

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

**OCTOBER 4, 2011**

**SPECIAL AND WORK SESSION MEETING**

A Special Meeting of the Mayor and Council was held in the Municipal Building on October 4, 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 (7:40 P.M.), Councilwoman Lota, Councilman Kahwaty, Councilman Pedone (8:02 P.M.), Council President Ramsey, Councilman Smith, Borough Administrator Hart and Borough Attorney Lustgarten.

**OPEN TIME FOR PUBLIC COMMENT**

Motion by Councilman Kahwaty to open the meeting to the public. Seconded by Councilwoman Lota. Discussion – none.

Roll Call Vote

Ayes: Councilmembers Lota, Kahwaty, Ramsey and Smith  
Nays: None  
Absent: Councilmembers Friscia and Pedone

Ronald Panicucci, 281 Saw Mill Road, North Haledon, who is a member of the Vintage Chevrolet Club of America introduced several members of the club who are involved in the car show in Franklin Lakes. Mr. Panicucci said that the group has submitted a fair proposal to the Borough for the use of McBride Field for the annual car show held during the Memorial Day weekend. The primary purpose of the show is to raise money for charitable causes including Make A Wish Foundation, an annual scholarship given in technology and repair and the American Cancer Society. Any money going to a specific charity connected to Franklin Lakes in some form would take away from the amount contributed to the other charities listed by Mr. Panicucci. The new ordinance requires that an organization using McBride Field must be beneficial to the community and Mr. Panicucci is proposing a 50 cent donation per spectator which would be given to the Borough. The Club favors a donation on a participant basis because this type of show is weather sensitive. He estimated collecting between \$700 and \$800 based on past attendance and he suggested that the funds go towards the Nature Preserve. The Club sponsors a special pull out section in the Villadom Times around the time of the car show and the Nature Preserve could be highlighted in this publication provided that this suggestion is agreeable to the Council. Although the new ordinance requires that the fee for the use of the field be raised to \$250 per day, the Club is proposing a payment of \$500 for use of the field for three days.

Mayor Bivona stated that the new ordinance was not targeted towards one particular party. The Council's concern regarding McBride Field is overuse and damage because it seems as though the field is being used more often recently than it have been in the past. This is why the Council is going to discuss whether it makes sense to consider each individual request and make a decision as to whether the field can be used or not.

Councilman Smith asked how much money is raised annually that goes to charity by the Vintage Chevrolet Club. Mr. Panicucci stated that approximately \$5,000 is raised for charity after expenses. The majority of this goes to the Make A Wish Foundation, followed by the scholarship fund and the Cancer Society. About 20% of this amount stays with the club to cover the cost of an annual banquet and barbeque.

Mayor Bivona asked about vendors at the event. Mr. Panicucci said that a catering truck handles the food and gives 15% of their total profit to the club. There are also flea market type vendors who pay for a spot on the field. Mayor Bivona thanked the members of the Car Club for their input.

There were no further comments from the public and Councilman Kahwaty made a motion to close the public portion of the meeting. Councilman Smith seconded the motion. Discussion – none.

#### Roll Call Vote

Ayes: Councilmembers Lota, Kahwaty, Ramsey and Smith  
Nays: None  
Absent: Councilmembers Friscia and Pedone

### **BOROUGH ENGINEER'S REPORT**

#### **Status Report**

Eileen Boland, of Boswell Engineering, reported that the Borough has authorized Boswell to prepare a joint grant application with the Borough of North Haledon to evaluate the two dams at the Haledon Reservoir to see if any flood mitigation should be conducted.

Ms. Boland stated that emergency road repair was required on Winding Hollow Road to correct damages sustained during Hurricane Irene. The total cost of this repair is \$16,795.73 which is expected to be reimbursed by FEMA. The Road Program is complete and the final contract amount totaled \$373,621.86 versus the original amount of \$363,865.00. The work done on Winding Hollow Road is included in the total amount. The DPW had indicated that Green Ridge Road needed resurfacing work and Boswell is holding off on a recommendation for final payment to the contractor until the Mayor and Council decides if this work should be added. Ms. Boland said that an initial inspection indicates that this repair would not be cost effective and patching work could be done by the DPW. The road could be included in next year's program.

