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

A regular meeting of the Mayor and Council was held on July 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, Councilperson Kelly, Councilperson Lambrix, Councilperson Lota, Councilperson Pedone and Councilperson Ramsey. Also present were Borough Administrator Greg Hart, Borough Attorney Smith, and Borough Clerk Sally Bleeker.

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

APPOINTMENTS

Henry P. Wasserstein – Municipal Alliance

Motion was made by Councilperson Pedone and seconded by Councilperson Ramsey to make the following appointment – Henry P. Wasserstein – Municipal Alliance Chair

Roll Call Vote

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

Tax Assessor

Mr. Hart reported that five candidates were interviewed for this position. The Committee is recommending that Jason Cohen be appointed to the position due to his excellent background in assessments through his ten year employment with Appraisal Systems. Mr. Cohen will be appointed for a four year term at a 2012 salary of $34,268 based on a fifteen hour work week.

Motion was made by Council President Kahwaty and seconded by Councilperson Kelly to make the following appointment – Jason Cohen – Tax Assessor.

Roll Call Vote

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

PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and,

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and it is now observed throughout the nation and the world; and,

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and,

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and,

WHEREAS, trees in our Borough increase property values, enhance the economic vitality of business areas, and beautify our community, and, wherever they are planted, are a source of joy and spiritual renewal, and,

WHEREAS, the Franklin Lakes Shade Tree Commission will plant three trees behind Borough Hall in commemoration of Arbor Day;

NOW THEREFORE, I, FRANK BIVONA, Mayor of the Borough of Franklin Lakes, County of Bergen, and State of New Jersey, do hereby proclaim April 27, 2012, as Arbor Day in the Borough of Franklin Lakes, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

IN WITNESS HEREOF, I have hereunto set my Hand and caused the Seal of the Borough of Franklin Lakes to be affixed this 3rd day of July, 2012.

Mayor Bivona thanked Councilpersons Ramsey and Pedone as well as acknowledging Horizon Landscaping for their donation of three shade trees planted behind Borough Hall. The Arbor Day Proclamation was read by Mayor Bivona.

OPEN TIME FOR PUBLIC COMMENT

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

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

PUBLIC HEARING

There were no public hearings this evening.

BOROUGH ENGINEER'S REPORT

Kevin Boswell and Eileen Boland attended tonight's meeting. Mr. Boswell reported that he has had several meetings with residents concerning the 2012 Road Program which has lead to the successful resolution of some minor issues. Boswell Engineering is coordinating with the Northwest Bergen County Utility Authority (NBCUA) to help with the sewer project. Mountain Shadows has asked for assistance relative to tying into the sewer project; however, Mr. Boswell explained that this type of intermediary arrangement would have to be approved by the Borough. He will ask the Borough for approval to act in this capacity if Mountain Shadows formally requests assistance from Boswell Engineering.

Mr. Boswell stated that a proposal was submitted in April regarding the permitting of pedestrian bridges at the Nature Preserve. The Department of Environmental Protection (DEP) has given permission to move forward with approval of these bridges provided that they are securely anchored. Mr. Hart stated that this approval includes the bridges, trails and the accessible trail which are boardwalk type improvements along the shore. This is a longer phased project and Mr. Boswell indicated that this project could be done in two parts. He will submit a revised proposal. Mr. Hart said that a resolution will be on the agenda for July 17th in order to go out to bid quickly. This project will be funded through donations and grants.

Councilperson Lambrix questioned the Borough's request for a second railroad crossing at Pulis Avenue. Mr. Boswell stated that NBCUA needs to engage in this construction in order to allow for a connection into the sewer system at some time in the future. He has stressed the benefits of a second crossing that would accommodate Mabel Ann Avenue, the municipal complex and a future user at the end of Tice Road. He added that it is important to serve as much of the Borough as practical by gravity. Mr. Hart stated that NBCUA is hoping to start excavation work this week.

