

MEETING OF THE MAYOR AND COUNCIL

November 20, 2012

7:30 P.M.

A regular meeting of the Mayor and Council was held on Tuesday, November 20, 2012 in the Municipal Building.

MEETING CALLED TO ORDER

ROLL CALL

The following Council Members and Professional Staff responded to the roll call: Mayor Bivona, Council President Kahwaty, Councilmember Lambrix, Councilmember Lota (7:33 pm), Councilmember Pedone and Councilmember Ramsey. Also present were Borough Administrator Greg Hart, Borough Attorney William T. Smith and Borough Clerk Sally Bleeker. Absent was Councilmember Kelly.

SUNSHINE LAW STATEMENT

Borough Clerk, Sally Bleeker, read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

INTRODUCTION OF ORDINANCES ON FIRST READING

At this time Mayor Bivona asked Mr. Commorata to come forward and give the Council and audience a brief overview.

Councilmember Lota recused herself from this portion of the meeting.

Borough Attorney Smith advised the Council that all residents within the area of the zoning change have been notified by Mr. Commorata's office.

Mr. Joe Burgis, the applicant's Planning Consultant, came forward and advised he is familiar with the site in question. The site's single family zoning is not the most appropriate zoning for the location. Years ago the zoning board reviewed the area for alternate ideas, but nothing was decided upon and they kept it zoned for single family use. They have revisited the site with Mr. Commorata and came up with a series of sketches. Mr. Burgis described the property as rectangular in shape and less than 3 and ¼ acres. The back portion is wetlands, which is not developable, meaning only the front portion could be developed. What has been designed is a 13,500 square foot office structure. The proposed zoning change to LB-1 does require a certain set back. The design plans for 57 parking spaces. The planning report submitted to the Council in support of the application shows that the amount of parking spaces is in excess of what would be needed. The Borough's Master Plan does touch upon how the single family zoning is not appropriate and recognizes that there are commercial zones nearby. The Master Plan also calls for buffers on the site and a need to create a complimentary residential design no matter what the property is used for. Mr. Burgis believes the plan achieves all of that. The illustrations of the proposed building design do reflect the nearby residential environment. His staff also has a number of landscape architects which have created a landscape design for the property which provides a substantive landscape buffer that will visibly screen the view of the building from the property owners on Shirley Avenue. In summary, he believes they have achieved the goals of the Borough's Master Plan and that this proposed plan does not overburden the site.

Matthew Cavaliere, attorney for the applicant, clarified that they are not asking for "finger portion" going out to Shirley Avenue to be rezoned. They are in no way making access to the building through Shirley Avenue.

Mr. Hart, Borough Administrator, pointed out that is not how the Ordinance before the Council reads. Mr. Cavaliere said he came forward now to clarify that they do not want to change the

zoning of that portion of property. They are willing to commit to not using that portion of the property and they are committing to that by asking for that portion to not be rezoned.

Mr. Commorata did reach out to the surrounding residents as requested by the Council. Mr. Commorata met with residents. After hearing concerns it was suggested that the "finger portion" of the property off of Shirley Avenue be vacated and the property be divided between the two property owners on either side of it.

Mr. Commorata went on further explaining his plans for the property. He wants to build a professional building that resembles a Franklin Lakes single family home. It will not resemble an office building. He further discussed other properties that he has developed in town that the new building will resemble.

Motion to open the hearing to the public was made by Councilmember Pedone, seconded by Council President Kahway. On voice vote, all in favor.

Peter Koulikourdis – 525 Shirley Avenue

Mr. Koulikourdis' major concern is the possibility of the 50 by 150 foot stem of property (referred to as the "finger") on Shirley Avenue being converted into some sort of road or access. One reason that he supports the plan is that it is going to be abandoned and perhaps deeded over to the neighboring property owners. They currently enjoy the road being a cul-de-sac and the lack of traffic. If this plan does not go through they will lose the opportunity to have a little control. What is proposed now gives the residents on Shirley Avenue a little bit of control in the fact that the small portion of property will not serve as a road. At some point the property will be developed and at that point the residents of Shirley Avenue will lose control and that 50 by 150 foot property might become a road and they will lose the opportunity to call their road a Cul-de-sac. He believes the Ordinance to be in the best interest of Shirley Avenue and Franklin Lakes.

Joseph Cubias – 515 Shirley Avenue

Mr. Cubias agrees with Mr. Koulikourdis. His main concern is the property which is right next to him getting turned into a road. He supports the project as presented.

