

**MINUTES OF THE SUPPLEMENTARY MEETING  
OF THE MAYOR AND COUNCIL**

**MAY 3, 2011**

**SPECIAL AND WORK SESSION MEETING**

A Special Meeting of the Mayor and Council was held in the Municipal Building on May 3, 2011. Mayor Bivona opened the meeting at 7:30 P.M. and Borough Clerk, Sally Bleeker, read the Sunshine Law Statement.

**ROLL CALL**

The following Council Members and Professional Staff were present: Mayor Bivona, Councilman Friscia, Councilwoman Lota, Councilman Kahwaty, Councilman Pedone, Council President Ramsey (7:35 P.M.), Councilman Smith, Borough Attorney Lustgarten, and Borough Administrator Hart.

**OPEN TIME FOR PUBLIC COMMENT**

Motion by Councilman Pedone to open the meeting to the public. Seconded by Council President Ramsey. Discussion – none. On voice vote, all in favor, motion approved.

Ahmad Chaudhry, 109 Garden Court, distributed a map noting the location of fire sirens in the Borough. He said that the Fire Chief has not returned his calls so he has been forced to rely on a description of these locations from the local paper. Dr. Chaudhry referred to the map and stated that the red dots represent the location of functioning sirens and the blue dots depict sirens that are not working. The Borough has six sirens with only three that function. Dr. Chaudhry stated that the Fire Department feels these sirens are very important; however, only 50% of the town is protected by working sirens. He said that all or none of the sirens should be working and he added that if the Council thinks the sirens are important all of them should function correctly.

Councilman Smith asked if three sirens would be adequate to cover the Borough. Dr. Chaudhry said that if this were the case, the sirens should be located in the middle of the Borough. Council President Ramsey stated that the Fire Inspector Steve Linz responded to a fire at 11:00 A.M. last week because he heard the siren. He has a pager but it was not working.

Mayor Bivona said that he recently listened to testimony regarding the need for cell towers in the High Mountain Road vicinity. Experts stated that there is a dead zone or a less reliable zone in this area which would lead Mayor Bivona to believe that fire fighters in this area may not be receiving notification of fires. Dr. Chaudhry commented that in this case the non-functioning sirens need to be fixed.

Mr. Hart stated that they have discussed this issue with the Fire Chief who said that there is not optimum siren coverage in the Borough. The Fire Chief said that it is not necessary to have six sirens to cover the entire town; however, he recommended looking at the existing locations on the other side of town which is the area where Dr. Chaudhry resides. Mr. Hart pointed out that Dr. Chaudhry's map does not show the area of coverage of each siren.

Councilman Friscia stated that it is important to have the sirens covering areas in the town where the fire fighters live so they can hear the sirens. Mayor Bivona said that progress has been made and the Council has demonstrated a willingness to discuss this issue and it is moving in the right direction. The Council is trying to strike a balance and he noted that today's technology doesn't guarantee the desired coverage. Councilman Smith said that the goal is to ensure that equal coverage is provided throughout the Borough and the Council hasn't heard from the Fire Department as to whether three sirens are adequate or not.

Dr. Chaudhry thanked the Council for their time tonight.

There were no further comments from the public and Councilman Kahwaty made a motion to close the public portion of the meeting. Council President Ramsey seconded the motion. Discussion – none. On voice vote, all in favor, motion approved.

## **BOROUGH ENGINEER'S REPORT**

- **Status Report**

Eileen Boland of Boswell Engineering reported that Frank Rossi has come up with a stream lined plan regarding Memorial Pond that will not require approval from the NJDEP. The Mosquito Commission is on board regarding Memorial Pond. She hopes to make the application shortly and tie it in with Firemen's Pond so that both ponds can be dredged at the same time. Ms. Boland is hopeful that the application will be approved in the next two weeks with the work being completed before August. Mr. Hart stated that de-snagging is being scheduled in the same area to supplement this work.

Mayor Bivona thanked Boswell Engineering for their donated work on Memorial Pond which is a great benefit to the community.

Ms. Boland stated that Mr. Hart is working to get signs for the Franklin Lakes Nature Preserve. The DPW will install the signs as the different areas of the preserve open. Council President Ramsey stated that the signs should be posted noting the specific location that should be reported to 911 in the case of an emergency.