Ms. Boland said that installation of the ADA ramps and two handicapped parking spaces at Firemen's Field is expected to begin soon. Ms. Boland stated that Boswell Engineering has been authorized by the Borough to survey a number of locations around the perimeter of Baker's Long Pond to assess flooding issues. She reported that two properties are requesting permission to connect to the Borough drainage system. The property at 881 Circle Avenue receives run off from neighboring properties and there is no outlet for this water. She recommended that they be allowed to connect into an inlet close to the property. A flooding situation is occurring at 831 Tequesta Drive and these residents are requesting permission to discharge runoff into a ditch opposite Tequesta Drive via a new storm pipe that goes under the road. A road opening permit would be necessary in this case. A letter will be forwarded to the Mayor and Council from Boswell Engineering regarding the Hold Harmless Agreements after final plans are reviewed and approved.

#### **Resolution 223-11**

#### **CONSENT AGENDA RESOLUTION**

**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 224-11 Accept Report of the Finance Committee  
Resolution 225-11 Stipulation of Settlement – Homsany

Resolution introduced by Councilman Kahwaty. Seconded by Councilwoman Lota.  
Discussion – None.

#### Roll Call Vote

Ayes: Councilmembers Kahwaty, Lota, Ramsey and Smith  
Nays: None  
Abstain: Councilman Friscia on Report of Finance Committee

#### **ADDITIONAL RESOLUTION**

There were no additional resolutions this evening.

#### **MAYOR'S REPORT**

Mayor Bivona thanked Urban Farms Landscaping and Twinbrook Nursery for contributing to the beautification of Franklin Lakes. Urban Farms Landscaping is responsible for planting the mums at the Circle at Franklin Lake Road and Twinbrook Nursery provided the plants at the triangle on Bender Court. Mayor Bivona reported that he and Mr. Hart are working to establish a Beautification Fund which will be a separate trust account set up to help enhance the common areas controlled by the Borough. This account will be funded by donations solicited from residents and other local groups.

Mayor Bivona spoke about water issues that had come up since Hurricane Irene. There have been record levels of rainfall and many residents are complaining about water in their homes and on their property. The Borough would like to help where they can but in most cases the Borough is not responsible for water issues. An intern in the Engineering Department has been working on a project to identify public waterways in the Borough as opposed to sump pits or private ponds. The Borough is trying to clarify any legal obligations with regard to these issues as well as developing one consistent policy relative to the legal obligation of the Borough and to ensure that these waterways are draining properly.

Mayor Bivona referred to the Library and the return of excess capital. He expressed disappointment with the Library Board of Trustees regarding the return of taxpayer funds. He recalled that the governing body did not go forward with a resolution that would have taken steps towards the retrieval of these funds and this resolution stated that no funds would be expended until the Library completed their strategic plan. It now appears that the Library Board has approved expenditures for additional taxpayer funds to be spent on building renovations. Mayor Bivona stated that this is a continuing defiance of the law and he asked the Council to take action to recover these funds.

#### **COMMITTEE/ LIAISON REPORTS**

##### **Environmental & Community**

**Library Update** – Councilman Smith said that he had sent a letter to the Library expressing the Council's position on the excess funds. He and Councilwoman Lota met with two members of the Library Board and were optimistic that an outcome could be reached. They were looking for an approximate date when the Borough would receive their position on the excess funds. He recently received a letter that detailed a study the Library was doing for capital expenditure but no mention of a date was made. Councilman Smith responded noting his disappointment and stating that he hoped the Board would clarify their position at their next meeting. He said that in the audit this year, the law required the Library to identify excess funds. The audit identified an amount (\$37,000) which the Board said was a preliminary number which he felt was very low. Councilman Smith said that he remains optimistic that this number will be revised and he has asked them when he can expect to receive a revised number.

