

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

A regular meeting of the Mayor and Council was held on February 7, 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, Councilman Pedone and Councilman Smith. Also present were Borough Administrator Greg Hart, Borough Attorney Lustgarten, and Borough Clerk Sally Bleeker. Councilwoman Ramsey was absent this evening.

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

PET LIMIT ORDINANCE

Mayor Bivona stated that no decision has been made or will be made on this issue tonight. He explained that this discussion is a result of the fact that there are several residents in the Borough who may be running businesses such as pet sitting, kennels and breeding operations on residential properties. There is no desire to limit the number of pets on residential properties that are not causing a hazard to public safety. He does not believe in over regulation and feels that there are ordinances available to handle specific problems. Mayor Bivona said that he does not support this ordinance and feels that the existing ordinances are under defined. He added that the right of everyone to live in a pleasant environment is important and must be protected; however, there is no intention to limit the number of pets.

Councilman Smith recalled that this issue was brought to the attention of the Council by the Borough's Animal Control Officer and she suggested that the number of pets should be limited. Mr. Hart stated that the Board of Health has not discussed this issue or made a determination or recommendation to the Council. Councilman Smith said that input from the Board of Health is needed.

Councilman Kelly felt that the Borough is protected by existing Board of Health and noise ordinances and he doesn't see that this ordinance is necessary. Councilwoman Lota agreed and commented that she sees no reason to move forward with the proposed ordinance. Council President Kahwaty said that Oakland and Wyckoff have ordinances limiting the number of animals because of the possibility of animals being abandoned.

OPEN THE TIME FOR PUBLIC COMMENT

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

Roll Call Vote

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

Nays:

Abstain:

Absent: Councilwoman Ramsey

Motion Approved

Danielle Weitz, 512 Haddon Place, reported that she attended the recent Board of Health meeting and none of the members knew anything about this issue. She didn't think that they were urging the Borough to adopt an ordinance of this type. Ms. Weitz said that she filed an OPRA request for the email addresses of the Board of Health members but was told that they didn't have town email addresses. She remarked that the Borough needs to develop a way of contacting these members.

Ms. Weitz read a letter from the German Sheppard Club of America addressed to the Mayor and Council stating that they oppose laws limiting the numbers of dogs that responsible residents can own, as well as unreasonable limitations on pet ownership. It has been found that there are increased numbers of abandoned animals when pet ownership restrictions are imposed and they recommend community outreach programs. Ms. Weitz read another letter from the American Kennel Club (AKC) on behalf of the numerous responsible dog owners in Franklin Lakes expressing concerns relative to pet ownership limits being considered by the Borough Council and the Franklin Lakes Board of Health. The AKC stated that they would work with the Borough to reach reasonable solutions to the issue of irresponsible dog ownership experienced by the community. They asked that the Council not punish responsible dog owners and breeders with an ordinance of this type.

Terry Meese, 240 Green Ridge Road, questioned whether this is a Board of Health issue or a Zoning issue. She encouraged the Mayor and Council to use existing ordinances to deal with this dilemma.

Sharon Mault-Weir, 1120 High Mountain Road, said that she heard about the hoarding issue and she felt that the media did a poor job of explaining exactly what is going on to the residents.

Prema Mathai-Davis, 1055 High Mountain Road, commented that after listening to the discussion so far she is pleased to hear that there is no need for additional laws. Issues of nuisance, abuse, odors or noise can be addressed through existing ordinances and it would be heart breaking to have to give up an animal. If there are kennels, breeding or other businesses going on, Ms. Mathai-Davis encouraged everyone to come to a compassionate agreement rather than placing the problem in the hands of lawyers.

Abraham Morcos, 836 Phelps Road, said that he came to the United States from Egypt in the 1980s seeking freedom and being told how many pets a resident can have is what he successfully escaped from 25 years ago. He agreed that the existing ordinances should be more definitive as to what constitutes kennels, grooming businesses, etc.

Jane Brunner, 549 Kiowa Drive, said that this is an issue of freedom and liberty that goes beyond restricting the number of pets. This shouldn't be discussed in Franklin Lakes where laws already exist to handle these situations. Mayor Bivona reiterated that the problem is that the existing laws are vague and must be rewritten to be clear.

Mary Anne Pearson, 844 Trailing Ridge Road, said that she is against these restrictions because she feels there are already enough regulations. She pointed out that if a dog has a litter of puppies the owner could suddenly find that he had exceeded the allowable number of pets in the household.