Ms. Boland stated that the bid opening for the 2011 Road Program is scheduled for June 3<sup>rd</sup> at 10:00 A.M. with the award of bid to take place on June 21<sup>st</sup>. The Engineering Office is in the process of securing bids for the installation of ADA ramps at various locations in the Borough as well as the installation of two handicap parking spaces at Firemen's Field.

Ms. Boland stated that the Engineering Oversight Committee has requested the preparation of a current Zoning Map for the Borough. She said that they have submitted a cost estimate not to exceed \$3,000.00, and Mr. Hart indicated that the Council has authorized this request via purchase order.

Regarding the Franklin Square Shopping Center, Ms. Boland said that a consent form was needed from the DEP for a revision to the Wastewater Management Plan for the property to increase the flow from the Decker shopping center. This was approved in 2009; however, the NJDEP has informed Mr. Decker, the owner of the shopping center, that a new endorsement form must be executed annually in order to continue the processing of the application.

Councilman Smith said that he understood that there was a problem with a septic system and he questioned whether this should be approved. Ms. Boland explained that this request is for increased flow which had previously been approved by the DEP and the Council. Councilman Friscia recalled that the capacity of the system was expanded and the owner is hoping to connect to the proposed sewer system when it becomes available.

Council President Ramsey suggested that when a new business locates at the shopping center, the Mayor and Council need to know about water use. Mr. Hart said that this information should be required by the Zoning Office because the Board of Health doesn't get involved with Certificates of Occupancies. Mr. Hart said that he would look into this.

Councilman Friscia recalled that he had wanted COs for businesses to be reviewed by the Planning Board. After more discussion, Mr. Lustgarten said that the ordinance could be amended to include this requirement and he will review this with Mr. Hart.

## **CONSENT AGENDA RESOLUTION**

### **Resolution 131-11**

**BE IT RESOLVED** that the following resolutions, placed on this agenda by consent, require no discussion and the same having been previously reviewed by each Governing Body member, be and are hereby adopted in their entirety by the Mayor and Council of the Borough of Franklin Lakes. Full text of all consent agenda resolutions can be found after the Adjournment.

Resolution 132-11 Accept Report of the Finance Committee

Resolution 133-11 Authorize Redemption Monies to Outside Lienholder

Resolution introduced by Councilman Smith. Seconded by Councilman Kahwaty.  
Discussion – None.

### **Roll Call Vote**

Ayes: Councilmembers Kahwaty, Lota, Pedone, Ramsey and Smith

Nays: None

Abstain: Councilmember Friscia

Resolution approved.

## **MAYOR'S REPORT**

Mayor Bivona thanked Brian Peterson and the DPW workers for having the flags up so early this year. He recognized that the DPW has had a difficult year with all of the snow removal and the wet spring weather.

Mayor Bivona stated that the Public Events Committee and Communications Committee have been working diligently on Memorial Day activities including a fund raiser in memory of Dr. Cheryl Welch.

Mayor Bivona reported that a lot of hard work is being devoted to the Nature Preserve by the Environmental Commission and Brian Peterson. Opening day is scheduled for June 11<sup>th</sup> and the Clean Up Day will take place this Saturday.

Mayor Bivona and Mr. Hart met with Gary Kratz, the Borough Administrator in Waldwick, to discuss his experience with the implementation of solar panels. They learned a lot and he will be reporting on this at an upcoming meeting. Mayor Bivona stated that he has been working on the cell tower issue along with Mr. Hart in an effort to find a location that would be the most beneficial to Franklin Lakes.

Mayor Bivona mentioned that the DEP and the Garden State Preservation Trust approved the application for the Green Acres matching grant of \$450,000 which is part of the 2010 grant round leaving the Borough eligible for \$150,000. This money will be used to pay debt.

## **COMMITTEE & LIAISON REPORTS**

### **Public Works**

Councilwoman Lota reported that Shred Day which was held last Friday was extremely successful with over 10,000 lbs. of paper being shredded. Next Cut Shredding said that this was the biggest day they have ever had and they are eager to return to Franklin Lakes. Councilwoman Lota added that the Borough will receive a tonnage credit for this paper.