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 151-12	Consent Agenda Resolution
Resolution 152-12	Accept Report of the Finance Committee
Resolution 153-12	Chapter 159 – Click It or Ticket 2012

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

Roll Call Vote

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

RESOLUTIONS

RESOLUTION 154-12
COMMITTING FOR EXPENDITURE CERTAIN AFFORDABLE HOUSING TRUST FUNDS

WHEREAS, the Borough of Franklin Lakes obtained a second round judgment of repose with reference to its affordable housing obligation; and

WHEREAS, the Borough submitted a timely application to the Council on Affordable Housing (COAH) for third round substantive certification, which included a spending plan for affordable housing trust funds; and

WHEREAS, the third round regulations were invalidated by court action, and the issue is now pending before the Supreme Court of New Jersey; and

WHEREAS, the Borough has been and remains compliant with its known affordable housing obligations; and

WHEREAS, N.J.S.A. 52:27D-329.3(d), which became effective July 17, 2008, requires that affordable housing trust funds be "committed for expenditure" within four

years from the date of collection, or be subject to possible forfeiture to the State of New Jersey; and

WHEREAS, N.J.A.C. 5:97-8.10(a)(8) requires expenditure of trust funds within four years after COAH's approval of a spending plan, which time for expenditure has not started to run as a result of COAH's failure to review and approve the Borough's spending plan; and

WHEREAS, N.J.S.A. 52:27D-329.2(a) provides that a municipality may only spend or commit to spend affordable housing development fees on compliance mechanisms approved by COAH; and

WHEREAS, pursuant to N.J.A.C. 5:97-8.7(a)(5) and (12), respectively, COAH has approved the use of affordable housing trust funds for acquisition of land to be used for affordable housing, and for repayment of municipal bonds issued to finance low and moderate income housing activity; and

WHEREAS, the Borough is contemplating the purchase of lands which can be used for affordable housing, and has financial obligations with reference to bonds issued to finance affordable housing compliance; and

WHEREAS, the Department of Community Affairs (DCA) reports on its website that as of June 5, 2012, it is anticipated the Borough will have $1,678,677.00 in affordable housing trust funds that will be four years old by July 17, 2012; and

WHEREAS, COAH and DCA have failed and refused to provide any guidance on what the term "committed for expenditure" may mean in the context of the statute; and

WHEREAS, it is the desire of the Borough of Franklin Lakes to commit to expend affordable housing trust funds on housing activities authorized by COAH and incorporated in the spending plan submitted to COAH;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that it does hereby commit to expend the following amounts in the municipal affordable housing trust fund as follows:

1. The sum of $2,000,000.00 shall be committed to the purchase of property known and designated as Block 1406, Lots 1, 2 and 2.01, and Block 1408, Lot 1, for affordable housing purposes, and such sum is hereby authorized and directed to be withdrawn from the affordable housing trust fund and deposited into the Borough's General Capital Fund, to be designated and entitled "Reserve for Property Acquisition-COAH."

2. The sum of $622,819.71 shall be committed to the repayment of bonds issued in connection with the funding of a regional contribution agreement with the City of Garfield, and such sum is hereby authorized and directed to be withdrawn from the affordable housing trust fund and deposited into the Borough's General Capital Fund, to be designated and entitled "Reserve for Payment of Debt-COAH."

Resolution introduced by Council President Kahwaty. Seconded by Councilperson Kelly. Discussion – Councilperson Lambrix questioned the two amounts that the Department of Community Affairs (DCA) referred to regarding the amount of money the Borough has in COAH funds. Mr. Hart explained that as of July 2008 there was $1,678,677.00 in the Affordable Housing Trust Fund. Since that time, the Borough has continued to collect development fees resulting in the current balance available in the Affordable Housing Trust Fund of $2,622,819.71. The amount collected between 2008 and the present time is subject to forfeiture. Mr. Hart stated that annual monitoring reports are submitted to the DCA explaining what is in the trust fund. He added that 1.5% of the cost of new construction or improvements is the development fee that is imposed through the Construction Office and makes up the Affordable Trust Fund for the

Borough. The money contained in this fund can only be used for specific purposes per COAH regulations including those identified in the resolution.

