

**MEETING OF THE MAYOR AND COUNCIL
AUGUST 16, 2011
7:30 P.M.**

A regular meeting of the Mayor and Council was held on August 16, 2011 in the Municipal Building.

MEETING CALLED TO ORDER

ROLL CALL

The following Council Members and Professional responded to the roll call:

Mayor Bivona, Councilman Friscia, Councilman Kahwaty, Councilman Pedone, Council President Ramsey and Councilman Smith. Also present were Borough Administrator Greg Hart, Borough Attorney Lustgarten, and Borough Clerk Sally Bleeker. Absent was Councilwoman Lota.

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

OPEN THE TIME FOR PUBLIC COMMENT

Motion to open the time for public comment was made by Councilman Kahwaty, seconded by Councilman Pedone. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith

Nays:

Abstain:

Absent: Lota

Motion Approved

Laurie Burnette, 860 Woodfield Road, questioned the status of the solar panels on Borough buildings. Mayor Bivona said that he and Mr. Hart visited Waldwick where there is a system that is fully operational. There are several concerns with the proposal including the structure of the contract and the purchase agreement. The Council has concluded that moving forward with this purchase at this time doesn't make sense due to the fluctuating energy prices. They are now looking at a geo-thermal proposal which may make more sense for the municipality.

Regarding the Ambulance Corps, Ms. Burnette stated that there were items budgeted for in order to meet OSHA requirements and she asked if anything has been done regarding these items. She said that a generator needs to be purchased in order to use the Ambulance Corp Building as an emergency shelter. Mr. Hart stated that they are working to schedule a meeting with Ambulance Corps members. They have to move forward with the diesel exhaust which has been approved and appropriated. Mayor Bivona said that they are continuing to push forward with the active capital budget list on an as needed basis.

Ms. Burnette questioned Council President Ramsey on the underground storage tank. Council President Ramsey stated that she met with ambulance corps representatives about capital needs. The underground storage tank at the ambulance corps building was found to have a small leaks and it is necessary to do monitoring wells at a cost of \$17,000.

Ms. Burnette noted a comment at a recent meeting by the Mayor and Council that “the Building Department is broken”. She pointed out that at a budget meeting in February, Mr. Hart stated that “it was a bright spot in the budget that construction fees had increased substantially”.

No one else from the public came forward. Motion to close the time for public comment was made by Council President Ramsey. Seconded by Councilman Smith. Discussion- none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

APPOINTMENTS

Fire Department

Motion was made by Councilman Kahwaty and seconded by Council President Ramsey to make the following appointment:

Franklin Lakes Volunteer Fire Department – Michael Ferrarella

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

Board of Health

Motion was made by Councilman Pedone and seconded by Council President Ramsey to make the following appointment:

Board of Health Alternate #2 term to expire 12/21/12 – Dr. Billstein

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

Acting Construction Official

Motion was made by Councilman Kahwaty and seconded by Councilman Smith to make the following appointment.

Acting Construction Official – John Wittenkind

Mr. Lustgarten explained that Mr. Wittenkind is being paid through an interlocal agreement with the Borough of Allendale.

Roll Call Vote

Ayes: Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain: Friscia
Absent: Lota
Motion Approved

PUBLIC HEARINGS

ORDINANCE NO. 1525

**AN ORDINANCE SUPPLEMENTING PROVISIONS OF CHAPTER 356
“PARKS AND PUBLIC LANDS” OF THE CODE OF THE BOROUGH
OF FRANKLIN LAKES TO ESTABLISH RULES AND REGULATIONS
FOR THE FRANKLIN LAKES NATURE PRESERVE**

WHEREAS, an ordinance entitled, AN ORDINANCE SUPPLEMENTING PROVISIONS OF CHAPTER 356 “PARKS AND PUBLIC LANDS” OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO ESTABLISH RULES AND REGULATIONS FOR THE FRANKLIN LAKES NATURE PRESERVE was introduced at a meeting of the Mayor and Council held on the 19th day of July 2011 and duly published by law;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, that Ordinance 1525 be and the same is hereby adopted on second and final reading; and,

BE IT FINALLY RESOLVED that the Borough Clerk is hereby authorized and directed to publish the Notice of Adoption as required by Law.