Mayor Bivona said that the Library has all but the \$37,000 of the \$1.3 million allocated to contingency reserves or capital projects. The Library feels that they have the authority to spend this money until a new plan is put in place. Councilman Smith stated that the

law requires that the Library must identify excess funds and they can't arbitrarily assign money to capital projects. These funds have to be placed in a restricted fund meaning that these funds can't be spent on anything other than a specific capital project. Councilman Smith remarked that the law is specific and the Library should not be creating capital projects in order to keep the money. If funds are not identified as being used for a specific capital project, they are classified as excess funds and should be returned to the Borough. Councilman Smith said that it appears that the Library does not accept that opinion but they have not indicated what will be included in the excess funds.

Councilwoman Ramsey questioned whether the building renovations were actually repairs. Mayor Bivona indicated that the Library is installing a \$50,000 canopy or awning with footings. He questioned whether this is a prudent use of taxpayer money. Mayor Bivona hopes to continue to use persuasion to get Board Members to do the right thing because he wants to avoid spending taxpayer money on lawyers.

Councilman Friscia announced that the 2011 Franklin Lakes Flu Clinic will take place on Wednesday, November 2<sup>nd</sup>, at the Recreation Center. The shots are free for Franklin Lake residents who are over 65 as well as all Ambulance Corps Volunteers. All other Borough employees and volunteers are able to receive the vaccine for a fee.

Mr. Hart reported on the Clean Up day that took place on Saturday, October 1<sup>st</sup>. There was a relatively small crowd at the Nature Preserve for this well-run event. The main job at the Preserve was to pick up garbage.

Referring back to the Library, Mr. Lustgarten stated that from a legal position, he would agree with Mayor Bivona's analysis of the Library statutes. There is no question in his mind that the Library Board has been put on notice regarding the intent of the law relative to their obligation.

### **Planning and Development**

Councilman Kahwaty reported on the Planning Board meeting of September 21st. The Tice Road application is continuing and there was a resolution for a site plan application relative to a new house on Jasmine Court. There was a discussion on solar panels and the Board decided to adopt the changes made by the Council and defer for further action by the State Legislature.

Councilman Kahwaty said that a resolution was distributed on school funding called the Fair School Funding Project. He was approached about this resolution by Keith Jenson who is a candidate for assembly. This resolution would ensure equal funding throughout the State with respect to income for school districts. Councilman Kahwaty read from several sections of the resolution and stated that Mr. Jenson has indicated that this could reduce property taxes by up to one-third. He said that it is consistent with the constitution and Mr. Jenson indicates that a number of towns have adopted this resolution. If it is adopted by enough municipalities it could be effective at relieving taxpayer burden somewhat. Mr. Hart explained that the reason for the discrepancy is State income taxes. State aid for schools is based on the State income tax which means that a small town like Franklin Lakes contributes twenty-one times more in income tax than a town such as Asbury Park. Councilman Smith said that this resolution is vague and doesn't give any details as to what is fair and unfair and commented that more facts are needed.

Councilman Kahwaty asked if the Council wants to list this resolution on the October 18<sup>th</sup> agenda. Mayor Bivona stated that more work and a better understanding of this resolution is necessary before it is listed on this agenda. Councilmembers agreed and Mr. Hart said that there is a power point presentation on the resolution that could be reviewed.

### **Recreation and Parks**

Councilman Pedone reported that the Town Fair was very successful this year and the revenue exceeded what was taken in last year. The expenses have not been fully

calculated but he expects this to be a break even situation. He thanked everyone involved including Councilwoman Lota and Mayor Bivona.

### **Facilities Use Permits**

**Jersey Lakeland Regional – Vintage Chevrolet Club of America** – Mr. Hart stated that he has circulated three letters in support of the car show from three different residents. Councilman Pedone noted that he arrived at the meeting at 8:00 P.M. and did not hear the presentation from the Vintage Chevrolet Club. Councilmembers indicated that the presentation was consistent with the letter that had previously been sent. Councilman Pedone said that in this case, he would make a motion to grant a permit under the letter agreement. Councilman Kahway seconded the motion. Discussion – Councilman Pedone said that he had been told that the dates are fine. Mayor Bivona stated that United Water is supposed to do some work at some point in this area which could impact the car show.

