the two towns should take place. Mr. Vinci will contact the administrator of Hillsdale in a last effort to start dialogue on this issue.

Mark Madaio reported on the following:

**Tax appeals of McGovern and Bader** - At the last closed session of the council, Bob Campora was to attend this meeting to answer the council's questions. Subsequently, these cases have been marked "settled pending Mayor and Council approval". This will buy some time for the Council to act by either approving these settlements or ordering an appraisal. Mrs. Howley pointed out that the cost to appeal, i.e appraisal and court fees, would be close to the amount of the actual reduction. Mr. Vogel stated that he promises to appeal his taxes next year, since it seems the Council is so willing to settle. Mr. Madaio stressed that the Council must

make a decision on these "proposed settlements" or not. If more information is needed, it must be gathered quickly.

It was the consensus of the Council to review these appeals and make a decision at the October 8, 2003 meeting.

**Francis Ryan litigation** – Mr. Madaio stated that the complaint named Jack Doyle and Alice Lee as defendants. Mr. Madaio stated that if he accepts service for them, it would be the Borough's responsibility to insure that they receive a copy of the complaint. They are ex-employees. Mr. Madaio advised that the Borough send a copy of this complaint to JIF, as they may pick up some of the damage claims. It is a longshot, but Mr. Ryan could receive a favorable ruling. Mr. Vogel asked what Frank Ryan was trying to accomplish. He stated that Mr. Madaio should speak to Mr. Ryan's attorney to try and find out how we could solve this issue.

Mr. Vinci stated the bids for the renovations to the Old Mill Pool were opened this morning at 10:00 a.m. Only one bid was received. This bid was from RJR Engineering Co. which is the same company that wrote the specifications for the Borough. Mr. Vinci recommends that the Borough award only the base bid of \$1,062,000.00 as there are not enough funds to cover the alternates costs at this time. Mr. Vogel stated that most of the alternate items would not be done until next year. Mrs. Howley commented that the scheduling of the alternate would be dependent on their impact to the piping. Additional funding will be available then. Mr. Vogel commented that he has received at least 3 phone calls asking "Why was anything being done to the Old Mill"? These callers stated that the Borough should just fill in the pool and put in basketball courts. Mr. Vogel stated to the callers that at the Special Meeting on September 4, 2003, no one opposed the proposed renovations to the pool. Mr. Van Riper stated that we cannot do ½ a job on the pool. The Borough must repair it and repair it right.

The Westervelt-Lydecker Resolution will be pulled off the consent agenda for a Public Hearing.

Mr. Camella asked about a payment on the bill list to Elayne Marks and whether it should be discussed in open or closed session. Mr. Vogel stated that this should be discussed in open session. Mr. Camella agreed.

Meeting adjourned at 8:15 p.m.

Respectfully submitted,

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Lori Sciara, Acting Borough Clerk 9/17/03

## BOROUGH OF WOODCLIFF LAKE

Minutes of Special Closed Session Meeting of the Mayor and Council  
September 3, 2003

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Present: Mayor Higgins  
Councilmembers Camella, Glaser, Heinemann, Howley, Van Riper and Vogel  
were present on roll call.  
Also Present: Borough Administrator/CFO Gene Vinci, Acting Clerk Lori Sciara  
and Borough Attorney Mark D. Madaio

Meeting opened at 7:10 p.m.

### **Purpose of Meeting:**

**Captain Arnone's contract** – Previously questioned on the contract was whether or not holiday pay could be rolled into base salary. There is a provision in the PBA contract that states on page 17, Section A. "Holiday pay will be included in the Police Officer's regular pay and will be included in the calculation for pension purposes only effective 1.1.99.

Questions arose at to Section 6H, personal leave. Mayor Higgins questioned the granting of personal leave to the Captain for reasons that other employees must use personal, vacation or sick days. This leave would be by the discretion of Mr. Vinci stated that the Council does not have to grant this leave – it is entirely up to the Council. Mr. Vogel stated that the Council has been discussing this specific contract for months. It would be unfair to Captain Arnone to delay this any longer. All agreed Captain Arnone is a 26 year, dedicated employee who has never abused the system. Captain Arnone will submit the contract to his attorney for review.

**DPW Superintendent Barboni – Request for sick day transfer to 457 Plan** – Gene Vinci explained that this request had been previously granted in 2001. Mr. Vinci disagrees with the wording of the motion that this resolution be limited to the DPW Superintendent and the Borough Administrator. It was the consensus of the council that this transfer should be afforded to all employees who have accumulated over 90 sick days. A new resolution will be adopted to reflect this change at the next Mayor and Council meeting.

Mr. Vogel commented on the memo(s) previously received from Superintendent Barboni, resigning from several "unpaid" positions, i.e., Clean Communities Coordinator, Confined Space and Safety Coordinator. Mr. Vogel stated that he has a problem with this issue. Mr. Barboni cannot quit these positions as they are part of his responsibility.

John Glaser asked how Mr. Barboni assumed these jobs. Mr. Madaio elaborated and asked what the chain of command was. Did Mr. Barboni decide to assume these positions or was he told to do them.

At this point, Mr. Madaio suggested that to continue this discussion, the Council should send Mr. Barboni a Rice notice. It was the consensus of the Council for Administrator Vinci to

Speak with Mr. Barboni about this issue. Mr. Vinci would report back at the next closed session meeting. Should the Council decide further discussion is necessary, Mr. Barboni will receive a Rice notice.