Barbara Haywood is the President of the American Rottweiler Club and is affiliated with many other animal related organizations. Ms. Haywood stated that she is part of a network of dog clubs throughout the state and she noted that the legislative impact, economic impact, community impact and political impact must all be considered. Pet

limiting laws are detrimental to the community because they create violations resulting in pets abandonment.

Gail Palminteri, 200 Woodside Avenue, said that she recently spoke to Mike Melchone who is involved with Animal Control who opposes animal limiting laws due to lack of compliance. He suggested considering a model from Calgary which puts a positive spin on animal licensing and animals should be licensed due to the rabies problem. This model emphasizes quality of life for the animal. Ms. Palminteri also provided a letter from Heather Cammisa of St. Hubert's Animal Welfare Center which encourages behavior based ordinances and enforcement of existing state statutes and administrative code regulations. Ms. Cammisa said that her organization would be happy to assist Franklin Lakes with this issue.

Linda Deutsch, stated that she is not a Franklin Lakes resident but is the President of the New Jersey Association of Dog Clubs. She opposes any pet limiting laws and offered a model to upgrade current laws. She praised the animal control program in Calgary, Alberta and encouraged people to visit their website for more information. There are other programs offered through the AKC which encourages dogs to be trained in basic obedience and friendliness. Information on the programs could be provided as part of the licensing process so that people are advised regarding responsible ownership.

Dianne Anderson, Pulis Avenue, Mahwah, said that she has been a dog breeder for 38 years. Her dogs are donated to local police forces for detection and customs work. She is also involved in dog therapy work for hospitals, nursing homes and schools. Ms. Anderson pointed out that the definition of a kennel can vary and she suggested that when there are problems with dogs, breeders should be contacted because they are often willing to help.

Barbara Reichman, who is a member of the National Animal Interest Alliance (NAIA) and the Golden Retriever Club of America, as well as other organizations, introduced herself. She said that when an ordinance is initiated that forces people to become a kennel, a trigger effect is set off meaning that State law and its rules and regulations must be followed. This removes the ability for people to have multiple dogs in their home because State regulations force compliance of a commercial situation. The NAIA opposes limit laws because of the wedge that it creates between the community and Animal Control. Ms. Perichman commented that the community seems to oppose this proposal and her organization would be willing to work with the Board of Health to try to keep everyone in the community happy.

Carol Tyler, Animal Control Officer for the Borough, described multiple cases of violations that couldn't be addressed because of the gray areas of the Borough's noise and sanitation ordinances. When summonses are issued, the Municipal Court Judge had to fall back on his opinion and State laws and not factual based laws of the Borough. Ms. Tyler said that the situation concerning the rising number of complaints was brought to the attention of the Mayor and Council because tax dollars are being spent on these court cases that are brought before Franklin Lakes Municipal Court. There have been repeated problems in the Borough and when the number of animals reaches a certain point the animal's quality of life no longer exists. The point is not to seize animals and remove them from their owners; however, animals should have a certain quality of life. An Animal Control Officer will only go to a resident's home when that resident's judgment has become impaired and complaints are received from neighbors about an animal. Ms. Tyler concluded that pet owners and non pet owners must be given fair treatment under the law.

Dennis McConnell, formerly of 618 Pawnee Lane, President of the Garden State Golden Retrievers Club, commented that it is not a good idea to formulate legislation based on hyper sensitive citizens.

Barbara Reichman, said that animals are property and the 14th Amendment states that people cannot be denied their property without due process. When the numbers of animals allowed are limited, the citizens of Franklin Lakes are being denied due process. Greater favor is also being given to people who own fewer dogs.

Richard Lustgarten, Borough Attorney, disagreed stating that the government is entitled to set restrictions. The issue being discussed tonight is the establishment of a balance for the health, safety and welfare of the community. Mayor Bivona reiterated that these ordinances need to be re-drafted to define things such as kennels to strike the proper balance.

Lisa Mathai-Davies, 1055 High Mountain Road, said that the issue needs to be clarified. There seems to be numerous items being questioned such as dog breeding and commercial versus private dog owners. Sanitation issues, dog attacks and noise have also been brought up and clarity is needed to resolve the problem. Councilwoman Lota agreed and stated that the proposed ordinance should go back to committee because there are so many things that need to be considered. Ms. Mathai-Davies pointed out that a pet limit ordinance could also have an economic impact on local business.