Councilman Friscia stated that the cost of the permit for the use of fields has changed along with the requirement that the event must benefit Franklin Lakes. Mayor Bivona said that the ordinance for field use has always been \$250 and the questions they are considering now are whether or not the fields are being used for more than one day. Mr. Hart said that last year the Car Club paid \$250 which included two additional days for set-up. Councilman Friscia indicated that the Car Club is proposing a donation to the Franklin Lakes Nature Preserve in the amount of \$700 to \$800 based on attendance. The Car Club mentioned that the money they raise goes to charity after expenses are paid. Councilman Friscia said that he would agree with the Car Club's proposal that the remainder of the money go towards the amount of money the Borough has to match relative to the County Open Space Grant for the Nature Preserve. Councilman Smith said he would prefer that the money go to the Recreation Department for field upkeep.

Mayor Bivona said that he agreed with Councilman Smith and this money could go into the Beautification Fund that he described early tonight. This fund could be general enough that the Nature Preserve would be included. Mr. Hart mentioned that he had met with representatives of the Car Club who indicated that it is important to have a specific purpose for their charitable donations. This is an opportunity for the Borough to collect additional donations because the Car Club is going to advertise.

Councilwoman Ramsey pointed out that the Vintage Chevrolet Club of America has been an excellent group for the past 30 years. They have always cleaned up and left the field in good condition. She noted that over these 30 years, the shopping center and the Indian Trail Club have expanded along with traffic and she suggested that a decision be deferred until the meeting of October 18<sup>th</sup> to give her time to consult with Traffic Officer Bob Lyon. Mr. Hart suggested that any of the approvals for field facility use should be conditioned upon administrative approval of other departments and comments regarding traffic. This doesn't need to hold up the Mayor and Council approval. He will include language with appropriate approvals that address public safety in the resolution. Mayor Bivona asked for a consensus by the Council who agreed unanimously to place this resolution on the October 18<sup>th</sup> agenda.

Councilman Pedone suggested that the ordinance be changed to read: "\$250 for the first four hours and \$50 for every hour after that, with a maximum of \$500 per day. This will include the day of use and set up and break down. The money will be put into a reserve fund to maintain and repair the fields. This increase in fees could equal up to \$40,000 to \$50,000 per year which will make funds available to fix and improve the fields at no cost to the taxpayer. Mayor Bivona said that this is not saving the taxpayer's money because setting the money aside for the future revenue is the same as bonding for the future. Councilman Pedone said that the key is the increase in the fee which will result in the taxpayers paying less. The way the money is broken up can be discussed in the future.

Mr. Hart stated that generally revenue is not set aside for specific purposes in a trust fund. They can budget based on revenue that is received and he wasn't sure that any purpose would be served in dedicating funds by ordinance for a specific purpose. After more discussion, Councilman Pedone said he was sure that money could be put aside in a

specialized fund and perhaps this is a system that more towns should consider in the future. Mr. Hart indicated that this will be discussed at the next work session.

## **Administration and Finance**

### **Award Contract – Calendar Preparation**

Mr. Hart stated that there are several award contracts on this agenda that are informational. They are still receiving quotes for calendar preparation and he anticipates that a resolution will be ready for October 18<sup>th</sup>.

### **Confirmation of Ryerson Road Special Assessment**

Mr. Hart reported that the Tax Assessor has issued a report recommending confirmation of an assessment by the Mayor and Council for the Ryerson Road improvement. He is hoping that a public hearing can be scheduled for the November 10<sup>th</sup> Public Meeting. Mr. Lustgarten said that he and Mr. Hart met with the homeowners to discuss their concerns and to give them an opportunity to learn the Borough's position.