Ann Doenges – 542 Shirley Avenue

Mrs. Doenges wants the zoning to stay residential. She mentioned residential property on the corner of Cherry Street and Franklin Avenue that was attempted to be purchased by a State Farm agent as office space but was denied because it is zoned residential. She questioned why it has to be rezoned and why can't the estate sell it as residential. She questioned what would happen if 730 Franklin Avenue tried to have their residential property rezoned. She wanted to know why this specific property and why now. She said there have been previous threats about this property regarding Mt. Laurel or another office building. She wants the zoning to stay the way it is and believes there to be no reason to change it.

Margaret Palus – 535 Shirley Avenue

Mrs. Palus is in support of Mr. Commorata's plan. She does not believe it will negatively impact them. She does not believe there is a reason to deny the rezoning change.

Andrew Palus – 535 Shirley Avenue

Mr. Palus also supports the zoning change. He only has a few issues. The first is that he thinks the egress to Shirley Avenue is too close to wetlands and just wants it looked at. His next concern is where the dumpster is going to be placed and also where the septic and sewers will go. Mr. Palus also questioned what type of lighting will be placed on the property and if they could be turned off at 9:00 pm. He'd like those concerns to be looked at.

Eugene Rotella – 490 Cherry Street

Mr. Rotella is in favor of this project. He is in favor of developing all of Franklin Avenue from the red light at Colonial Road to Summit Avenue with all of the properties rezoned for business and professionals. It is already a busy street with gas stations and banks on it already.

Judy Golz – 719 Franklin Avenue

Mrs. Golz agrees with the plan and with Mr. Rotella. She believes this will improve the area. Franklin Avenue is a main road filled with many businesses all the way into Wyckoff. Her only concern is the traffic impact since there is a school right there. Traffic does back up during school hours.

Gail Cerelli – 511 Shirley Avenue

Mrs. Cerelli will be most impacted by the plan since her property backs up to the proposed parking lot. She is concerned about it. She is not sure she'll be able to enjoy her backyard since it will back to 57 parking spaces.

Mr. Ivezaj – 518 Shirley Avenue

Mr. Ivezaj is against this plan. He thinks they have enough parking lots, gas stations, a shopping center, and a factory in the back. Soon they will no longer be living on residential block but in a commercial area. He already cannot make a left onto Franklin Avenue to take his children to school. He doesn't think we need another 57 cars. He doesn't think they need any more blacktop in their area.

William "Bill" Cerelli – 511 Shirley Avenue

Mr. Cerelli is also concerned about the traffic. He also cannot make a left onto Franklin Avenue.

Sharon Yuken – 532 Shirley Avenue

Mrs. Yuken likes what she sees on paper, but everything looks great on paper. She wanted to know if the building would connect to the sewer lines. Mr. Commorata said he really couldn't comment about that right now but said he would if he could. She does not want to see the two corner houses facing Franklin Avenue turn into commercial properties. She does not want all of Franklin Avenue to be rezoned to commercial properties as she feels it will destroy the make-up of the community.

Nicholas Andreano – 519 Shirley Avenue

Mr. Andreano lives right next to the "finger" property and has been maintaining it since 1995. His biggest concern is that the property becomes a road. He does not feel the plan will invade his privacy nor have a negative impact on his property value. He is confident that the proposed use will be an attractive benefit to the community. Another builder could conceivably force the town to consider a high-density, low-income housing project on this property. He is in favor of the proposed zoning change.

Motion to close the hearing to the public was made by Council President Kahwaty, seconded by Councilmember Lambrix. On voice vote, all in favor.

After some discussions it was decided to amend Ordinance No. 1559 to exclude the "finger portion" of the lot from the rezoning.

Mayor Bivona advised that once Ordinance No. 1559 is introduced that Planning Board would then review it and give any comments or suggestions.

It was also made clear that Ordinance No. 1559 is for **rezoning** of the property not an Ordinance approving the specific plan for the property as proposed by Mr. Commorata this evening.

Further discussion ensued in regards to rezoning and the Planning Board's role and procedures in the property's development.

Motion to take up consideration of Ordinance No. 1559 for Introduction, and direct the Clerk to read each by title was made by Council President Kahwaty, seconded by Councilmember Lambrix. On voice vote, all in favor, except for Councilmember Ramsey.