Councilwoman Lota stated that in addition to trying to keep the fields usable, the DPW is also busy filling potholes. They are working at the Reservoir and will be planting in front of the Municipal Building within the next few weeks. She said that the DPW is looking into hiring either three full-time seasonal workers; or two, full-time and one part-time seasonal worker for three month period this summer.

Council President Ramsey asked if the DPW had investigated a leak in the water line at Firemen's Field which is beginning to look like a rice patty. Councilwoman Lota said that Mr. Peterson had contacted United Water who inspected the area and indicated that there wasn't a leak. Eileen Boland and Kevin Boswell have been asked to make an additional inspection. Ms. Boland said that with all of the snow over the winter and recent rains this could be a result of excess ground water and a high water table.

Mr. Hart stated that new HVAC units are being installed at the DPW building through grant funding.

### **Environmental & Community**

Council President Ramsey spoke about Arbor Day plans which include the planting of oak trees along Franklin Avenue. The property owner has approved the planting and she hopes this will encourage other property owners along Franklin Avenue to plant trees and landscape their businesses. She again noted that Clean Up Day is scheduled for Saturday at 8:30 A.M. at the Reservoir.

### **Planning & Development**

Councilman Kahwaty reported that discussion would be continuing on the surgery center now that the question surrounding the participation of certain members of the Planning Board has been resolved.

Councilman Smith stated that COAH mediation was supposed to take place tomorrow. The status of COAH is uncertain and it didn't seem as though much would be accomplished through mediation at this time. Councilman Smith received a phone call from the Borough's Affordable Housing attorney Stuart Koenig earlier today regarding a conversation Mr. Koenig had with people connected with COAH regarding this mediation. Mr. Koenig was told that the mediation had been requested by the Borough. He was told that if the Borough was not interested in going forward and had not requested mediation, a letter should be sent to COAH requesting that the matter be adjourned. This has been done and Councilman Smith did not anticipate that the matter would be rescheduled until the status of COAH is resolved.

**Digital Signage** – Mr. Lustgarten asked if the Council wanted to ban these signs completely or simply regulate them. Council President Ramsey said that the current zoning ordinance allows neon signs but they cannot be flashing signs. Mr. Lustgarten stated that the goal is to eliminate flashing or moving digital signs that could distract drivers. Councilman Smith said that he would like the ordinance to address scrolling signs and billboard signs that are constantly changing.

Mr. Hart pointed out that the proposed ordinance in Wyckoff would prohibit "exterior signs or window signs that are attached, erected, displayed or hung within 10 ft. of the interior or exterior of any window which are self illuminating with electrical, neon or LED or other enclosed built in sources of lighting". Mr. Hart explained that any of these signs would be allowed if they were 10 ft. away from the window. Mr. Lustgarten pointed out that under this ordinance a free standing sign would be permissible and Mr. Hart indicated that this could be addressed in another ordinance.

Council President Ramsey said that the concern here is safety issues which are compromised by the moving and changing signs. Mr. Lustgarten said that he and Mr. Hart will meet next week to draft changes to the current ordinance to address distracting signs.

Councilman Friscia questioned whether or not the moving sign at the Franklin Lakes Library violates the current sign ordinance. Mr. Lustgarten said that this could be deemed a non-conforming sign that couldn't be expanded. Mayor Bivona asked whether the Council would approve a similar plain digital sign that did not move or flash. He asked if aesthetics, including color, could be regulated. Mr. Lustgarten indicated that generally the answer would be yes; however, he is concerned that concentrating on the

digital mode or style could be problematic. The issue seems to involve the illumination of the letters not the illumination of the sign and Mr. Lustgarten said he will study the existing ordinance in order to determine whether it needs to be amended or re-written.

Councilman Smith commented that the Council will have to decide how far they want to become involved with aesthetics. Mr. Hart pointed out that any of these types of signs that exist today may be grandfathered.

Mr. Lustgarten said that aesthetics could be addressed if he had a sense of the general consensus of the Council. Councilman Smith suggested an ordinance that would eliminate LED type signs.