A Legislative Liaison and Committee Chair for the Weimerama Club of America, stated that she also breeds Weimeramas. She lives in Upper Saddle River where there is a pet limit law which has not deterred dogs running loose or barking. She pointed out the many resources available in Bergen County including breeders and national clubs who are willing to help. A pet friendly community that works with Animal Control, animal trainers and residents will help to eliminate many of the complaints that are received.

Melissa Ayer, Mahwah, recommended that the Borough reach out to the resources that are available that promote responsible dog ownership.

No one else from the public came forward and a motion to close the time for public comment was made by Councilman Smith. Seconded by Councilwoman Lota. Discussion – none.

Roll Call Vote

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

BOROUGH ENGINEER'S REPORT

- **Status Report**

Eileen Boland, of Boswell Engineering, said that she would answer questions from Councilmembers relative to the engineering status report dated February 2, 2012. She confirmed that the field soil quality reports came back and were satisfactory. Mayor Bivona questioned the status of the vacation of Miro Road. Ms. Boland explained that the property owner at 133 Helen Court has requested that this road be vacated. Miro Road is a paper street extending from Helen Court which terminates at the Borough owned property containing Tannery Pond and a portion of the Ho-Ho-Kus Brook. Boswell Engineering has no issue with this request but recommends that an easement be granted to the Borough for access to this property for maintenance purposes. The property owners would be responsible to prepare the survey and easement information.

Councilman Smith questioned the reasons for access of this area by the Borough. Ms. Boland said that the Borough may want to clean and maintain this wetland area although it probably will not be used. Councilman Smith advised against giving away access to property owned by the Borough due to the fact that the Borough won't need it in the future. If the only problem is the setback, it could be resolved through the granting of a variance which gives the Borough the right to use the road in the future. Councilmembers agreed to this solution and the property owner will be advised to apply to the Zoning Board for a variance. If a variance is not granted, the property owner will return to the Mayor and Council for a resolution of the problem.

- **Road Program**

Ms. Boland referred to the list of roadways that have been recommended for the 2012 Road Program as outlined in the Boswell Engineering letter dated February 7, 2012. This letter also details alternate bids for five different roads which could be considered if there is adequate funding. Mr. Hart said that it is important to get the list of roads to the North Bergen Shared Services so that Franklin Lakes can be included in the joint bid.

**RESOLUTION 34-12
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 35-12	Accept Report of the Finance Committee
Resolution 36-12	Trails Grant Application
Resolution 37-12	Refund of Redemption of Monies to Lienholder
Resolution 38-12	Award Contract – Sharps Container and Suction Unit

Resolution introduced by Council President Kahwaty, seconded by Councilwoman Lota.
Discussion –None.

Roll Call Vote

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

MAYOR’S REPORT

Mayor Bivona reported that the Council is close to finishing the 2012 budget which will be introduced on February 21st. A budget meeting is scheduled with the Borough Auditor for February 13, 2012.

Mayor Bivona referred to the possibility of having gates installed at the Pulis Avenue railroad crossing. New Jersey Department of Transportation recently held a diagnostic meeting at the site and has issued their recommendations. NJDOT has concluded that the New York Susquehanna Railroad Company should install gates and enhanced signals along with various other improvements to the site. Mayor Bivona hopes this work will be completed in 2012.

Mayor Bivona announced that the School Board is considering a major change based on a study conducted by a large sub-committee. There is a concern relative to the declining school population and rising costs. The School Board is looking at the modified Princeton Model which would eliminate the neighborhood school concept. They are recommending two K through 3rd grade schools and one 4th and 5th grade school.

COMMITTEE/LIAISON REPORTS

PUBLIC SAFETY

Councilwoman Lota reported that she and Mr. Hart are interviewing candidates this week for police dispatcher and should have a recommendation in time for the next Council meeting.

- **Fire Department Ordinance Amendments**

Mr. Hart stated that the Fire Department Ordinance needs to be altered to be consistent with the actual structure and practice of this department. He worked with the Fire Department to formulate these amendments which were discussed by the Council. Jim Webb, President of the Fire Department, explained the recommended changes. After some discussion, Councilman Smith suggested that in the matter of disobedience or other problems, the Fire Chief, Assistant Chief or the two captains have the right to bring charges. Three out of the four must agree to further pursue those charges by means of a hearing. Mayor Bivona suggested adding language that two are needed to confirm a complaint but anyone of the four can make the complaint. Councilmembers agreed with this change and the ordinance will be introduced on February 21st.

