

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

A regular meeting of the Mayor and Council was held on August 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, 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**

Mayor Bivona announced that Police Chief Seltenrich would address the Council. Chief Seltenrich stated that at the end of June officers were summoned to Route 208 at 10:00 P.M. to respond to hitch hikers. The officers learned that there was a warrant outstanding for the two individuals and found that they had just completed the burglary of a local home. The items were recovered and the subjects were arrested by Officer McCoombs who was assisted by Sgt. Cook.

Chief Seltenrich described another incident which took place on July 12<sup>th</sup> involving Sgt. Karl Klein, Officer Robert Smith, Officer Nicholas Klein and Officer Gerard Gansel who responded to a report of suspicious individuals walking around a driveway on Woodmere Court. The officers subsequently learned that the individuals had broken into a car on Woodmere Court and had also broken into several other cars in Wyckoff the same night. Without the quick response of the officers, Chief Seltenrich commented that there would have been more car burglaries and car thefts that night.

Chief Seltenrich noted that in June, Officer Andrew Cacciatore was recognized by the Attorney General's Office as being the Top Gun of the Franklin Lakes Police Department. Officer Cacciatore had the most DWI arrests last year. Chief Seltenrich asked that the Council recognize these officers for a job well done.

Mayor Bivona said that the police officers have done and continue to do a great job of protecting the citizens which he credits to the leadership of Chief Seltenrich. Councilperson Ramsey agreed stating that Chief Seltenrich has done a wonderful job of reaching out to the public and encouraging the public to alert the police department immediately when anything in the neighborhood looks array. Councilperson Lota suggested that these officers be recognized at the next meeting.

**INTERNAL AFFAIRS POLICY**

Chief Seltenrich said that this policy is based on the Attorney General's policy. Mr. Hart has contacted the Borough's Labor Attorney Mark Ruderman about the strict confidentiality issue and Mr. Ruderman indicated that this is in accordance with the Attorney General's opinion. Chief Seltenrich said that there is no policy in effect at this time.

Mr. Hart stated that Chief Seltenrich has made a decision on the substitute crossing guard. Chief Seltenrich urged that the Council appoint Anthony Dalesandro, Jr. as soon as possible to allow for adequate time for training in time for the beginning of the new school year.

#### **OPEN TIME FOR PUBLIC COMMENT**

Motion to open the time for public comment was made by Councilperson Lambrix, seconded by Councilperson Ramsey. Discussion – none. All in favor 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 Councilperson Kelly. Discussion – none. All in favor motion approved.

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

##### **STATUS REPORT**

Kevin Boswell said that he was willing to answer questions on the status report that was circulated last week. He encouraged the Council to award the bid tonight for the paving of McCoy Road in order to have the work completed before the end of the month. Mr. Boswell reported that the work will cost \$195,000 of which \$146,500 will be funded through a DOT grant. He assured the Council that the work would be done within the appropriated dollar amount and perhaps as much as \$10,000 under budget.

Councilperson Lambrix questioned the proposal for the sanitary sewer extension. Mayor Bivona said that they continue to be in discussions with Northwest Bergen County Utilities Authority (NBCUA) on the outstanding agreement to promote easier access to gravity connections for the municipal complex in the future. The NBCUA has not agreed to this and Mr. Hart explained that the urgency in this instance is that funding would be available as soon as September for "shovel ready projects". He added that if the NBCUA sewer line was not available the Borough should build the sewer infrastructure that could connect into the sewer system when it becomes available. Mr. Boswell said that the design can be prepared quickly and Mr. Hart indicated that the study is necessary so the Borough would be in a position to move forward with the project.

Mr. Smith, Borough Attorney, recommended that Mr. Boswell go forward with the initial up front work. Mr. Boswell indicated that he is willing to do the survey work "at his risk" because it will be needed at some point. Mr. Hart stated that this is a \$60,000 proposal which would have to be appropriated through the introduction of an ordinance. Mayor Bivona recommended that the Council initiate the process by introducing an ordinance at the August 21<sup>st</sup> meeting.

Mayor Bivona questioned the grant for the lower dam outfall replacement. Mr. Boswell reported that Marlene Casey of Capital Alternatives anticipates that the grant will be awarded but the estimates for the headwalls appear to be on the high side. Mr. Boswell has provided them with a sketch showing how the headwalls relate to the dam along with a more detailed cost estimate. They continue to look favorably on the grant application in the amount of \$500,000.

Mr. Hart asked about the bridges and accessible trails at the Nature Preserve. Mr. Boswell explained that the permit is good for five years. The grant is for the same amount of money and even if both aren't being constructed at the same time he advised that the Borough apply for the grant for both items at the same time. The wording of the resolution will have to be amended.

