

**MEETING OF THE MAYOR AND COUNCIL
JANUARY 3, 2012
7:30 P.M.**

A regular meeting of the Mayor and Council was held on January 3, 2012 in the Municipal Building.

MEETING CALLED TO ORDER

ROLL CALL

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

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

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

ADMINISTRATION OF OATH OF OFFICE

Mayor Bivona administered the Oath of Office to Councilman Joseph F. Kelly.

PRESENTATIONS

TYCO ANIMAL CONTROL – CAROL TYLER

Pet Limit Ordinance

Carol Tyler introduced herself and stated that she has been the Animal Control Officer in Franklin Lakes for the past six years. During that time, she and Marjorie Vanacore, Health Officer, have encountered a continuing problem which is the large numbers of animals living in some households. She described homes with 40 to 50 animals as well as business locations that encourage the feeding and harboring of large numbers of cats. Ms. Tyler presented an ordinance from the Borough of Montvale which is clear and concise and limits the number of pets in a household. If the Borough has a law to work with, it will save time and expense by eliminating the Court appearances by the Health Officer and herself as well as police officers. An ordinance would provide control and be cost effective for the Borough.

Ms. Tyler referred to an ordinance from the Borough of Ho-Ho-Kus which charges the owner of an animal a fee of \$60 whenever Tyco Animal Control is called to come out after 7:00 P.M. to retrieve the animal. She recommended that a similar ordinance be put into effect in Franklin Lakes.

Mayor Bivona inquired about what Ms. Tyler had encountered during the past six years. Ms. Tyler said that she can investigate animal cruelty charges which Mrs. Vanacore was unable to do and this has helped to reduce the number of animals in certain households. She has investigated several cases of cats, without the proper vaccinations, being harbored and fed. This type of situation could be eliminated if there was an ordinance limiting the number of animals per household. She advises animal owners to be more responsible in order to get the problem under control such as not replacing animals as they die; however, this is difficult to achieve without the appropriate laws.

Ms. Tyler was asked if these types of laws would be classified as zoning ordinances and Ms. Tyler said that these are municipal ordinances. She noted that the Borough of Upper Saddle River found it difficult to limit the number of animals by the size of the property. In many cases, there are so many animals that are not properly cared for especially in cases where people are aging and don't have the ability to take care of so many animals.

Council President Kahwaty pointed out that in Montvale the authorities make a determination on whether or not to apply the code on a case by case basis. Ms. Tyler recommended that the ordinance use the phrase "domestic animals". Livestock is defined as animals living outside of the family structure and the problem is dealing with what is living inside family structures or confined in small yards. Upon questioning, Ms. Tyler said that poultry is not included in the definition of domestic animals even though there is a serious poultry problem that has gone on in Franklin Lakes for years. She pointed out the ordinance she is recommending is a good starting point for the ongoing problems in Franklin Lakes.

Councilwoman Ramsey asked if there was any evidence of the business of dog breeding. Ms. Tyler said she didn't think this was the case and at this point she doesn't want to get involved with these types of business determinations. Councilwoman Lota questioned animal sitting services which would fall under a non-commercial category. Ms. Tyler commented that anyone bringing additional dogs into their home would have to limit the number of dogs they own. In other towns, households are limited to a certain number of dogs which would include and could not exceed both dogs that are owned and dogs that are being boarded at that home. Ms. Tyler recommended that seven pets per household be allowed due to the size of the properties in Franklin Lakes and the setbacks but this decision would be up to the Council.

Mr. Hart asked Ms. Tyler for her opinions on a dog census. Ms. Tyler said that the annual census is mandated by the State; however, this requirement may be changed to every other year. The pet census usually finds over 100 animals that are unlicensed which generates revenue. She stressed the importance of updated rabies shots since rabies is a problem at this time and having an effective data base saves the town problems and money. The State is severely cutting the supplies needed for rabies clinics and if this program is completely eliminated, there will be huge problems with dogs and cats with rabies. She said that a dog or pet census would be necessary every two years for safety reasons which would also bring revenue to the town. Ms. Tyler pointed out that a large number of unlicensed pets were discovered during the last pet census. Councilwoman Ramsey suggested that the next e-blast should contain information about rabies and disease control for pets and animals.

Councilmembers agreed with Ms. Tyler's recommendation and directed Mr. Hart to prepare a draft ordinance limiting the number of domestic animals to be considered at the February work session.