**Hold Harmless – Barravecchio & Wertheimer** – Mr. Lustgarten explained that these residents have asked to have their sump pumps tie into the Borough system. He has drafted a Hold Harmless Agreement that has been approved by Boswell Engineering. If approved by the Council, the engineering and any other fees connected with the agreement will be the responsibility of the homeowners. A resolution of approval has also been prepared for May 17<sup>th</sup>.

**Recreation & Parks** – Councilman Pedone reported on a great opening day for the baseball season. He thanked Recreation Director John Ciurciu and Assistant Recreation Director Kathy Furman for all their work in preparation for the big day. Councilman Pedone asked the Mayor to send a note thanking the Recreation Foundation who paid for all of the food as well as the people who worked handing out food, etc. Mayor Bivona announced that the Recreation Foundation has given a check for \$35,000 in support of the Borough and its recreation projects.

**29<sup>th</sup> Annual Wyckoff-Franklin Lakes Triathlon** - Councilman Pedone stated that the Wyckoff – Franklin Lakes Triathlon is set for June 18<sup>th</sup>.

**BCASU Contract & Teels Training** – Mr. Hart explained that these contracts are listed on the agenda because they are both over the quote threshold and will be voted on by the Mayor and Council at the next meeting. Councilman Pedone noted that a fee increase has already been voted on by the Mayor and Council.

Councilman Pedone said that they are working on a plan that will determine the number of families involved in Recreation Programs in the Borough. At this point, it appears that 64% of households in Franklin Lakes participate and he will have a more detailed break down at an upcoming meeting.

#### **Administration & Finance**

**Capital Projects 2011** – Councilman Smith referred to the overall budget request that had been reviewed previously which includes Fire Department items. Mr. Hart said that he has spoken with an architect who is preparing an estimate for the basement exit at Police Headquarters.

**Fire Department Items** - Councilman Smith said that he was recently shown two of the Fire Department's thermo imaging cameras. One is old, heavy and not functioning properly and the other is a year old and is light and a much better camera. Fire Chief Denny Knubel stated that there should be one camera available for each crew. Ryan Dodd of the Fire Department demonstrated the two cameras for the Council and said that a new camera, which can be used for training and investigation, costs approximately \$11,000. Fire Chief Knubel recommended purchasing a new camera and Councilmembers agreed.

Councilman Kahwaty questioned the Rapid Intervention Pack which was demonstrated by Mr. Dodd. Chief Knubel stated that this item can fit around a door or window and provides a self locking, solid anchor point in the event that a fire fighter has to bale out of a window. This life saving tool is now mandatory in New York State and costs approximately \$600. Fire Chief Knubel said that WOLF is looking at a joint purchase which would result in a discounted price. Councilmembers agreed to the purchase of the

Rapid Intervention Pack through the WOLF purchase. Mr. Hart said that the Council is generally in favor of moving forward even if Wyckoff and Oakland are not.

Mayor Bivona reported that he witnessed a sled rescue exercise on ice involving five towns and said that there is a need for this type of equipment. The cost of the sled is \$5,500. Council President Ramsey questioned the need for additional equipment and training. Fire Chief Knubel said that the boat the department has cannot get from one end of the lake to the other in a timely fashion and a \$22,000 boat designed for rescue work would be needed. This boat would be more stable in the water and less likely to tip over. Mr. Hart said that the total cost of these and other related items would be \$38,655.

Mayor Bivona was concerned about transporting this equipment between the various large bodies of water in Franklin Lakes. Fire Chief Knubel indicated that this equipment would be good for between 10 and 15 years.

Mayor Bivona asked for a consensus regarding the purchase of this equipment from Councilmembers. Councilman Smith said that he was not comfortable with spending \$22,000 on a boat which isn't very large. Fire Chief Knubel said that this is a mid size boat and Mayor Bivona suggested that the various items should be voted on separately. They will not vote on the boat until Fire Chief Knubel gets more information. Mayor Bivona asked for a consensus of the Council regarding the \$16,000 purchase of ice rescue equipment. Councilmembers agreed to the purchase.

Mr. Hart summarized stating that the Council has agreed to approximately \$60,000 of purchases. They will have to decide if these purchases will be made through new debt or by using capital reserve.