### **Public Access Channel**

Mr. Hart referred to his memo of 9/27/11 and said that Ramapo High School has an extremely advanced video production facility. The Borough has two interns majoring in video technology who were very impressed with the Ramapo facility. The interns are looking at the facility to see if there might be an opportunity to use these facilities to generate programming for the Borough's cable stations as well as the website and the Facebook page. Many ideas have been put forth including PSAs on recycling to interview programs with Borough officials and other community members. A game show format has also been developed by the interns. Mr. Hart said that the school has a web based server which the Borough could use to run programming and the school is willing to let the Borough use their studio. The schools can only broadcast within the schools and it may be useful for them to share in the public access channel. Mr. Hart recommended advancing this to the next level and the School Board will be approached for their reaction. He asked if there were any questions, comments or objections to this proposal.

Councilwoman Ramsey pointed out that Franklin Lakes is part of a regional group of three towns and she asked if there has been any input from Wyckoff or Oakland. Mr. Hart said that Wyckoff and Oakland have not been consulted and this opportunity wouldn't be limited to Franklin Lakes. The towns would have to work this out individually and time would have to be dedicated on the Franklin Lakes Public Access network for the integration of programming by the other towns. Councilwoman Ramsey asked if there is a Council Liaison for this proposal and Mr. Hart replied that there isn't a designated Council committee. He agreed that it would be a good idea to have a Councilperson on this committee.

Mr. Hart stated that he would like to go forward with the proposal with permission from the Council. Councilman Kahwaty mentioned that the Borough doesn't appear to have any control over the content. Mr. Hart said that the Council could formulate restrictions and Mr. Lustgarten pointed out that there are State regulations regarding obscenity which govern public access television.

### **Public Safety**

**Fire Department Rescue Boat** –Mr. Hart stated that at a previous meeting, the Council had asked the Fire Department to explore the possibility of partnering with a neighboring municipality relative to a rescue boat. He hasn't received any further information at this time. Denny Knubel, Franklin Lakes Fire Chief, stated that he checked with several communities who have boats that Franklin Lakes could use on a type of mutual aid basis. Mahwah, Oakland, Wyckoff, Wayne and Pompton Lakes each have several boats. Councilman Friscia stated that he spoke to Chief Knubel about how the boat might be used in conjunction with the DPW. Councilman Smith said that he would be more

willing to consider the purchase of a boat if it could be used by several other departments in the Borough. Chief Knubel said that the use of the boat would be open to any department. Council President Ramsey said that she is hesitant due to concerns relative to the Fire Department's budget but if funding could come from the budget of another department she would be willing to reconsider the purchase of a boat. Mayor Bivona recommended discussing this again at the next work session when some of these suggestions have been more fully explored.

**Fire Department Ordinance Amendment** – Mr. Hart explained that this ordinance needs updating to be consistent with State law. The ordinance was referred to the Fire Department some time ago and he is waiting for input from them. He recommended waiting another month in order to review Fire Department comments.

**Award Contract Ambulance Pagers** – Mr. Hart recommended that the contract be awarded to 10-75 Emergency Lighting for \$9,900. Because the contract amount is under \$10,000, there is no requirement to go out to bid. This is consistent with Borough policy and the contract award will be done by resolution on October 18<sup>th</sup>, 2011.

**Award Contract Ambulance Corp Diesel Exhaust System** – Mr. Hart stated that this is a contract recommendation for the diesel exhaust removal system at the Ambulance Corp. The plan is to award the contract to the lowest bidder, Air Vac at \$12,053. He noted that \$12,000 was appropriated in the budget.

**Award Contract Thermal Imaging Camera** – Mr. Hart stated that this is a contract award to Absolute Fire Protection Co. under State Contract for \$14,516.00 for thermal imaging camera. The appropriated budget amount was \$15,000.

**Award Contract Ice Rescue Equipment** – A list of ice rescue equipment was proposed and approved in the capital budget in the amount of \$18,000 which is the amount of the low bid and recommended contract. This resolution will be listed for October 18<sup>th</sup>.

## **PUBLIC WORKS**

**Approve Change Order Snow Plowing County Roads** – Mr. Hart explained that the Borough is attempting to extend the scope of this work to include County roads consistent with an agreement with Bergen County. The Borough received notice yesterday that the contractor would not do the plowing this year and they will have to go out to bid for separate bids for the plowing of Borough owned roads and County owned roads. This process will begin before the meeting on October 18<sup>th</sup> because the Borough needs to get this in place quickly. Councilman Kahwaty questioned whether the Borough would be responsible for damaged mailboxes as a result of plowing incidents. Mr. Hart stated that the contractor is responsible in the first instance and the Borough would be indemnified and held harmless by the County.