Councilwoman Ramsey expressed disappointment that the roads in the Borough are not being paved under the cooperative program. The Borough's portion is being delayed since there are no schools located in the vicinity of the roads included in the program which means that construction will commence in September. Mr. Boswell said he would speak to D&L Paving to see if something could be done. Councilperson Ramsey complimented the County for the job they have done paving High Mountain Road.

Councilperson Lambrix referred to a discussion at a previous meeting relative to whether or not the Council would allow Mr. Boswell to assist Mountain Shadows to hook up to the sewers via escrow account. Mr. Boswell estimated that the total amount of work would amount to \$5,000 and he doesn't foresee a conflict of interest with the Borough. Councilperson Lambrix noted that there is a letter from Mountain Shadows specifically requesting approval by the Mayor and Council for this work in order for transparency. After more discussion, Councilmembers indicated that they were in favor of allowing Mr. Boswell to act as a consultant for Mountain Shadows in this capacity.

Councilperson Ramsey recalled that a siltation pond had been installed at Fireman's Field quite awhile ago. Several years ago the siltation pond was dredged; however, there was some damage to a resident's property and it is the Borough's responsibility to resolve any damages. Councilperson Ramsey asked Mr. Boswell to guide the resident. Mr. Boswell said that his office is handling the permitting process and will have the County intercede. He added that Frank Rossi of Boswell Engineering is working on this issue.

**RESOLUTION 170-12  
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 171-12 | Accept Report of the Finance Committee                                      |
| Resolution 172-12 | Authorize Borough Engineer to Apply for Permits – Nature Preserve Bridges   |
| Resolution 173-12 | Award Quote Equipment for Police Vehicle – Fleet Safety                     |
| Resolution 174-12 | Award Quote Equipment Installation for Police Vehicle – Ken's Auto Electric |

Resolution introduced by Council President Kahwaty, seconded by Councilperson Kelly. Discussion – Mayor Bivona clarified the questions of Councilperson Lambrix relative to the report of the Finance Committee.

Roll Call Vote

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

**RESOLUTIONS**

**RESOLUTION 175-12  
Award Contract Improvements to McCoy Road**

**WHEREAS**, the Borough of Franklin Lakes advertised for and opened bids on July 31, 2012 for the Repaving of McCoy Road; and

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

**WHEREAS**, six (6) companies submitted a bid for the Repaving of McCoy Road; and

**WHEREAS**, the Borough Engineer has reviewed the bids submitted and has determined that the bids meet the specifications.

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey as follows:

1. Tilcon NY, Inc., 625 Mount Hope Road, Wharton, New Jersey 07885, is hereby awarded the contract for the Repaving of McCoy Road for the total bid amount of \$195,325.00 in accordance with the bid specifications.
2. A Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there are sufficient appropriations to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract.
3. The Mayor and Borough Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract. The Borough Attorney shall review any and all contractual documents prepared in furtherance of this award.

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

Resolution introduced by Councilperson Lota. Seconded by Council President Kahwaty. Discussion – Councilperson Lambrix asked about the appropriation of fees. Mr. Hart explained that even with the addition of Boswell Engineering fees the cost will be below what was appropriated.

Roll Call Vote

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

**MAYOR'S REPORT**

Mayor Bivona reported on the successful "Movies Under the Stars" which was organized by the Public Events Committee and attended by 250 people. He hopes to see more of these types of events in the future. The Temple property is now under contract and a review of different alternatives will begin shortly.

Councilperson Ramsey spoke of land that was recently donated in Mahwah. She pointed out that the Borough is 90 years old this year and she praised residents who maintain historical homes in the Borough. She encouraged the Borough to purchase these homes if they go up for sale. Mr. Hart said that there is County funding available for historic preservation through the County Open Space program.

**APPOINTMENTS**

**Anthony Dalesandro, Jr. – Crossing Guard**

Motion was made by Councilperson Pedone and seconded by Councilperson Lambrix to make the following appointment – Anthony Dalesandro, Jr. – Part Time School Crossing Guard as per the 2012 rate.

Mr. Hart explained that this appointment would provide a back up for the crossing guards that are employed at the moment. Council President Kahwaty asked for the number of permanent crossing guards currently employed. Councilperson Lota said that there are four guards supervised by Traffic Officer Lyons who determines placement of the guards.

Roll Call Vote

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

Absent:  
Motion Approved

## **COMMITTEE/LIAISON REPORTS**

### **PUBLIC SAFETY**

- **Police Department – Internal Affairs Policy**

Mayor Bivona noted that this was discussed earlier this evening and the Borough Attorney will review the policy to ensure that it complies with the Attorney General's guidelines. This will be listed for the meeting of August 21<sup>st</sup>.