## **Public Safety**

**Fire Department Constitution Changes** - Councilman Smith stated department members have an exempt or life status which means that they have met the following criteria: responding to 60% of the fire calls for a period of seven years, remaining active in the department for 25 years; continuing as a riding member; and responding to 20% of the fire calls. The Fire Department is recommending that members meeting those standards should receive a stipend of \$1,500. Jim Webb has indicated that there are only 3 members who meet this criteria and it is a way of recognizing their service. Councilman Smith agreed with the recommendation for a stipend.

Mr. Hart indicated that he wasn't sure if this was appropriate because it is an operating budget item. Fire Chief Knubel said that this would also act as an incentive to encourage these fire fighters to help out when they are able. Councilman Friscia pointed out that this recognition could prove to be an expensive proposition in the future. Councilman Pedone disagreed stating that \$1,500 is not much to give individuals who have served the Borough in dangerous situations. Mayor Bivona said that perhaps the threshold change of going from 60% of the fires to 20% of the fires is too much of a threshold change. Councilman Smith suggested putting a limit on the amount to be given or, on the amount of the individual stipend. Councilman Friscia questioned whether this policy should be extended to the Ambulance Corps. Mr. Lustgarten suggested fixing an annual amount to be divided among the qualifying fire fighters with no more than \$1,500 per individual.

After more discussion, Councilman Smith made a motion to approve the stipend with a maximum cap of \$15,000. Councilman Friscia asked how this would fit into the budget. Mr. Hart replied that the budget is based on an estimate of the number of people who would qualify. The qualification standards relating to stipends for the entire Fire Department were lowered this year and \$60,000 was appropriated assuming a change in the by-laws.

Councilman Friscia pointed out that this amendment is changing the definition of life status as well as reducing the amount of calls one needs to attend in order to qualify for a stipend. He asked if changing the life membership would increase the number of life members. Chief Knubel said he wouldn't expect the number of life members to be affected and he added that recognition is the benefit of being a life member.

Chief Knubel corrected a statement by Mr. Hart that the budget had been based on the number of fire fighters qualifying for a stipend. Mr. Hart said that in this case, the change could over expend the Fire Department's budget and perhaps it should be considered for next year. Councilman Smith suggested that if the budget is exceeded the qualifying members would get a reduced stipend. Mr. Hart noted that if the Fire Department exceeds their budget of \$60,000 the Borough would still have a commitment to the stipends and any shortfall would have to be made up through budget transfers.

Mayor Bivona said he would favor putting a cap on the stipend. Mr. Lustgarten reminded the Council that legally the Council cannot willfully authorize an expenditure that has not been budgeted. The program can be implemented this year but not made effective until 2012. After more discussion, Mr. Hart recommended approving the constitution change subject to the payment of the stipends which would become effective in 2012. Councilmembers agreed with Mr. Hart's recommendation.

**Resolution Opposing Senate Bill 1351** – Mr. Lustgarten disclosed that he represents the State Municipal Clerks Association and he is good friends with the Senator who has proposed this bill. This bill contains serious issues relative to the mechanics of holding meetings and the cost of government. Mr. Lustgarten received an email from Senator Weinberg outlining four amendment changes to help the Clerks and this is still not the final version of the bill. He noted that the Council would be opposing the bill as it exists and not the final version.

Mr. Hart said that he has drafted this opposing resolution at the request of the Municipal Clerks Association. Until the changes are incorporated, the Clerk's Association wants to be on record as opposing the bill. Mr. Hart described some of the onerous changes contained in the bill. Councilmembers indicated that they are in favor of the resolution drafted by Mr. Hart.

**Risk Management Consultant Name Change** – Mr. Hart stated that the Risk Management Consultant has joined another firm and this is a firm name change. The change will be beneficial to the Borough because the firm has more risk management consultants.

**Ambulance Corps By-Laws Amendments** – Councilman Smith said that the amendments broaden the number of individuals who are eligible to become members of the Ambulance Corps. Mr. Hart noted that last year an ordinance was adopted which eliminated the residency requirement for Ambulance Corp Members and these by-laws would now be consistent with this ordinance. Mr. Lustgarten suggested that rather than using the phrase "safe and reasonable distance from town" only the word "safe" should be used. After a brief discussion it was agreed to leave the phrase "safe and reasonable".