**Award Contract Lift Gate** – Mr. Hart indicated that this cost is covered by Clean Communities funds. There is a recommendation for a contract award to Cliffside Body in the amount of \$5,636. Money needs to be expended for recycling purposes and this item was strongly recommended after meetings with the Environmental Commission, representatives from the DPW and the Recycling Coordinator. This will be listed under resolutions for October 18<sup>th</sup>.

**Anti-Snow Dumping Ordinance** – Mr. Hart stated that this ordinance deals specifically with the issue of snow plow operators depositing snow on roads, streets and other private property. This is modeled after a pending bill before the State legislature which is almost identical with the exception of the provision for private property. This ordinance will be listed for introduction on October 18<sup>th</sup>.

**Clothing Bins** – Mayor Bivona stated that there was a recent State requirement that a permit is necessary for clothing bins. Councilman Smith said that the bins are unsightly and they shouldn't be allowed generally; however, the Council could consider a bin for a charitable foundation on a case by case basis.

Council President Ramsey said that there are two bins on the agenda for discussion. One of the dumpsters would benefit the DARE program. She stated that Juvenile Police Officer Jost had been approached about a DARE bin earlier this year. The DARE program would receive \$1,000 for this bin and the Borough would receive recycling tonnage fees. She feels that anything that brings in money for DARE and the Borough would be good especially since the County has cut funding for DARE. If the bin was located at the Recycling Center, it would be monitored by the DPW and the Police Department. Mr. Hart stated that he has received a five year agreement from American Recycling Technologies which states that the Borough would be paid \$1,500 annually per bin and the amount would be adjusted to \$200 for any location where rent was required to be paid. There is no provision in the agreement that states how often pickups will be made.

Mayor Bivona asked about a location in the DPW yard and Council President Ramsey said that there would be room outside the yard. He said that the VFW is asking that a bin be located in their parking lot and he asked how the Council felt about a bin being visible. Councilman Friscia recalled that there was a discussion about a potential ordinance in 2009, and in 2008 bins that were removed from the area of the Market Basket. Mr. Hart reviewed other discussions at the Council level on clothing bins in Franklin Lakes.

Council President Ramsey said she would only be comfortable if clothing bins were located on Borough property. Councilman Friscia stated that part of the effectiveness of the bins would be visibility and the bins might not be well used if they weren't visible. Mayor Bivona remarked that he would prefer a bin located at the Recycling Center. Council President Ramsey pointed out that the Borough is part of the Sustainable New Jersey Program that awards points for recycling activities. She asked whether having the bins at the Recycling Center would qualify as one of the activities.

Mayor Bivona stated that he would have Mr. Hart inform the VFW that the bin cannot be located on their premises because of visibility. He asked if everyone agreed that more research needs to be done relative to the possibility of a bin located in or near the recycling area. Councilmembers indicated agreement with Mayor Bivona's statement.

Councilwoman Lota reported on an update on the Police Headquarters from architect, Wayne Johnson. Mr. Johnson indicated that they are still in the exploratory process but think they have found the source of the water. She has a detailed report available for anyone who wants to review the findings so far. She added that there may be a cost increase and Mayor Bivona commented that the work is necessary.

## **BOROUGH ADMINISTRATOR'S REPORT**

Mr. Hart stated that Borough employees pride themselves on customer service and he referred to a letter from a resident commending the Mayor for the hiring of several Borough employees. The resident specifically noted Jenn Crespo, Nancy Yarish, Chris Mudrey and Police Officers Don Wilson and Drew Cacciatore and this letter will be placed in their respective personnel files.