Motion to open the hearing to the public and read by title only was made by Councilman Smith. Seconded by Council President Ramsey. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

No one from the public came forward.

Motion to close the time for public comment was made by Councilman Smith. Seconded by Councilman Pedone. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

Resolution read and introduced by Councilman Kahwaty, seconded by Council President Ramsey. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:

Abstain:
Absent: Lota
Motion Approved

ORDINANCE NO. 1526

**AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 356
“PARKS AND PUBLIC LANDS” OF THE CODE OF THE
BOROUGH OF FRANKLIN LAKES TO REQUIRE APPROVAL
BY MAYOR AND COUNCIL OF USE OF BOROUGH FIELDS**

WHEREAS, an ordinance entitled, AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 356 “PARKS AND PUBLIC LANDS” OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO REQUIRE APPROVAL BY MAYOR AND COUNCIL OF USE OF BOROUGH FIELDS was introduced at a meeting of the Mayor and Council on the 19th day of July 2011 and duly published by law;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, that Ordinance 1526 be and the same is hereby adopted on second and final reading; and,

BE IT FINALLY RESOLVED that the Borough Clerk is hereby authorized and directed to publish the Notification of Adoption as required by Law.

Motion to open the hearing to the public and read by title only was made by Councilman Smith, seconded by Council President Ramsey. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

No one from the public came forward.

Motion to close the time for public comment was made by Councilman Smith. Seconded by Council President Ramsey. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

Resolution read and introduced by Councilman Pedone, seconded by Council President Ramsey. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

CONSENT AGENDA RESOLUTION

Resolution 196-11

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 resolution can be found after the Adjournment.

- Resolution 197-11 Accept Report of the Finance Committee
- Resolution 198-11 Approve Contract West Bergen Mental Healthcare
- Resolution 199-11 Chapter 159 – 2009 Recycling Tonnage Grant
- Resolution 200-11 Opposing S-2950 and A-4128, Which Would Allow for Modification to Land Use Approvals Because of Changed Economics
- Resolution 201-11 Approval to Submit Grant NJDOT for McCoy Road and Huron Road Project
- Resolution 202-11 Award Contract – DPW Dump Truck
- Resolution 203-11 Joseph Novelli, ASA Cost Estimator – Medco Health Services
- Resolution 204-11 Ratify and Confirm Actions Taken – Zoning Officers
- Resolution 205-11 Control Black Bear Population

Resolution introduced by Councilman Smith, seconded by Councilman Pedone.
Discussion - none:

Roll Call Vote

- Ayes: Friscia (with exceptions) Kahwaty, Pedone, Ramsey, Smith
 - Nays:
 - Abstain: Friscia on the following Resolutions: Accept Report of Finance Committee; Joseph Novelli, SAS Cost Estimator; and Ratify and Confirm Actions Taken –Zoning Officers
 - Absent: Lota
- Motion Approved

RESOLUTIONS

**Resolution 206-11 (As Amended)
Recommended Appointment of Tom Lambrix to the NWBCUA**

WHEREAS, the Bergen County Executive and the Bergen County Board of Chosen Freeholders is considering an appointment to the Northwest Bergen County Utilities Authority (hereinafter “NBCUA”); and,

WHEREAS, with the planned construction by NBCUA of sanitary sewers in the Borough’s business district, the Mayor and Council of the Borough of Franklin Lakes are desirous of having a resident of the Borough of Franklin Lakes serve on the NBCUA; and,

WHEREAS, Borough of Franklin Lakes resident Thomas Lambrix, chairman of the Borough’s Environmental Commission for the past three years, has expressed an interest in serving on the NBCUA; and,

WHEREAS, Mr. Lambrix has been an exceptional contributor to the Borough and, as detailed in his resume, has a background that would be well-suited to the work of the NBCUA; and,

WHEREAS, the Mayor and Council of the Borough of Franklin Lakes feel that Mr. Lambrix would be an excellent choice for a position on the NBCUA;

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Franklin Lakes, County of Bergen and State of New Jersey highly recommend the

appointment of Thomas Lambrix to the Northwest Bergen County Utilities Authority;
and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to the Bergen County Executive and the Board of Chosen Freeholders.