Roll Call Vote

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

RESOLUTION 155-12

FOR THE PURCHASE OF LAND DESCRIBED ON THE TAX ASSESSMENT MAP - THE BOROUGH OF FRANKLIN LAKES AS BLOCK 1406, LOTS 1, 2, AND 2.01, AND BLOCK 1408, LOT 1.

Whereas, the laws of the State of New Jersey require the Borough of Franklin Lakes to provide a reasonable opportunity for the construction of low and moderate-income housing; and

Whereas, the Borough, pursuant to appropriate statutes, has established an Affordable Housing Trust Fund which must be utilized for the construction of low and moderate income housing, and which at the present time has a balance of approximately $2,500,000; and

Whereas, the Mayor and Council have determined that it is appropriate to expend a portion of the funds in the Borough's Affordable Housing Trust Fund for the purchase of the property described in the attached Contract and located at Block 1406, Lots 1, 2, and 2.01, and Block 1408, LOT 1; and

Whereas, it has been determined that the purchase price of $2,000,000 for this property reflects fair market value; and

Whereas, in order to utilize the Affordable Housing Trust Fund for the purchase of this property, said purchase must be approved by the Council on Affordable Housing of the State of New Jersey, as part of a Spending Plan describing the expenditure of all of these funds; and

THEREFORE IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that the Mayor and Borough Clerk are hereby authorized to sign the attached Contract for the purchase of said property; said purchase to be subject to and contingent upon approval of this Contract and the Borough's Spending Plan by the Council of Affordable Housing, and any and all other appropriate state agencies required for the use of the Borough's Trust Fund for this purpose, and further subject to all the contingencies described in the proposed Contract attached hereto.

Resolution introduced by Councilperson Kelly. Seconded by Councilperson Lambrix. Discussion – Mr. Smith stated that the purchase of this property which had been approved for the location of a temple is subject to approval by COAH. Mayor Bivona explained that the purpose of approving this resolution now is to move forward as soon as possible. Part of the property will be used for a residence as was approved when the Zoning Board of Adjustment heard this application several years ago. The remainder of the property will be for COAH related uses and COAH trust funds are being used for the purchase of this property. Mayor Bivona stated that he would like the focus to be on special needs housing rather than affordable housing but this resolution does not bind the Borough into one use over the other. Mr. Smith confirmed Councilperson Pedone's understanding of the resolution which is that the property can still be purchased by the Borough even if this request is denied by COAH.

Roll Call Vote

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

MAYOR'S REPORT

Mayor Bivona reported that $296,000 was returned by the Library to the taxpayers of the Borough. Even though he feels the amount should be higher, he is encouraged that the first step has been taken and he asked the Library Board to be frugal with taxpayer money in the future. This money will be used as a revenue source and will be used to reduce taxes in 2013.

COMMITTEE/LIAISON REPORTS

PUBLIC WORKS

- **Community Development Representatives**
- **County Open Space Representatives**

Mr. Hart stated that two Community Development Representatives and two County Open Space Representatives must be appointed annually. The Community Development Representatives will be Mr. Hart and Councilperson Ramsey with Councilperson Pedone as the Alternate. County Open Space Representatives will be Mr. Hart and Mayor Bivona. This resolution will be listed on the July 17th agenda.

- **Firehouse Roof Replacement**

Mr. Hart stated that he has received an estimate from the architect for the roofs on both firehouses based on the specifications. The cost estimate is between $180,000 and $200,000. Before this project can be bid, it is necessary to appropriate funding of $210,000 in a capital ordinance. Councilmembers agreed and Mr. Hart will have a capital ordinance and an authorization to go out to bid ready for the next meeting.