Councilman Pedone said that there have been large turn outs at Senior Citizens Meetings and the seniors are asking if they could open the partition and put tables on the other side of the room at the Fire House to accommodate the overflow and Mr. Webb agreed to this request.

PUBLIC WORKS

Councilwoman Lota reported that the work at the Police Department is 90% finished and the department is very happy with the results.

ENVIRONMENTAL & COMMUNITY AFFAIRS

Councilman Pedone reported that the Senior Citizens are presently working on their by-laws.

- **Amendment to Tree Ordinance**

There is a proposal to change some of the wording of tree ordinance relative to the duties and authorities of the tree specialist. The older ordinance imposes restrictions on Mr. Hasbrouck's ability to evaluate and protect the lots in Franklin Lakes. Mike Tulp of the Shade Tree Committee stated that the Committee has made changes for the greater good of the tree population and recommended that money required for the planting of trees in unfavorable locations should be part of a trust fund for the planting of trees for parks and other locations. The ordinance will be ready for introduction in March.

Mayor Bivona questioned how far the Borough can go to make residents comply with these types of requirements. Mr. Hart said that there is a specific criteria for the location of trees which is not discretionary such as prohibiting trees within 10 feet of a principal structure and within 10 feet of a pool. There are many gray areas and it would be helpful to give some discretion to the tree specialist. Mr. Hart commented that this ordinance has been in the process of review for the past four years and page 12 contains information that was recently added giving discretionary authority to the tree specialist and an explanation of what is trying to be achieved. This section includes a definition of the qualifications needed in order to serve as a tree specialist. In addition, this ordinance states that a property owner can remove 10% of their trees within any five year period.

Mayor Bivona pointed out that this could result in the removal of screening and he isn't sure how to deal with these kinds of issues. Mr. Hart said that Section A allows for the invasive, hazardous or dying trees to be removed without limits. Kris Hasbrouck said that the invasive trees do harm in the long run and the ordinance attempts to strengthen the forests in the Borough both on private and public property.

Councilman Kelly suggested that Shade Tree Committee put a mission statement on the Borough website to explain what they are trying to achieve. Mr. Hasbrouck pointed out that a modification in the ordinance would allow for some leeway in the designated 20% no disturbance zone. He described a lot where several years ago 12 or 13 red maple trees were planted 10 feet to 15 feet apart within 10 feet of the property line. These trees are now overgrown and the property owners want to re-landscape; however, due to the ordinance the property owners cannot touch these trees because they are in the no disturbance zone. Mr. Hart said that it is important to put something in place because being prohibited from removing hazardous trees is a public safety problem. He pointed

out that this ordinance removes some of the language pertaining to the Planning Board relevant to development applications. Mr. Tulp stated that Mr. Hasbruck is an expert member of the Borough staff who can evaluate situations and make recommendations regarding species of long lasting trees that will address privacy and screening concerns. Appropriate language needs to be added to the ordinance that would allow flexibility.

Mayor Bivona referred to the tree escrow fund and asked if this money could be used for different properties and not for one specific property. Mr. Hart said the new ordinance follows the language that upheld the tree escrow fund structure which requires \$250 as the minimum bond per property. Mr. Tulp stated that language in the new ordinance states that any trees required to be planted are expected to be maintained and kept for a ten year period. Mr. Lustgarten recommended that every fine for a violation of the tree ordinance, after the initial fine, should be increased accordingly rather than to leave the amount up to the judge.

Mr. Hart suggested re-visiting this ordinance at the March work session. He added that the Mayor and Council should come to an agreement on the ordinance before forwarding it to the Planning Board. The Planning Board liaison will advise the Board that the Mayor and Council are continuing their work on the ordinance.

- **Pet Limit Ordinance**

Mayor Bivona suggested that the Environmental and Community Affairs Committee meet and submit a recommendation on the feasibility of this ordinance.

- **Moving School Election**

Senate Bill 3148 - Mayor Bivona explained that the School Board can decide whether to defer the School Board Elections to November. This means that the budget is not voted on if it is under the CAP. If the election remains as is and takes place in April, a budget vote would be required. The Mayor and Council could; however, take action to move the election to November if no action were taken by the School Board. Mayor Bivona noted that once the election is moved to November it has to stay that way for four years.