Resolution read by the Borough Clerk. Resolution introduced by Councilman Smith, seconded by Councilman Kahwaty. Discussion – Council President Ramsey suggested that everyone review the resume of Mr. Lambrix in order to be comfortable with the appointment. Councilman Pedone recommended several changes to the wording of the resolution. He pointed out that the NWBCUA specifically wanted a resident of Franklin Lakes to fill this Board position.

Councilman Friscia said that he wasn't sure that a function of a Board Member is to represent the Mayor and Council at NWBCUA meetings. The position is described in the second paragraph. Mayor Bivona said that, as he understands it, the position is filled by a resident of Franklin Lakes who is a representative of the Borough and not the Mayor and Council. Councilman Smith suggested the following wording: "desirous of having a representative of the Borough of Franklin Lakes serve on the Board".

Councilman Friscia asked if Mr. Lambrix would be able to continue as the Borough's Environmental Chairman if this appointment is successful. Mayor Bivona didn't see this as a conflict. Councilman Friscia asked if there would be a perception by the Bergen County Freeholders that their nominations are being recommended by resolutions and he asked if this would be better accomplished in another way. Mayor Bivona said that it is necessary to clearly demonstrate a consensus of the governing body in support of the nomination to the Freeholders.

Upon further questioning by Councilman Friscia, Mayor Bivona explained that the Freeholders have discussed nominating another resident of Franklin Lakes who, although acceptable, may not be the first choice of the Mayor and Council. Councilman Smith said that the Freeholders acknowledge that someone from Franklin Lakes should be on the NWBCUA Board and input by the Mayor and Council of Franklin Lakes is important. This resolution shows support for someone that the governing body is comfortable with and who they would prefer to work with. Mayor Bivona explained that he is not voting against anyone but, feels that the recommendation of the Mayor and Council is important and should be heard.

Roll Call Vote

Ayes: Kahwaty, Ramsey, Smith
Nays: Friscia
Abstain: Pedone
Absent: Lota
Motion Approved

ACTION ON MINUTES

A motion was made by Councilman Pedone and seconded by Council President Ramsey to accept the minutes of :

- July 5, 2011 Worksession
- July 19, 2011 Regular Meeting
- July 19, 2011 Closed

Discussion – None.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain: Lota

Absent:
Motion Approved

OLD BUSINESS

There was no new business for discussion this evening.

NEW BUSINESS

ORDINANCE 1527

AN ORDINANCE SUPPLEMENTING CHAPTER 373 “PROPERTY MAINTENANCE” OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO PROVIDE FOR ENFORCEMENT BY SHADE TREE COMMISSION OF CERTAIN PROVISIONS

WHEREAS, an ordinance entitled AN ORDINANCE SUPPLEMENTING CHAPTER 373 “PROPERTY MAINTENANCE” OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO PROVIDE FOR ENFORCEMENT BY SHADE TREE COMMISSION OF CERTAIN PROVISIONS was introduced at a meeting of the Mayor and Council held on the 16th day of August, 2011;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, that Ordinance 1527 be and the same is hereby introduced on First Reading; and,

BE IT FURTHER RESOLVED that said Ordinance 1527 will be further considered for final passage at a meeting of the said Mayor and Council to be held on the 20th day of September, 2011 at 7:30 pm in the evening or as soon thereafter as the matter can be reached in the Council Chambers at Borough Hall, 480 DeKorte Drive, Franklin Lakes, New Jersey, at which time and place all persons who may be interested will be given an opportunity to be heard regarding Ordinance 1527; and,

BE IT FINALLY RESOLVED that the Borough Clerk is hereby authorized and directed to publish the Introduction and Notice of Hearing as required by Law Motion to read the resolution by title only made by Councilman Kahwaty, seconded by Councilman Smith.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

The Borough Clerk read Ordinance 1527 by title only.