Councilperson Ramsey stated that there had been a donation of upgraded windows to the Ambulance Corps. Before the windows could be installed, the building sustained substantial water damage. The Road Department completed this unanticipated project rather than Ambulance Corps members who had originally made arrangements for the installation. Mayor Bivona noted the major slab that has been installed for the generator. Councilperson Ramsey reiterated that she is not sure of the exact cost of the window installation which was an unforeseen expense.

Mayor Bivona recognized the gazebo which has been redone by Eagle Scout James Capirossi. Another Eagle Scout, Mat Perez, has completed the project relative to the bridge at the Preserve.

ENVIRONMENAL AND COMMUNITY AFFAIRS

Councilperson Pedone stated that the Library is about to celebrate its 60th anniversary and they are requesting a congratulatory proclamation from the Mayor. The Library is replacing between 2,700 and 2,800 sq. ft. of carpeted floor area with new flooring. Councilperson Pedone announced that the Senior Citizens have instituted a new set of by-laws.

Councilperson Lambrix spoke about Sustainable Jersey program which is state wide program that is co-sponsored by the League of Municipalities. The program encourages communities to achieve a level of sustainability by accomplishing a number of different programs in each town. The Mayor and Council issued a resolution in support of attaining this certification. In order to attain this certification, a certain amount of points

must be attained for different items such as establishing a green team and undergoing an energy audit. At the moment, Franklin Lakes has 120 of the 150 points needed for certification. Councilperson Lambrix pointed out that the neighboring towns of Wyckoff and Oakland have this certification. Another way to obtain points is for the Mayor and Council to issue a Sustainable Land Use Pledge. He has looked at the Land Use Pledges that are available and fashioned a pledge for Franklin Lakes which has been distributed to Councilmembers. The Commission has not yet formally adopted the pledge and he is asking for input from Councilmembers before it goes back to the Commission.

Mr. Hart suggested that the Planning Board review the pledge; however, Councilperson Lambrix said that he has already given it to Joe Palmeri who is a Planning Board member.

Council President Kahwaty asked if adopting this pledge would make the process of obtaining grant money any easier and Councilperson Lambrix said that it would. Councilperson Lota said that this is a great undertaking and Mayor Bivona agreed. Councilperson Lambrix asked anyone with questions to email him as soon as possible. Mr. Hart said that this would be listed for discussion at the July 17th meeting.

PLANNING & DEVELOPMENT

- **Solar Ordinance**

Council President Kahwaty reported that the Tice Road subdivision resolution was approved by the Planning Board. The subdivisions on Dogwood Trail and at the Market Basket were also approved. The solar panel ordinance was approved with minor changes which included signage identification. The T-Mobile application litigation has been scheduled for trial. Mayor Bivona remarked that the solar panel ordinance will be listed for introduction on July 17th.

Councilperson Pedone has spoken to the Construction Official relative to real estate signs. A fee is required to post these signs; however, there is no tracking on the signs. Councilperson Ramsey said that she is concerned over contractor signs and the police pick up many signs that that are not permitted.

RECREATION AND PARKS

Councilperson Lambrix stated that after attending his first meeting, they are considering several projects that would be eligible for grant funding. He has been contacted by Ann Swist who runs the Public Events Committee and they reviewed all the events which are being coordinated by this committee.

ADMINISTRATION AND FINANCE

- **Request for Refund of Taxes – Haven Road**

Mr. Hart referred to the request for the refund of taxes on Haven Road and noted that a home was incorrectly assessed for several years. The only way to correct the assessment would be for the Mayor and Council to issue a resolution. Mr. Hart suggested that the new Tax Assessor review the background and make a recommendation.

- **Award Contract – Office Supplies**

Mr. Hart reported that a new contract for general office supplies was awarded to Staples and this will be listed on the July 17th agenda. The Borough has worked with Staples for the past several years and is happy with their competitive pricing.