## **BOROUGH CLERK'S REPORT**

### **2012 Meeting Dates**

Ms. Bleeker reviewed the meeting dates for 2012 which will be placed on the Borough calendar. Councilwoman Lota pointed out that February 21<sup>st</sup> falls during Presidents Week when children are on school vacation. The other meeting she is concerned with is July 3<sup>rd</sup> since people may be away for the long weekend. Ms. Bleeker explained that it is difficult to reschedule meetings because the Planning Board and Court use the meeting room upstairs. Ms. Bleeker asked about the Reorganization Meeting which is normally held on January 1<sup>st</sup> which is a Sunday in 2012. After some discussion, Councilmembers agreed to hold the Reorganization Meeting on Sunday, January 1st at noon with the Worksession Meeting to be held on January 3rd.

## **Destroy Meeting Tapes**

Ms. Bleeker stated that in 2008, the Council passed a resolution to preserve the audio recordings of meetings for Mayor and Council meetings. State Statute indicates that meeting tapes and CDs can be destroyed 80 days after the meeting or when the minutes have been approved, or whichever is first. She suggested that the Council consider rescinding this resolution due to storage concerns. Mr. Lustgarten pointed out that the minutes are the official record of any meeting and there is no reason to keep tapes. Mayor Bivona recommended a firm policy of record retention for one year from the date of the meeting and Councilmembers agreed. Mr. Hart said that the various Boards have their own policies which will continue.

**Release of Closed Session Minutes** – Ms. Bleeker said that she has conducted a review of Closed Session Minutes and is asking that they be released to the public. This is required by law. Minutes from 2000 through 2009 were reviewed with Mr. Hart and the matters discussed are no longer confidential. Mr. Hart said that the Mayor and Council have the right to review these minutes but he would like to have this item listed for October 18<sup>th</sup>.

## **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, October 4, 2011 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Tax Appeal – Swenson - Removed
- Tax Appeal – Kachajian - Removed
- Tax Appeal – Pandolfelli - Removed
- Tax Appeal – Franklin Lakes Estates - Removed
- Anticipated Litigation – Bruni

**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 there are no questions regarding tax appeals listed under Closed Session there is no need for a discussion. Council Members had no questions the items were removed.

Motion by Councilman Smith, seconded by Councilman Pedone at 9:50 P.M. to enter into Closed Session.

Roll Call Vote

Ayes: Councilmembers Friscia, Kahwaty, Lota, Pedone, Ramsey and Smith  
Nays: None

**ADJOURNMENT**

Motion by Councilman Kahway to adjourn the meeting at 10:20 P.M. Councilwoman Lota seconded the motion.

**Resolution 224-11**

**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 \$4,281,095.35 as shown on the Claims Bill List; and \$1,378.50 as shown on the Soil Account Bill List.

**BE IT FURTHER RESOLVED**, that the payroll of September 1, 2011 in the amount of \$216,620.02 and that the payroll of September 15, 2011 in the amount of \$225,770.63 and that the payroll of September 29, 2011 in the amount of \$240,932.98 be hereby ratified and approved.

**Resolution 225-11**

**WHEREAS**, the Borough has heretofore adopted and imposed a special assessment for a project known as “Wildwood Ave Special Paving Assessment”; and

**WHEREAS**, the assessment was challenged by Lawrence Homsany and Lori Homsany in a suit entitled Homsany, et al vs. Borough of Franklin Lakes, Superior Court of New Jersey, Law Division, Bergen County, Docket No.: L-2174-10; and

**WHEREAS**, a settlement has been negotiated between the parties; and

**WHEREAS**, the Mayor & Council of the Borough of Franklin Lakes has considered the proposed settlement of these claims;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Franklin Lakes on recommendation of its Borough Attorney and Tax Assessor that the Borough Attorney be and is hereby authorized to execute a Stipulation of Settlement to resolve these claims in the form attached hereto and made a part hereof as Schedule ‘A’ entitled Stipulation of Settlement.

Respectfully submitted,

  
Gary P. Becker, Borough Clerk



Dated:

**By:** \_\_\_\_\_  
**GEORGE G. GUNDERSON, III, ESQ.**

**The Borough of Franklin Lakes By  
and through its Borough Attorney**

Dated:

**BY:** \_\_\_\_\_  
**RICHARD A. LUSTGARTEN, ESQ.**