MAYOR'S REPORT

Mr. Hart will send out a complete Council Liaison list detailing the responsibilities of each position. Mayor Bivona described a meeting with the Library Board which included objections to the amount of capital reserves that the Board was establishing. The Library Board did not make any changes and Mayor Bivona will draft a resolution to challenge the Board's handling of available excess funds. This resolution will be sent to the State Librarian. Mayor Bivona stated that he received a call from Orange and Rockland Electric in response to a letter that was sent regarding the October snow storm. Orange and Rockland Electric will set up a meeting to discuss the specific recommendations that were made in the letter.

Mayor Bivona noted that the budget process has begun. Mr. Hart indicated that he has received the department requests which are now being reviewed. He hopes to meet with Councilman Kelly and Councilman Smith soon and begin the morning Mayor and Council Budget meetings on Wednesdays beginning in a couple of weeks. The February deadline for municipal budgets has been extended to February 20th.

OPEN THE TIME FOR PUBLIC COMMENT

Motion to open the time for public comment was made by Council President Kahwaty, seconded by Councilwoman Ramsey. Discussion – none.

Roll Call Vote

Ayes: Councilmembers Kahwaty, Kelly, Lota, Pedone, Ramsey and Smith
Nays:
Abstain:
Absent:
Motion Approved

No one from the public came forward and a motion to close the time for public comment was made by Council President Kahwaty. Seconded by Councilman Kelly. Discussion – none.

Roll Call Vote

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

BOROUGH ENGINEER'S REPORT

Eileen Boland, of Boswell Engineering, reported that Mr. Hart had requested that Boswell review the preparation of deed descriptions for adoptions of ordinances in connection with the public acceptance of Connie Avenue, Ryerson Road and Wildwood Avenue. Boswell is proposing to undertake this work on a time and material basis not to exceed \$7,250. Mr. Hart explained that this work involves the preparation of ordinances accepting the three roads noted above which are part of a special assessment requiring a metes and bounds description. He recommended awarding the contract by resolution to Boswell Engineering on January 17th. Ms. Boland referred to the vacation of the paper street on Omaha Way and Cheyenne and Mr. Hart said that they are waiting for a plan showing accurate metes and bounds information from Bergen County.

Ms. Boland stated that United Water has a second application regarding McBride Field which will most likely come before the Planning Board for approval. Because the property is owned by the Borough, the Mayor and Council will have to consent to the application which was confirmed by Mr. Lustgarten. Mayor Bivona said that the Borough had asked United Water to expand the parking lot at the field. Ms. Boland indicated that there was no mention of a parking lot expansion in the information she received and Mr. Hart said he would be in touch with United Water about this. Mayor Bivona explained that United Water is going to run a pipe around McBride Field and they have given assurances that the sidewalks will be maintained. Councilwoman Ramsey said that there had been an understanding that United Water could not dig deeper and jeopardize wells in the area and she was certain that a permit was necessary for this work. Mayor Bivona said that there should be a requirement for United Water to appear before the Environmental Commission before proceeding with this work to address the concerns that have been outlined.

Ms. Boland explained that a year ago inspectors were sent to the Franklin Lakes Storage Facility and found that almost everything was complete with the exception of the soil stockpile area. The owners indicated that they were considering keeping the soil in that location and Boswell explained that this would necessitate another application to the Planning Board. This soil stockpile has recently been removed and Ms. Boland recommended a reduction of their performance bond to \$1,000 to ensure that grass is planted.

Resolution 18-12
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 resolution can be found after the Adjournment.

Resolution 19-12	Accept Report of the Finance Committee
Resolution 20-12	Reduce Performance Bond – FL Storage
Resolution 21-12	NY/NJ Trail Conference
Resolution 22-12	Budget Transfer
Resolution 23-12	Interlocal Agreement – Court Teleconferencing

Resolution introduced by Councilwoman Lota, seconded by Councilwoman Ramsey.
Discussion –None.

Roll Call Vote

Ayes: Councilmembers Kahwaty, Kelly, Lota, Pedone, Ramsey and Smith
Nays:
Abstain:
Absent:
Motion Approved

COMMITTEE/LIAISON REPORTS

PUBLIC WORKS

Councilwoman Ramsey recognized Councilwoman Lota for her efforts with Public Works over the past year and said she will follow up with the work being done. There are many smaller, in-house projects which she hopes will be completed before the snow starts to fall. Mr. Hart said that there is a meeting scheduled for Thursday regarding the field behind Borough Hall. This work will be done by the DPW but it will be funded by the Recreation Department.