### **PUBLIC WORKS**

- **HVAC Maintenance Contract**

Mr. Hart stated that proposals have been received for maintenance of the HVAC system. Councilperson Ramsey said that she would support Mr. Hart's recommendation of Whalen and Ives who are the current vendor. Their proposal is half the price of others that were submitted and will be on the August 21<sup>st</sup> agenda.

Councilperson Ramsey referred to the situation with the windows at the Ambulance Corps and she commended the DPW for the remarkable installation job they were able to complete. Councilperson Lota spoke about the updated road survey which hasn't been done since 2007 and would help with future road programs.

### **ENVIRONMENTAL AND COMMUNITY AFFAIRS**

Councilperson Pedone noted that the people doing the Animal Census do not have any forms of identification. The Borough Clerk said she would speak to the representatives of Tyco to alleviate this situation.

Councilperson Pedone suggested planning a special event to recognize the Borough's 90<sup>th</sup> birthday. Mayor Bivona agreed but recommended that it be combined with another town event such as the Town Fair.

- **Revised Sustainable Land Use Pledge**

Councilperson Lambrix agreed with the pledge; however, he recommended giving the Environmental Commission another chance to review it at their meeting on Tuesday. Mr. Hart advised that this be listed on the August 21<sup>st</sup> agenda and said it could be revised at that time. Mr. Hart will check to make sure that the pledge has been reviewed by the Planning Board.

Councilman Pedone advised that the Senior Citizens voted and approved their new by-laws.

### **PLANNING & DEVELOPMENT**

Council President Kahwaty reported that the variance approval for the Market Basket was approved at the Planning Board Meeting of July 18th.

- **Tree Bond Escrow Ordinance**

Council President Kahwaty recalled that a bond in the amount of \$5,000 or more is required when an application for tree removal is made on development applications. This bond is returned upon completion of the project, issuance of a CO and an inspection for compliance. The change to the ordinance is that if a request to return of these funds is not made within two years the money will revert back to the Borough to fund tree replacement.

- **United Water Upgrades Improvements to Wyandotte Water Treatment Facilities**

Council President Kahwaty spoke about the Wyandotte Water Treatment Facility and reported the following items for consideration: temporary construction easement to include a Hold Harmless Agreement; approval of permit landscape license; and approval of the application to connect to the stormwater system. Mr. Hart said they are hoping for approval before September 21<sup>st</sup> and it may be placed on the August 21<sup>st</sup> agenda.

## **RECREATION AND PARKS**

- **Award Contract Football Uniforms**

This item was removed from the agenda.

- **Vintage Chevrolet Club-Car Show 2013**

Councilperson Lambrix said that there is a request to use McBride Field for a car show by the Vintage Chevrolet Club on May 25, 2013. Mayor Bivona commented that he is not happy with the Club's use of the field because of traffic congestion and issues at the Market Basket. This event is not beneficial to the Borough and he feels that the general rule should be that the park should be used only for sporting events and selected Borough events. Mayor Bivona would favor an ordinance stating that use of the field must be beneficial to the Borough or the community.

Mr. Hart suggested soliciting input from the Police Department and the DPW concerning issues with this specific use. Mayor Bivona recalled that the Council decided to consider each application for the use of the field on its individual merits due to concerns relative to overuse of the fields. He added that this is green acres space which is open to the public. Councilperson Ramsey suggested that the Police Department also look into the public's reaction to other events staged at the field such as the Carnival. After more discussion, Mr. Hart said he would get information from the DPW and the Police and report back at the September work session.

## **ADMINISTRATION AND FINANCE**

- **Payment in Lieu of Dental Insurance**

Mr. Hart explained that employees who elect not to take medical insurance are paid a sum of 25% of the medical insurance premium. He is proposing that employees who do not take dental insurance should also be paid 25% of the dental insurance premium. This is a win/win situation because the Borough is not paying the premium and the employee is getting something back in return for waiving their coverage. The Council agreed with this proposal which will be listed for August 21<sup>st</sup>.

- **Refund of Taxes – 210 Haven Road**

Mr. Hart reported that a property owner who had received approval from the Planning Board for renovations at their home took out the appropriate permits but did not go forward with the work. However, mistakenly the assessment on their property was adjusted. After the deadline for the filing of a tax appeal has occurred, the only way to address these mistakes is through a resolution by the Mayor and Council. The Tax Assessor is recommending a refund to this property owner and the Council agreed that this resolution should be on the August 21<sup>st</sup> agenda.

Councilperson Kelly stated that he and Mr. Hart met with Chief Financial Officer Bill Pike and asked him to produce a periodic executive summary of financial reports for the Council.