Discussion - Councilmember Ramsey is not in favor of the zoning change because the town needs to know about what will happen with the sewer line going in on Franklin Avenue. The sewer line is not going down to this property being discussed. She feels that smaller houses on smaller pieces of property are also needed in town for families that grew up in Franklin Lakes who would like to return, but cannot afford the larger homes. She is also concerned about the new traffic this will bring to this part of Franklin Avenue which is surrounded by residential

neighborhoods. Councilmember Lambrix said a zoning change could put pressure on other residents. Councilmember Pedone would hate to see spot zoning and reminded the Council about the two residential properties on the corner of Franklin Avenue and Shirley. They may want their zoning changed in the future.

The Borough Clerk read the Ordinance by title only.

ORDINANCE 1559

AN ORDINANCE SUPPLEMENTING CHAPTER 300 "LAND USE AND DEVELOPMENT" OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES AMENDING ZONING OF BLOCK 1424.01, LOT 2 FROM RESIDENTIAL TO LB-1 LIMITED BUSINESS DISTRICT

IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that:

WHEREAS, a request to consider the rezoning of Block 1424.01, Lot 2 from A-22.5 Residential Zoning District to LB-1 Limited Business Zoning District has been received; and

WHEREAS, the Mayor and Council wished to refer this request to the Planning Board for its review and recommendations after a public hearing; and

WHEREAS, by law it is required that a proposed Ordinance rezoning property be introduced by title at first reading prior to referring it to the Planning Board for its consideration and recommendation; and

WHEREAS, the Mayor and Council at this time do not wish to indicate any preference for or against said rezoning, but wish to have the proposed ordinance referred to the Planning Board for its recommendations after a public hearing;

NOW, THEREFORE, IT IS HEREBY RESOLVED that Ordinance No. 1559 is hereby introduced for first reading and the Clerk is hereby directed to read said Ordinance by title.

Resolution read and introduced by Council President Kahwaty, seconded by Councilmember Lambrix. Discussion – none.

Roll Call Vote:

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

APPOINTMENT

Permanent Appointment to Police Department
Officer William Zangara

Mayor Bivona asked for a motion to appoint Officer Zangara as a permanent member of the Police Department. Motion was made by Council President Kahwaty, seconded by Councilmember Lota.

Roll Call Vote:

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

ORDINANCES FOR FINAL READING AND ADOPTION

ORDINANCE 1557

AN ORDINANCE SUPPLEMENTING CHAPTER 300 "LAND USE AND DEVELOPMENT" OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO ESTABLISH REGULATIONS FOR OUTDOOR CAFES

WHEREAS, an ordinance 1557 was introduced at a meeting of the Mayor and Council held on the 16th day of October, 2012 and duly published by law;

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 1557 be and the same is hereby adopted on second and final reading; and,

BE IT FINALLY RESOLVED, that the Borough Clerk is hereby authorized and directed to publish the Notice of Adoption as required by law.

Motion made by Councilmember Pedone to take up Ordinance No. 1557 for consideration of adoption on second and final reading, and direct the Clerk to read by title, seconded by Councilmember Lambrix. On voice vote, all in favor.

The Borough Clerk read the Ordinance by title only.

Motion to open the hearing to the public was made by Council President Kahwaty, seconded by Councilmember Lota. On voice vote, all in favor.

No one from the public came forward.

Motion to close the hearing to the public was made by Councilmember Pedone, seconded by Councilmember Lambrix. On voice vote, all in favor.

Resolution read and introduced by Council President Kahwaty, seconded by Councilmember Ramsey. Discussion – none.

Roll Call Vote:

Ayes: Kahwaty, Lambrix, Lota, Pedone, Ramsey

Nays:

Abstain:

Absent: Kelly

Motion Approved.

ORDINANCE 1558

AN ORDINANCE AMENDING CHAPTER 157 "ANIMALS" OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO PROVIDE FOR THE LICENSING OF DOGS AND CATS BY THE BOROUGH

WHEREAS, an ordinance 1558 was introduced at a meeting of the Mayor and Council held on the 16th day of October, 2012 and duly published by law;

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 1558 be and the same is hereby adopted on second and final reading; and,

BE IT FINALLY RESOLVED, that the Borough Clerk is hereby authorized and directed to publish the Notice of Adoption as required by law.

Motion made by Council President Kahwaty to take up Ordinance No. 1558 for consideration of adoption on second and final reading, and direct the Clerk to read by title, seconded by Councilmember Lota. On voice vote, all in favor.