Resolution introduced by Councilman Friscia, seconded by Council President Ramsey. Discussion – Councilman Kahwaty questioned whether or not the Commission can issue summonses. Mr. Lustgarten said that the Commission will conclude that there is a shade tree in need of maintenance and will refer the situation to the attention of the enforcement officers. Councilman Friscia pointed out a typo regarding the chapter number 87 which will be removed before the ordinance is advertised.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

ORDINANCE 1528

**AN ORDINANCE REPEALING PROVISIONS OF
CHAPTER 272 “FOOD ESTABLISHMENTS” OF THE
CODE OF THE BOROUGH OF FRANKLIN LAKES**

WHEREAS, an ordinance entitled AN ORDINANCE REPEALING PROVISIONS OF CHAPTER 272 “FOOD ESTABLISHMENTS” OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES was introduced at a meeting of the Mayor and Council held on the 16th day of August, 2011;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, that Ordinance 1528 be and the same is hereby introduced on First Reading; and,

BE IT FURTHER RESOLVED that said Ordinance 1528 will be further considered for final passage at a meeting of the said Mayor and Council to be held on the 20th day of September, 2011, at 7:30 pm in the evening or as soon thereafter as the matter can be reached in the Council Chambers at Borough Hall, 480 DeKorte Drive, Franklin Lakes, New Jersey, at which time and place all persons who may be interested will be given an opportunity to be heard regarding Ordinance 1528; and,

BE IT FINALLY RESOLVED that the Borough Clerk is hereby authorized and directed to publish the Introduction and Notice of Hearing as required by Law.

Motion to read the resolution by title only made by Councilman Smith, seconded by Councilman Pedone.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

The Borough Clerk read Ordinance 1528 by title only.

Resolution introduced by Councilman Friscia, seconded by Councilman Smith.
Discussion – None.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith
Nays:
Abstain:
Absent: Lota
Motion Approved

Mr. Hart reported that they have advertised for the position of Construction Code Official and Building Sub Code Official on the Borough website and in local newspapers. Councilman Pedone suggested that the Council determine whether this will be a full time or part time position before it is advertised. He noted that a part time position is 30 hours a week and a full time position is 35 hours a week plus benefits. There would be significant savings in making this a part time position. Mayor Bivona said that a discussion on this point is fair; however, in the interim he suggested moving ahead with the advertisement. He commented that in his opinion, this is a full time job but, he encouraged the Personnel Committee to discuss this tomorrow. Mr. Hart said he would support a full time position but he is open to discussion. Councilman Smith suggested that applicants be questioned as to how much time they think is necessary to do the job. Applicants should understand that the Borough is not committing to 35 hours a week for

one position. Councilmembers Pedone, Smith and Mr. Hart will discuss this further tomorrow.

ADJOURNMENT

Motion by Councilman Pedone to adjourn the meeting at 8:30 P.M. Seconded by Council President Ramsey. Discussion – none.

Roll Call Vote

Ayes: Friscia, Kahwaty, Pedone, Ramsey, Smith

Nays:

Abstain:

Absent: Lota

Motion Approved

Resolution 197-11

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 \$3,703,724.26 as shown on the Claims Bill List.

Resolution 198-11

WHEREAS, the Mayor and Council are desirous of contracting for Employee Assistance Program services; and

WHEREAS, West Bergen Mental Healthcare 120 Chestnut Street, Ridgewood, NJ 07450 has submitted a proposal dated January 1, 2011 for Employee Assistance Program services in the amount of \$6,000; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the Mayor and Borough Clerk are hereby authorized to sign an agreement with West Bergen Mental Healthcare 120 Chestnut Street, Ridgewood, NJ 07450 in the amount of \$6,000 for the year 2011.

Resolution 199-11

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Franklin Lakes has received a \$14,966.19 Solid Waste Administration 2009 Recycling Tonnage Grant and wishes to amend its 2011 Budget to include said amount as a revenue;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Franklin Lakes, that permission be requested by the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2011 Budget in the sum of \$14,966.19 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:

Solid Waste Administration -

2009 Recycling Tonnage Grant

\$14,966.19

BE IT FURTHER RESOLVED that a sum of \$14,966.19 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":

Public and Private Programs Offset by Revenues:

Solid Waste Administration -

2009 Recycling Tonnage Grant

\$14,966.19

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

Resolution 200-11

WHEREAS, S-2950 and A-4128 provide a two-year window in which any development approval granted before 2006 or now in foreclosure or subject to a deed in lieu can apply for, and receive approval for, a use which is not permitted by ordinance, without the need for a use variance or otherwise complying with the zoning ordinance of the municipality; and