Mayor Bivona reported that several Board members have questioned him on the opinions of Councilmembers. He said he would wait for their decision before any action was taken. He indicated that he would be inclined to go along with the decision of the School Board. The Board will have to make a decision tonight or call a special meeting because their meetings fall on the same evenings as the Mayor and Council meetings. If the Council wants to take any action it would have to be done before February 21st; however, this could be done at the meeting of February 13th. Councilman Smith questioned the reasons for a change in the date of the School Board elections and Mr. Hart said that voter turn out would probably be better and it would save money.

PLANNING & DEVELOPMENT

- **Wind System Ordinance**

Mayor Bivona said that there is some confusion on this issue and he suggested that the new Planning Board Chairwoman meet with Councilman Kahwaty, Mr. Hart, and John Spizziri, Planning Board Attorney so that everyone can coordinate regarding this issue. Mr. Hart stated that the ordinance being considered is based on the model ordinance which should be assessed by the Planning Board before it comes to the Mayor and Council for consideration. Councilman Kahwaty said that he would have the Planning Board focus on the ordinance. He reported that the resolution on the Tice Road/Sabra Dental application was adopted on February 1st. The GS Realty application was continued at the request of the applicant. Testimony was taken from United Water regarding the reconstruction of the facility at McBride Field. Mr. Hart stated that a meeting is scheduled for Thursday to review the United Water parking and piping plan. Mayor Bivona said that United Water is also working with the Borough relative to the project on Wyandotte Road.

RECREATION AND PARKS

Field Use – Lions Club Circus, and Field Use – Lions Club Carnival

Mayor Bivona recalled the prior discussions on allowing the fields in the Borough for use by different organizations. He suggested enhancing the present process by requiring details well in advance of the event. Councilwoman Lota noted that the problem with last year's carnival was that no one seemed to be aware of many details relative to the carnival. There is also the question of whether the event benefits the Borough and if the organization would be willing to make a donation to the Borough. Mayor Bivona reported that the Wyckoff Triathlon has already made a donation for a beautification project. He stated that they have to give these organizations an answer as soon as possible so that they can make other arrangements if necessary.

Councilman Kahwaty indicated his support of the Lions Carnival. Mr. Hart said that the Recreation Committee should be making recommendations to the Mayor and Council based on over use of the field and parking issues. Every applicant should provide a parking plan to be reviewed by the Recreation Committee and the Traffic Officer. The Mayor and Council would decide whether the event would benefit the community using these findings. Mayor Bivona said that these applications need to be listed on the February 21st agenda so that these organizations have enough time for planning purposes.

ADMINISTRATION AND FINANCE

- **Professional Services Agreements**

Mr. Hart referred to the professional services contract spreadsheets including the financial terms. These contracts will be listed for the meeting of February 21st.

- **Amendment to Fees Ordinance**

Mr. Hart stated that there are proposed changes to the Recreation fees; however, the Recreation Committee hasn't had the opportunity to review these recommendations. This will be listed on the March agenda. Mr. Hart stated that there is an ordinance on solar panels and he recommended combining these two fee ordinances. A construction fee ordinance will be available for review at the March meeting.

BOROUGH ADMINISTRATOR'S REPORT

There were no questions on Mr. Hart's report this evening.

OLD BUSINESS

There was no old business this evening.

NEW BUSINESS

ORDINANCE 1535

AN ORDINANCE VACATING A CERTAIN ROAD EASEMENT ON BLOCK 1109, LOT 1 AT OMAHA DRIVE AND CHEYENNE WAY

WHEREAS, an ordinance entitled AN ORDINANCE VACATING A CERTAIN ROAD EASEMENT ON BLOCK 1109, LOT 1 AT OMAHA DRIVE AND CHEYENNE WAY was introduced at a meeting of the Mayor and Council held on the 7th day of February, 2012;

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 1535 be and the same is hereby adopted on First Reading; and,

BE IT FURTHER RESOLVED that said Ordinance 1535 will be further considered for final passage at a meeting of the said Mayor and Council to be held on the 21st day of

February 2012 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 1535; 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.

Resolution introduced and read by Councilwoman Lota, seconded by Council President Kahwaty. Discussion – none.