The Borough Clerk read the Ordinance by title only.

Motion to open the hearing to the public was made by Councilmember Pedone, seconded by Councilmember Lota. On voice vote, all in favor.

No one from the public came forward.

Motion to close the hearing to the public was made by Council President Kahwaty, seconded by Councilmember Pedone. On voice vote, all in favor.

Resolution read and introduced by Council President Kahwaty, seconded by Councilmember Ramsey. Discussion – none.

Roll Call Vote:

Ayes: Kahwaty, Lambrix, Lota, Pedone, Ramsey

Nays:

Abstain:

Absent: Kelly

Motion Approved.

OPEN THE TIME FOR PUBLIC COMMENT

Motion to open the time for public comment was made by Councilmember Pedone, seconded by Councilmember Ramsey. On voice vote, all in favor.

No one from the public came forward.

Motion to close the time for public comment was made by Councilmember Lambrix, seconded by Council President Kahwaty. On voice vote, all in favor.

CONSENT RESOLUTION

Resolution 231-12 Consent Resolution

BE IT RESOLVED that the following resolutions, placed on this agenda by consent, require no discussion and the same having been previously reviewed by each Governing Body member, be and are hereby adopted in their entirety by the Mayor and Council of the Borough of Franklin Lakes. Full text of all consent agenda resolutions can be found after the Adjournment.

- Resolution 232-12 Accept Report of the Finance Committee
- Resolution 233-12 Extend Cleaning Contract
- Resolution 234-12 Stipulation of Settlement – TD Bank
- Resolution 235-12 Chapter 159 – Becton Dickinson & Company Donation
- Resolution 236-12 Chapter 159 – Meyer Foundation Donation
- Resolution 237-12 Chapter 159 – 2010 Recycling Tonnage Grant
- Resolution 238-12 Chapter 159 – Matthew Susan Lyons Family Foundation Donation
- Resolution 239-12 Mutual Aid-Emergency Services
- Resolution 240-12 Support A3393 – Clarifies Verizon’s Responsibility to Remit Business Personal Property Taxes
- Resolution 241-12 Internal Affairs Policy
- Resolution 242-12 Alternate Health Benefit Plans

Resolution read and introduced by Councilmember Lota, seconded by Council President Kahwaty.

Roll Call Vote:

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

RESOLUTIONS

At this time, Borough Attorney Smith, revisited the Chapter 159 Resolutions regarding the donations to the Franklin Lakes Volunteer Fire Department. Discussion ensued on how the checks were written, where they were deposited to and why.

**Resolution 243-12
Municipal Park Improvements Grant Applications**

WHEREAS, the Bergen County Open Space, Recreation, Farmland & Historic Preservation Trust Fund ("County Trust Fund"), provides matching grants to municipal governments and to nonprofit organizations for assistance in the development or redevelopment of municipal recreation facilities; and,

WHEREAS, the Borough of Franklin Lakes is requesting that its pending County Trust Fund application in the amount of \$54,625 for the Franklin Lakes Nature Preserve Accessible Trail be withdrawn from consideration; and,

WHEREAS, the Borough of Franklin Lakes desires to further the public interest by obtaining a matching grant of \$95,000 from the County Trust Fund to fund the following project: Franklin Lakes Recreation Center Basketball and Parking Lot Improvements; and,

WHEREAS, the Mayor and Council has reviewed the County Trust Fund Program Statement, and the Trust Fund Municipal Program Park Improvement application and instructions and desires to make an application for such a matching grant and provide application information and furnish such documents as may be required; and,

WHEREAS, as part of the application process, the Mayor and Council has held a public hearing on November 20, 2012 to receive comments prior to the submission of said application; and,

WHEREAS, the County of Bergen shall determine whether the application is complete and in conformance with the scope and intent of the County Trust Fund; and,

WHEREAS, the applicant is willing to use the County Trust Fund in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the County of Bergen for the above named project;

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

1. That it is hereby authorized to submit the above completed project application; and,
2. That, in the event of a County Trust Fund award that may be less than the grant amount requested above, the Mayor and Council has, or will secure, the balance of funding necessary to complete the project, or modify the project as necessary; and,
3. That the Mayor and Council is committed to providing a dollar for dollar cash match for the project; and,
4. That the Mayor and Council agree to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and,
5. That this resolution shall take effect immediately.