- **2012 Fees Amendment**

Mr. Hart referred to a combination of a several different proposed fee amendments primarily from the Construction Department. There is a proposal to delete the fee for registering alarms and Mr. Hart commented that this fee has not been collected in recent

years. Councilperson Pedone said that there may be up to 2,000 alarms in the Borough and this would be a good source of revenue for the town. Councilperson Lota pointed out that there is a fine for alarms that are activated three or more times per calendar year. Councilperson Ramsey noted that fines can be issued if an alarm is not registered but this has not been pursued. She noted that the point of alarm registration is to have a contact person who can be notified if the alarm is going off and the homeowner is unreachable. Following a short discussion, Mayor Bivona said that it is important to encourage registration of alarms without incurring a fee; however, a fine should be paid if the service is abused.

Mr. Hart stated that there is a recommendation for fees for solar photovoltaic systems which compliments that Solar Ordinance that is being considered. There are recommendations for fees for signs by the Zoning Officer/Construction Official and another section which adds zoning permit fees for certain miscellaneous uses that don't have a fee elsewhere in the code. These fees will be introduced by resolution on July 17th.

- **2011 Corrective Action Plan**

Mr. Hart reported that a straight forward audit had taken place and the Statute requires that the Mayor and Council approve it by resolution. This will be listed on the July 17th meeting for approval. Mr. Hart added that the Statute requires that the Mayor and Council sign the affidavit that each individual Councilperson has reviewed the recommendations.

- **Online Auction of Vehicles and Equipment**

Mr. Hart referred to an e-mail from the DPW Superintendant which lists the vehicles to be auctioned. The larger items of equipment will be sold through Gov Deals which is an online auction site that has been used successfully in the past. Upon questioning by Councilperson Kelly, Mr. Hart explained that all items are sold as is as part of the conditions of sale.

PUBLIC SAFETY

Councilperson Lota reported that the Police Chief is implementing several new programs. The police are noting homes that appear vacant and a letter will be sent to the homeowner with recommendations on how to make the home look lived-in. Councilmembers Lota and Ramsey are pursuing the early phases of an Elderly Out Reach program. Councilperson Ramsey stated that there is a program in place at the moment where elderly residents can receive a daily telephone call to make sure that they are alright.

Councilperson Lota reported 62 ambulance calls and 42 fire calls in June. She added that the Borough is looking for crossing guards and will begin interviewing next week.

BOROUGH ADMINISTRATOR'S REPORT

Mr. Hart stated that the dog and cat census will begin shortly. There were funds appropriated for this project some time ago to aid in the accurate licensing of animals.

OLD BUSINESS

Councilperson Ramsey said that Horizon Landscaping has adopted the planting area at the bus stop. They have added plantings which they are watering and caring for and Councilperson Ramsey suggested that this company be recognized for its efforts.

NEW BUSINESS

Councilperson Lambrix asked about the possibility of a bike rack at the VFW parking lot for commuters who bike to the lot to take public transit. Councilperson Ramsey said that commuters who park in that lot must have a permit and she wondered if bikers should have a permit also. After some discussion, the Councilmembers didn't think a permit

would be necessary for a bike and Mr. Hart will look into the placement of a bike rack at this site.

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, July 03, 2012 which begins at 7:00 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Pending Litigation – Sharma Tax Appeal
- Contractual – Nature Preserve Easement
- Anticipated Litigation – Golf Course

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 Councilperson Lota, seconded by Council President Kahwaty at 9:15 P.M. to enter into Closed Session, Discussion – none.

Roll Call Vote

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

ADJOURNMENT

Motion by Council President Kahwaty to adjourn the meeting at 10:20 P.M. Councilperson Kelly seconded the motion. Discussion – none.

Roll Call Vote

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

Respectfully submitted,

Sally T. Bleeker

Sally T. Bleeker, Borough Clerk