WHEREAS, a fundamental premise of land use law and sound planning is that land use decisions, including approvals of development applications and zoning, are made on the basis of the characteristics of the land, its environment, any unique characteristics, and what is in the best interest of the public, and not based on who happens to own the land; and

WHEREAS, S-2950 and A-4128 also establishes an expedited approval process, requiring the land use board to determine completeness of the application within 30 days, and then 60 days from the determination of completeness to rule on the application; and

WHEREAS, this time frame is insufficient considering what may be proposed, and it is inequitable to require an expedited process for a proposed "adaptive application" while other pending applications are accorded lower priority; and

WHEREAS, S-2950 and A-4128 put no standards in place for the local land use board to apply, other than proof that the approval is no longer economically viable, which is inadequately defined; and

WHEREAS, the lack of standards would expose any approval or denial by the municipality to possible legal challenge;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Franklin Lakes that enactment of S-2950 and A-4128 would usurp, undermine, and overturn local zoning by effectively rescinding all applicable zoning of the property, and provide no adequate public safeguards; and

BE IT FURTHER RESOLVED, the Governing Body of the Borough of Franklin Lakes strongly opposes S-2950 and A-4128; and

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the Governor of the State of New Jersey, Senator Kevin J. O'Toole, Assemblyman Scott Rumana and Assemblyman David C. Russo members of the Senate Community and Urban Affairs Committee, the members of the Assembly Housing and Local Government Committee, Senator Steven Oroho, Assemblyman Albert Coutinho and the New Jersey State League of Municipalities.

Resolution 201-11

Approval to submit a grant application and execute a grant agreement with the New Jersey Department of Transportation for the McCoy Road and Huron Road project.

WHEREAS, the Franklin Lakes Borough is requesting funding from the New Jersey Department of Transportation Municipal Aid Program.

NOW, THEREFORE, BE IT RESOLVED that Council of the Franklin Lakes Borough formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2012-Franklin Lakes Borough-00004 to the New Jersey Department of Transportation on behalf of the Franklin Lakes Borough.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Franklin Lakes Borough and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Resolution 202-11

WHEREAS, the Borough of Franklin Lakes advertised for and opened bids on August 11, 2011 for a new DPW Dump Truck with Snow Plow; and

WHEREAS, the Mayor and Council wish to award this contract to the lowest responsible bidder; and

WHEREAS, one company submitted a bid for the DPW Dump Truck with Snow Plow; and

WHEREAS, the Superintendent of Public Works has reviewed the bid submitted and has determined that the bid meets the specifications.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, and State of New Jersey, that Route 23 Auto Mall, LLC 1301 Route 23, Butler, NJ 07405 be and is hereby awarded the contract for the DPW Dump Truck with Snow Plow for the base bid of \$50,836.19; and,

BE IT FURTHER RESOLVED that a Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there are sufficient appropriations to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract; and,

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract, and the Borough Attorney shall review any and all contractual documents prepared in furtherance of this award; and,

BE IT FURTHER RESOLVED that the Treasurer be and is hereby authorized and directed to issue payment upon receipt of approved voucher; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to Route 23 Auto Mall, LLC 1301 Route 23, Butler, NJ 07405, the Superintendent of Public Works and the Borough Treasurer.

Resolution 203-11

BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that Joseph Novelli, P.E. LSRP, 44 Fleetwood Drive Rockaway, NJ 07866, be retained as an Expert Cost Estimator, in the Medco Health Services Tax Appeal matter as per a letter from Steven D. Muhlstock, Esq. Special Counsel Tax Appeals, dated July 22, 2011 in an amount not to exceed \$25,000.

BE IT FURTHER RESOLVED, that the Chief Financial Officer has certified the availability of funds for this award according to N.J.A.C. 5:30-5.4.