ENVIRONMENTAL & COMMUNITY AFFAIRS

Councilman Pedone asked Mr. Hart to furnish him with the phone numbers of Committee Members.

PLANNING AND DEVELOPMENT

Council President Kahwaty stated that the GS Realty report for non-age restricted housing and the Tice Road application are scheduled for tomorrow's Planning Board meeting. Mayor Bivona reported that he and others have been meeting regarding COAH obligations and he will have more information in approximately 30 days.

Councilwoman Ramsey spoke about lot coverage in Franklin Lakes and the run-off problems that the Borough has had to deal with during the storms of 2011. Mayor Bivona said that the existing coverage standards are good; however, he would like to revisit the Shade Tree ordinance which would help the runoff situation. Mr. Hart noted that the ordinance is being revamped and will be forwarded to the Mayor and Council shortly.

United Water Tower Construction

Mr. Hart referred to the United Water tower at the Saddle Ridge Riding Stable which is not a permitted use on the property owned by Bergen County. John Spizziri, the Planning Board Attorney, is suggesting that the Mayor and Council amend the Zoning Ordinance to allow this water utility facility in the residential A-130 zone. This would

fall into the category of conditional use meaning that the use is anticipated under certain circumstances. Councilman Smith said that the water tower will be the only tower in this zone, therefore, the application belongs in front of the Zoning Board. Mr. Lustgarten said that the attorney for United Water is recommending a conditional use for zoning. He will be meeting with Mr. Hart on Thursday for more discussion on this matter. Mr. Hart explained that United Water is concerned that they will be unsuccessful in obtaining a variance and Councilman Smith disagreed stating that this is clearly a beneficial use. Mr. Hart indicated that time is a factor and he hopes to introduce an ordinance on January 17th.

RECREATION AND PARKS

Councilman Smith said he looks forward to working with the Parks and Recreation Committee which meets on the third Monday of the month.

ADMINISTRATION AND FINANCE

Councilman Kelly said he has nothing to report this evening.

PUBLIC SAFETY

Councilwoman Lota reported that she and Mr. Hart are continuing to research dispatch services.

BOROUGH ADMINISTRATOR'S REPORT

There was no report by Mr. Hart this evening. He noted that the Borough will appoint a new Police Chief on January 17th effective February 1st.

Mr. Hart stated that New Jersey Department of Transportation (NJDOT) has scheduled a meeting at the railroad crossing on Pulis Avenue to include County representatives to explore the idea of the installation of gates. Traffic Officer Bob Lyon reported that the County is responsible for establishing the need for gates. Traffic Officer Lyon spoke to the County about safety concerns at the intersection of Colonial Road and Franklin Lake Road; intersection at Summit Avenue and High Mountain Road; and the intersection at Pulis Avenue and Old Mill Road. The County has agreed to explore options at these intersections to address safety concerns.

OLD BUSINESS

There was no old business this evening.

NEW BUSINESS

There was no new business for discussion this evening.

Ms. Bleeker, Borough Clerk, wanted Councilmembers to be aware of a request for a wine tasting at the Endless Vine for the Christopher Baron Live for Life Foundation on February 9th.

Councilwoman Lota noted the request by the YMCA for the Triathlon which requires a response. Mayor Bivona said that they should ask for a donation and this will be on the next agenda.

Councilman Smith said that he isn't convinced that a survey is necessary regarding Ryerson Road, Wildwood Avenue and Connie Avenue. Mr. Lustgarten explained that because a metes and bounds description doesn't exist, none of the homeowners are sure of the limits of their property. Mr. Hart stated that the process will require a Master Deed with the property owners and they will be required to sign a quick claim deed. Councilman Smith said that he wouldn't expect everyone to sign the deed but Mr. Hart said that property owners indicated their desire to avoid another assessment in the future through the Borough's acceptance of the road. Mr. Lustgarten stated that there are no

maps filed for Ryerson Road and Wildwood Road and a letter will be written to the property owners asking for their signatures to accept the road as a public roadway with no additional public assessment.