## **BOROUGH ADMINISTRATOR'S REPORT**

Council President Ramsey stated that this is the third year in a row that Franklin Lakes has been named a Tree City.

## **BOROUGH CLERK**

**One Day Liquor License – Friends of Wayne Animals – 6/14/11 – Endless Vine** – Borough Clerk, Sally Bleeker, reported on a one day liquor license for the Friends of Wayne Animals at the Endless Vine.

## **OLD BUSINESS**

There was no Old Business this evening.

## **NEW BUSINESS**

There was no New Business this evening.

## **RESOLUTION FOR CLOSED SESSION**

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen and State of New Jersey that a Closed Meeting be held on Tuesday, May 3, 2011 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Tax Appeal – Kulick - **Removed**
- Tax Appeal – Becker - **Removed**
- Tax Appeal – Mathai-Davis - **Removed**
- Tax Appeal – Marcos - **Removed**
- Attorney Client Privilege – Firearms Permits
- Pending Litigation – Franklin Square property

**BE IT FURTHER RESOLVED**, that the discussion conducted in closed session shall be disclosed to the public once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

**NOW, THEREFORE BE IT RESOLVED**, that the public be excluded from this meeting.

Mr. Lustgarten said that if no one has questions regarding the Tax Appeals they could be removed from the Closed Session agenda.

Motion by Councilwoman Lota, seconded by Councilman Smith at 9:37 P.M. to enter into Closed Session. Discussion –None.

Roll Call Vote

Ayes: Councilmembers Friscia, Kahwaty, Lota, Pedone, Ramsey and Smith

Nays: None

Motion approved.

#### **ADJOURNMENT**

Motion by Councilwoman Lota to adjourn the meeting to closed session at 9:37 P.M. seconded by Councilman Smith.

Roll Call Vote

Ayes: Councilmembers Friscia, Lota, Kahwaty, Pedone, Ramsey and Smith

Nays: None

Motion approved.

#### **ADJOURNMENT**

Motion by Councilman Smith to adjourn the meeting at 10:05 P.M. Seconded by Councilman Pedone. On voice vote all in favor motion approved.

#### **Resolution 132-11**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Franklin Lakes that the report of the Finance Committee be accepted and recommendations adopted; that the report be made part of the record of this meeting; and the proper Borough Officials are hereby authorized and directed to issue warrants in the amount of \$6,818,403.45 as shown on the Claims Bill List; and \$1,330.50 as shown on the Soil Account Bill List.

**BE IT FURTHER RESOLVED** that the payroll of April 14, 2011 in the amount of \$232,782.56 and that the payroll of April 28, 2011 in the amount of \$243,355.11 be hereby ratified and approved.

**Resolution 133-11**

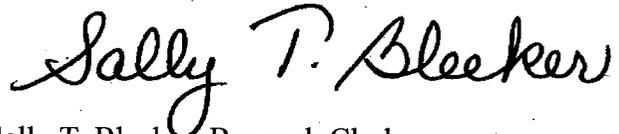
**WHEREAS**, at the Municipal Tax Sale held on November 18, 2009, a lien was sold on Block 2602.05, Lot 15, also known as 237 Green Ridge Road in Franklin Lakes, for 2008 delinquent taxes; and,

**WHEREAS**, this lien, known as Tax Sale Certificate # 09-00007 was sold to Royal Tax Lien Services, Jenkintown, Pennsylvania. Royal Tax Lien also paid a premium for this tax sale certificate in the amount of \$30,000.00

**WHEREAS**, Chase Home Finance has affected redemption of Certificate # 09-00007 in the amount of \$63,956.07 as of May 10, 2011,

**NOW THEREFORE, BE IT RESOLVED**, that the Treasurer be authorized to issue a check in the amount of \$93,956.07 (\$63,956.07 for the redemption and \$30,000.00 for the return of the premium) payable to Royal Tax Lien Services.

Respectfully submitted,

A handwritten signature in black ink that reads "Sally T. Bleeker". The signature is written in a cursive, flowing style.

Sally T. Bleeker, Borough Clerk