Roll Call Vote

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

Nays:

Abstain:

Absent: Councilwoman Ramsey

Motion Approved

ORDINANCE 1536

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 300
“LAND USE AND DEVELOPMENT” OF THE CODE OF THE
BOROUGH OF FRANKLIN LAKES TO PERMIT PUBLIC
WATER UTILITY USES AS CONDITIONAL USES**

WHEREAS, an ordinance entitled AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 300 “LAND USE AND DEVELOPMENT” OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO PERMIT PUBLIC WATER UTILITY USES AS CONDITIONAL USES was introduced at a meeting of the Mayor and Council held on the 7th day of February, 2012;

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 1536 be and the same is hereby adopted on First Reading; and,

BE IT FURTHER RESOLVED that said Ordinance 1536 will be further considered for final passage at a meeting of the said Mayor and Council to be held on the 21st day of February 2012 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 1536; 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.

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

Roll Call Vote

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

Nays:

Abstain:

Absent: Councilwoman Ramsey

Motion Approved

Mr. Hart stated that the ordinance has been amended on page two where it states that the maximum building height is changed from 40 feet to 45 feet due to an issue with rock. There was a clause added for the addition of an antenna at the United Water facility that does not exceed the 45 foot height limitation. On page two, number eight, several accessory uses needed to operate the tank have been added.

Council President Kahwaty, seconded by Councilman Smith to approve the amendments as described by Mr. Hart. Discussion – none.

Roll Call Vote

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

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, February 7, 2012 which begins at 7:30 AM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Contractual – VFW Lease
- Pending Litigation – Sabra Litigation
- Contractual – Firemens Field Lease
- Pending Litigation - First Real Estate Investment Trust Tax Appeal
- Contractual – COAH sites

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 Councilman Kahwaty, seconded by Councilman Smith at 10:30 P.M. to enter into Closed Session, Discussion – none.

Roll Call Vote

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

ADJOURNMENT

Motion by Councilman Kelly to adjourn the meeting at 9:55 P.M. Council President Kahwaty seconded the motion. Discussion – none.

Roll Call Vote

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

Resolution 35-12

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 \$6,536,599.95 as shown on the Claims Bill List; and \$369.44 as shown on the Developers Escrow List.

BE IT FURTHER RESOLVED, that the payroll of January 5, 2012 in the amount of \$244,205.12 and that the payroll of January 9, 2012 in the amount of \$269,144.40 be hereby ratified and approved.

Resolution 36-12

BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, and State of New Jersey, that application be made to the New Jersey Division of Environmental Protection, Green Acres Program, for grant funding under the 2012 Recreational Trails Grant Program for an ADA compliant accessible trail at the Franklin Lakes Nature Preserve; and,

BE IT FURTHER RESOLVED that the Borough Administrator is hereby authorized to submit the application and necessary supporting documentation on behalf of the Borough of Franklin Lakes for the aforesaid grant application; and,

BE IT FINALLY RESOLVED that a certified copy of this resolution be forwarded to the New Jersey Department of Environmental Protection, Green Acres Program, and the Chief Financial Officer.

Resolution 37-12

WHEREAS, at the Municipal Tax Sale held on November 30, 2011, a lien was sold on Block 2409.01, Lot 3.11, also known as 257 Forest Glen Avenue in Franklin Lakes, for 2010 delinquent taxes; and,

WHEREAS, this lien, known as Tax Sale Certificate # 11-00002 was sold to U.S. Bank - Cust/Sass Muni VI Dtr , Philadelphia, PA 19102. Sass also paid a premium for this tax sale certificate in the amount of \$12,000.00

WHEREAS, the law firm of Andril & Espinosa has effected redemption of Certificate # 11-00002 in the amount of \$21,191.61 as of February 14, 2012,

NOW THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$33,191.61 (\$21,191.61 for the redemption and \$12,000.00 for the return of the premium) payable to U.S. Bank - Cust/Sass Muni VI Dtr.

Resolution 38-12

WHEREAS, the Franklin Lakes Ambulance Corps solicited proposals and received three proposals for the installation of two sharp container and sharps units; and,

WHEREAS, the Mayor and Council are desirous of awarding this contract to the vendor that submitted the lowest proposal, 10-75 Emergency Lighting LLC, 51 Executive Parkway Building 1, Ringwood, New Jersey 07456, for the proposal amount of \$600;

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 contract for the installation of two sharp container and sharps units be and is hereby awarded to 10-75 Emergency Lighting LLC, for the proposal amount of \$600; 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 is a sufficient appropriation to fund the purchase authorized in this resolution as an express and mandatory condition of the award of this contract; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to 10-75 Emergency Lighting, LLC, the Ambulance Corps and the Chief Financial Officer.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

Sally F. Dickson, Borough Clerk