Mr. Van Riper stated that Mr. Barboni will retire someday. The positions in question should be included in the new personnel manual. This would prevent this from happening in the future.

**Long Term Disability Plan Proposal – AIG** – Mr. Vinci stated that the Borough has solicited quotes for long term disability coverage for full time administrative and DPW staff. This plan would replace the current \$20,000 life insurance coverage in effect.

Mr. Vogel asked that a letter be sent to all employees asking if they are in agreement to accept a long term disability plan rather than a life insurance policy. Mr. Vinci explained that employees cannot be offered a choice of selecting the disability plan or the life insurance benefit.

**HRA Flexible Spending Account Plans – Staff Meeting 9/17/03** – Mr. Vinci stated that the Borough will be conducting a meeting with the staff and representatives from Professional Group Plans, Inc., specialists in employee benefits. The presentation will be on a new concept of establishing employee accounts, funded by the borough to be used for payment of “out of pocket” medical expenses. This is an incentive plans for employees with double coverage to choose single coverage, or for other employees to opt for lower premium health plans. All Councilmembers are welcome to attend.

Mr. Madaio reported on the following:

**Pre-Trial Conference – O’Brien vs. WCL** - Mr. Madaio attended a pre-trial conference in this matter this morning. At the conference, the Court determined that United Water was an indispensable party to this action and gave Mr. O’Brien 20 days to join and serve and United Water. Mr. Madaio feels this development is favorable to the Borough’s position.

The Borough has no jurisdiction over the Code Official. A “violation notice” does not become a “summons” unless the property owner disputes the notice. Usually, when a violation notice is issued, the property owner takes care of the violation.

Mayor Higgins stated that Mr. O’Brien feels she is at fault for this issue. The Mayor asked if she could write a letter to The Editor, stating that the Construction Code official is not under the jurisdiction of the Borough but of the DCA. Mr. Madaio feels that the less said to Mr. O’Brien would be the best strategy.

Mrs. Howley and Mrs. Heinemann stated that Mr. O’Brien had contacted them by telephone today. Mrs. Howley stated that Mr. O’Brien would like to “talk over a cup of coffee.” Mr. Madaio informed Mrs. Howley and Heinemann that they were both on Mr. O’Brien’s witness list. The Mayor asked, as she has previously done, that members of the Council not speak with Mr. O’Brien.

**Frank Ryan Litigation** - Joseph Sullivan is the attorney representing Frank Litigation vs. the Borough. The attorney has named the former tax assessor, borough administrator and tax collector as well as the judge in the case as defendants. The Borough is exempt by law from punitive damages.

Mr. Vogel stated that if Mr. Ryan's suit is frivolous, the Borough should sue him. Mr. Madaio stated that he will send Mr. Ryan a standard "frivolous claim" letter. This letter will simply state that if the claim is not dismissed, the Borough will sue him for the frivolous claim. Mr. Ryan will have approximately 20 days to respond.

**Tri-Borough Ambulance** - Tri-Borough Ambulance Corp. sent a letter to all nursing homes in their service area stating that they will no longer serve their facilities. Mayor Higgins asked if this was legal. Mr. Madaio stated that he spoke with a Tri-Borough Ambulance representative and was told that Tri-Borough is not obligated to pick anyone up. Mr. Madaio stated that by sending a letter to "just the nursing homes" is discrimination. He continued that since Tri-Borough Ambulance Corp. collects revenue that is tax exempt, they cannot discriminate by law. Tri-Borough Ambulance Corp. states that they cannot get volunteer ambulance drivers during the day.

It was the consensus of the Council for Mr. Madaio to send a letter to Tri-Borough Ambulance Corp. stating that the Borough disagrees with them and try to invite productive dialogue.

Mr. Van Riper suggested that the Borough train one (1) employee (EMT Certification) to man the ambulances during the day. He stated that when the fire whistle blows in town, half the DPW goes on the call. Only one employee would be needed to man an ambulance.

Ridge at Saddle River - Mr. Van Riper will follow up with the engineer.

**WCL vs. Hillsdale** - The initial meeting was cancelled by Hillsdale, due to a death in the family. Mayor Higgins stated that when asked to reschedule the meeting, Mayor O'Reilly stated, "he will not have any meeting until after the election." Mr. Vinci stated that he will call the Administrator of Hillsdale to try and schedule a meeting.

**Centennial Way** - Mr. Madaio stated that he will send a letter to the owner on record at 5 Centennial Way regarding reports of primary residence issues.

**Westervelt - Lydecker cottage rental** - Mr. Madaio is still pursuing the back rent from the former tenants.

**Radio Room** - Mr. Van Riper commented that the Borough of Park Ridge will be building a new radio room in the new police station. Park Ridge wants the Borough of Montvale and Woodcliff Lake to contribute 1/3 of the cost. Mr. Van Riper stated he is personally not interested in joining in these construction costs. He asked that Mr. Madaio read the proposal from Park Ridge and give his recommendation on this issue to the Borough.

Mr. Vogel wished to inform the Council that the Flood Mitigation Committee had met with George Catherwood on September 2, 2003. The Committee felt a meeting with Mr. Catherwood