After further discussion, Councilman Smith suggested a title search to determine that a map hasn't been filed showing the streets in question. A filed map at the County would eliminate the need for a survey and Mr. Lustgarten will look into this further even though he is sure that there is not a filed map for Wildwood Road.

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, January 3, 2012 which begins at 7:30 PM, in the Council Chambers at the Municipal Building to discuss the following:

Closed meeting issues:

- Litigation - Tax Appeal – Teo
- Litigation – Tax Appeal – TD Bank
- Collective Bargaining – PBA
- Contractual – GS Reality
- Contractual – Temple Property
- Pending Litigation – Northwest Bergen County Utilities Authority vs. First Real Estate Investment Trust.

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.

Motion by Council President Kahwaty, seconded by Councilman Kelly at 8:55 PM to enter into closed session.

Roll Call Vote

Ayes: Councilmembers Kahwaty, Kelly, Lota, Pedone, Ramsey and Smith
Nays: None
Abstain: None
Absent: None
Motion Approved

The Council returned to Open Session at 9:55 P.M.

Roll Call Vote

Ayes: Councilmembers Kahwaty, Kelly, Lota, Pedone, Ramsey and Smith
Nays:
Abstain:
Absent:
Motion Approved

ADJOURNMENT

Motion by Councilman Kelly to adjourn the meeting at 9:55 P.M. Council President Kahwaty seconded the motion.

Roll Call Vote

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

Nays:
Abstain:
Absent:
Motion Approved

Resolution 19-12

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 \$4,226,198.55 as shown on the Claims Bill List; and \$6,881.50 as shown on the Soil Account Bill List; and \$990.50 as shown on the Developer's Escrow List.

RESOLUTION 20-12

WHEREAS, FL Storage, 574 Commerce Street, Franklin Lakes, New Jersey, has requested a reduction in the amount of the performance bond posted for their project; and,

WHEREAS, the Borough Engineer, in a letter dated December 8, 2011, advises that the performance bond may be reduced to \$1,000.00 in lieu of FL Storage submitting a separate Soil Stabilization Bond; and,

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, that the recommendation of the Borough Engineer is hereby accepted and therefore the performance bond posted by FL Storage may be reduced to \$1,000.00; and,

BE IT FINALLY RESOLVED that a copy of this Resolution be forwarded to FL Storage, the Borough Engineer, and the Planning Board.

RESOLUTION 21-12

MEMORANDUM OF UNDERSTANDING – NY-NJ TRAIL CONFERENCE

WHEREAS, the New York - New Jersey Trail Conference, a not-for-profit membership association engaged in the protection and maintenance of publicly accessible and authorized trails, has offered to enter into a Memorandum of Understanding with the Borough for the blazing and maintenance of trails at the Franklin Lakes Nature Preserve; and,

WHEREAS, the Franklin Lakes Nature Preserve Executive Committee recommends to the Mayor and Council that the Borough enter into a Memorandum of Understanding with the New York – New Jersey Trail Conference for these services;

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 the recommendation of the Franklin Lakes Nature Preserve Executive Committee is hereby approved and the Mayor be and is hereby authorized to execute a Memorandum of Understanding on behalf of the Borough with the New York – New Jersey Trail Conference, subject to review and approval of the Memorandum of Understanding by the Borough Attorney and the provision of such proof of insurance as may be required by the Borough's Risk Manager; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to the New York – New Jersey Trail Conference, the Borough Attorney, and the Borough's Risk Manager

Resolution 22-12

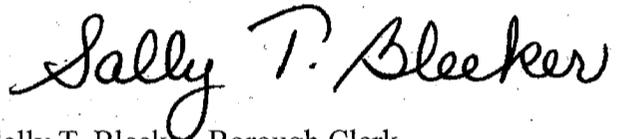
BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the following 2011 Budget Transfers be made for the following accounts:

<u>From</u>	<u>From</u>	<u>To</u>
Police-S&W	22,000	
To		
Recreation Instructors Salary		\$2,500
Engineering Services		2,500
Telephone		2,000
Vehicle Maintenance		15,000
	<u>\$22,000</u>	<u>\$22,000</u>

Resolution 23-12

BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the Mayor and Borough Clerk are hereby authorized to execute an Interlocal Service Agreement for Municipal Court Teleconferencing with the Village of Ridgewood for the year 2012 after review and approval by the Borough Attorney.

Respectfully submitted,



Sally T. Bleeker, Borough Clerk