## **BOROUGH ADMINISTRATOR'S REPORT**

Mr. Hart asked Councilmembers for their thoughts relative to applying for County Open Space acquisition funding. He pointed out that the application is due at the end of August.

Mr. Hart announced that the Deputy Clerk has resigned from her position to take a position in another town. He invited Councilmembers to attend a luncheon on Thursday to wish her well. Mr. Hart said that they will work to try to get this position filled as quickly as possible due to the upcoming election.

Mr. Hart recognized the wonderful work done by the volunteers who are made up of adult volunteers, high school students, students from William Paterson University and special need volunteers.

## **OLD BUSINESS**

Councilperson Lambrix questioned whether there had been any progress on the bike rack. Mr. Hart said he is awaiting a response from the DPW Superintendent.

## **NEW BUSINESS**

Councilperson Lambrix spoke about a house on Wayfair Circle. Mayor Bivona reported that the Police Chief and the Zoning Officer have visited the property and determined that there are no violations at this point. Mayor Bivona said that there are eight registered cars on this property but no clear violation and he suggested a review of the ordinance. Councilperson Lota said that this resident fixes cars as a hobby and Councilperson Kelly asked where you draw the line in the case of a hobby. Mayor Bivona pointed out the existing ordinances limit what people can and can't do on their property and the resident may be running a business where he periodically sells cars. He reiterated that the Council review the ordinance and send a response to the person who initially wrote the letter dated July 16, 2012, citing the potential violation. It was noted that there are several homes in the same neighborhood that have been in different stages of construction for quite some time and ordinances pertaining to these situations must also be addressed and strengthened. Borough Attorney Smith stated that the Council must first address exactly what is going on at these properties that shouldn't be happening in a residential zone.

Mayor Bivona said that they must respond in writing to the resident who wrote the July 16<sup>th</sup> letter. Mr. Hart suggested that the Planning and Development Committee research these ordinances and the Council agreed.

Frank McMahon, of the Suburban News, questioned the status of the State's approval of the documentation that has been submitted relative to COAH. Mr. Hart explained that a spending plan was forwarded to the State about six weeks ago. There has been no response from the State on this plan. The State wrote a letter to the Borough concerning the Affordable Housing Trust Fund. The Borough continues to work with the Affordable Housing Counsel and Borough Planner to fashion an appropriate response. Mr. Hart added that a response is due by August 13, 2012 and all documents will be available to the press.

## **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, August 7, 2012 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Pending Litigation – Jimenez Tax Appeal
- Pending Litigation – Decker
- Personnel – Police
- Attorney Client Privilege – Tree Escrow Bonds

**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 Councilperson Pedone at 9:35 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 Councilman Pedone to adjourn the meeting at 10:15 P.M. Councilwoman Ramsey seconded the motion.

Roll Call Vote

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

**Resolution 171-12**

**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 \$6,638,577.97 as shown on the Claims Bill List; \$6,251.55 as shown on the Soil Account Bill List and \$2,038.50 as shown on the Developers Escrow List.

**BE IT FURTHER RESOLVED**, that the payroll of July 5, 2012 in the amount of \$241,425.23 and the payroll of July 19, 2012 in the amount of \$230,328.61 be hereby ratified and approved.

**Resolution 172-12**

**Authorization Borough Engineer to apply for Permits - Nature Preserve Bridges**

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Franklin Lakes that the Borough Engineer be authorized to apply for permits for proposed improvements at the Franklin Lakes Nature Preserve for two (2) pedestrian bridges.

**Resolution 173-12**

**WHEREAS**, the Borough of Franklin Lakes received three (3) proposals for Equipment for Police Patrol Vehicle units 307 & 309; and

**WHEREAS**, the Mayor and Council wish to award this contract to the contractor that submitted the lowest proposal; and

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Franklin Lakes that:

1. Fleet Safety, 5090 Wilfong Lane Memphis, TN 38134 is hereby awarded a contract in the amount of \$6,794.73
2. 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

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

**Resolution 174-12**

**WHEREAS**, the Borough of Franklin Lakes received three (3) proposals for Equipment changeover labor costs for police patrol units 307 & 309; and

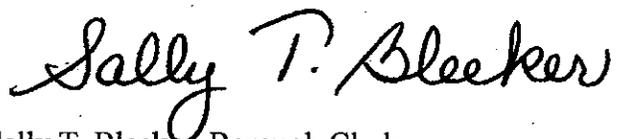
**WHEREAS**, the Mayor and Council wish to award this contract to the contractor that submitted the lowest proposal; and

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Franklin Lakes that:

1. Ken's Auto Electric, 280 Greenwood Avenue Midland Park, NJ 07432 is hereby awarded a contract in the amount of \$3,000.00
2. 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

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

Respectfully submitted,



Sally T. Bleeker, Borough Clerk