Resolution 204-11

WHEREAS, the Mayor & Council held a closed meeting on August 2, 2011 to discuss certain matters relating to the Borough's construction official/zoning officer Kevin Burnette; and

WHEREAS, Kevin Burnette was duly sent a "RICE" notice and he and his attorney, Helene Herbert, appeared in closed session with the Mayor & Council; and

WHEREAS, certain specifics were recited by the Borough Administrator concerning the job performance of Mr. Burnette as the zoning officer; and

WHEREAS, other members of the governing body indicated concerns about Mr. Burnette continuing in that position based on information received by them which was concurrent as well as supplemental to the matters set forth by the Borough Administrator; and

WHEREAS, subsequent to the conclusion of the closed session, the Mayor & Council returned to open session and adopted a motion to relieve Kevin Burnette of his duties and responsibilities as zoning officer of the Borough of Franklin Lakes and relieving him of the salary related thereto, effective upon the hiring of a new zoning officer by the Borough (leaving in place his responsibilities and salary as construction official), and to have him participate in an employee improvement program.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that the actions taken by the Mayor & Council on August 2, 2011 relieving Mr. Burnette of his responsibilities and salary as zoning officer of the Borough be and are hereby ratified and confirmed in their entirety and the recitations, information and facts elicited at the aforesaid meeting, the Mayor & Council meeting of July 19, 2011 and at the meeting of the Council's personnel committee with Mr. Burnette, be and they are hereby incorporated herein as though recited verbatim and at length.

Resolution 205-11

WHEREAS, serious black bear incidents involving threatening contact with humans, and more serious incidents, have increased commensurate with the black bear population, which increased 96% from 2006 through 2009; and

WHEREAS, the black bear population in northwestern New Jersey has been permitted to grow from 500 bears in 1992 to more than 3,500 bears today, and is presently at a density of 9 per 2.5 square miles, higher than anywhere else in the country, and higher than the 1 bear per 2.5 square miles recommended by the NJ Division of Fish and Game and the states of New York and Pennsylvania; and

WHEREAS, encounters with aggressive black bears have increased substantially between 2009 and 2010, and New Jersey Fish and Game Council has cited a substantial increase in damage to personal property and threats to public safety as reasons for its policy in favor of a reduction in the black bear population density to a safe level through a regular controlled hunt; and

WHEREAS, unfortunately there are many aggressive black bears which constitute a threat to our residents which the NJDEP Division of Fish and Wildlife is unable to eliminate or remove from residential areas because of inadequate budget and staffing; and these bears without a regular hunt will continue to increase in numbers and pose an increased risk to our residents; and

WHEREAS, the population of black bears in and around the Borough of Franklin Lakes has increased to an unsafe level in recent years causing the residents to fear for the safety of their children, suffer the invasion of their homes and destruction of property, and limiting residents ability to enjoy their property and public property within the Borough of Franklin Lakes; and

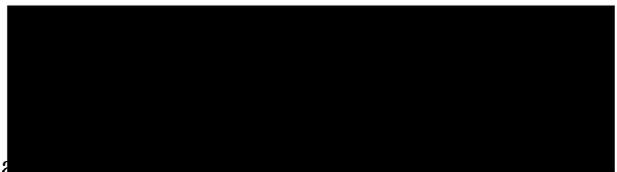
WHEREAS, an authorized bear hunt in 2010 failed to reduce the bears dangerously high population density and reduce the threat to residents of Franklin Lakes and other northern Jersey communities and the state of New Jersey has not taken reasonable action to reduce the bear population to a safe level;

THEREFORE IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Franklin Lakes as follows:

The Mayor and Council of the Borough of Franklin Lakes declare that the Borough is no longer willing to subject its residents to the unacceptably high level of risk to their safety, damage to their property, the decrease in their ability to enjoy their property and public property within the Borough, and demands that the NJDEP follow the recommendations of the Division of Fish and Wildlife and immediately take appropriate steps to bring the black bear population in northern Jersey to safe and reasonable level; and it is further

RESOLVED that a copy of this resolution be immediately forwarded to all appropriate public officials, the Governor of the state of New Jersey, the NJDEP Division of Fish and Wildlife, and to other northern New Jersey municipalities, with a request that other municipalities similarly affected adopt a resolution supporting the relief requested herein.

Respectfully submitted,

A large black rectangular redaction box covering the signature of the official.

Sally J. Becker, Borough Clerk