Resolution read and introduced by Councilmember Lambrix, seconded by Councilmember Ramsey. Discussion – Greg Hart explained that this is unexpended money being relocated from the Nature Preserve to the Recreation Center for the Basketball Court and Parking Lot.

Motion to open the hearing to the public was made by Councilmember Pedone, seconded by Councilmember Lambrix. On voice vote, all in favor.

No one from the public came forward.

Motion to close the hearing to the public was made by Councilmember Pedone, seconded by Council President Kahwaty. On voice vote, all in favor.

Roll Call Vote:

Ayes: Kahwaty, Lambrix, Lota, Pedone, Ramsey

Nays:

Abstain:

Absent: Kelly

Motion Approved.

Resolution 244-12

Waive Permit Fees for Hurricane Sandy Work

WHEREAS, the Borough of Franklin Lakes, along with many other New Jersey communities, experienced a storm of unprecedented fury when Hurricane Sandy struck New Jersey on October 29, 2012; and,

WHEREAS, many property owners in the Borough suffered damage to their homes and businesses as a result of Hurricane Sandy; and,

WHEREAS, the State of New Jersey has indicated that, pursuant to N.J.A.C. 5:23-4.19(b)(5), the State will waive the State permit surcharge fee for construction permits if the municipality waives the local fee; and,

WHEREAS, the Mayor and Council desires to waive the municipal fee for construction permits as a result of Hurricane Sandy;

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 municipal construction permit fees for construction work made necessary by Hurricane Sandy be and are hereby waived for construction permit applications received by the Borough's Construction Department on or before December 31, 2012; and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Construction Official and the New Jersey Division of Codes and Standards.

Resolution read and introduced by Council President Kahwaty, seconded by Councilmember Pedone. Discussion – none.

Roll Call Vote:

Ayes: Kahwaty, Lambrix, Lota, Pedone, Ramsey

Nays:

Abstain:

Absent: Kelly

Motion Approved.

Resolution 245-12

Request for Proposals for McCoy Property

WHEREAS, the Borough of Franklin Lakes has entered into a contract for the purchase of Block 1406, Lots, 1, 2 and 2.01, and Block 1408, Lot 1, located at the corner of Colonial Road and McCoy Road (hereinafter “the McCoy property”); and,

WHEREAS, the Borough plans to purchase the McCoy property with monies from the Borough’s affordable housing trust fund so that it may cause to be constructed affordable housing that will address the Borough’s State-imposed affordable housing obligation; and,

WHEREAS, the Mayor and Council is desirous of soliciting proposals from developers to build, maintain and manage a special needs affordable housing project on the McCoy property; and,

WHEREAS, the Borough Planner has prepared a Request For Proposals to build, maintain and manage a special needs affordable housing project on the McCoy property;

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 Borough Administrator be and is hereby authorized to issue a Request For Proposals to build, maintain and manage a special needs affordable housing project on the McCoy property; and,

BE IT FURTHER RESOLVED that this resolution is conditioned upon the approval of the Request For Proposals by the Borough’s Affordable Housing Attorney, the Borough Attorney and the Borough Engineer; and,

BE IT FINALLY RESOLVED that a copy of this resolution be provided to by the Borough’s Affordable Housing Attorney, the Borough Attorney and the Borough Engineer.

Resolution read and introduced by Councilmember Pedone, seconded by Council President Kahwaty. Discussion – At this time Beth McManus, the Borough’s Planner, summarized that this proposal invites for-profit and not-for-profit developers to develop the property on McCoy Road. The RFP provides a moderately detailed description of the type of development the Borough would like to see. The units have to be eligible for affordable housing credits which will help the Borough achieve its affordable housing obligations. The housing units have to be available to those with special needs. The character of the development requires that it resembles the residential feel of the surrounding neighborhood. Lastly it requires that the developer take care of noise abatement since Route 208 is in close proximity. Site plans will go to the Planning Board for approval.

Roll Call Vote:

Ayes: Kahwaty, Lambrix, Lota, Pedone, Ramsey

Nays:

Abstain:

Absent: Kelly

Motion Approved.

ACTION OF MINUTES

Motion to accept the minutes was made by Council President Kahwaty and seconded by Councilmember Lota:

- October 2, 2012 Worksession
- October 16, 2012 Regular Meeting
- October 16, 2012 Closed

Roll Call Vote:

Ayes: Kahwaty, Lambrix, Lota (with exceptions), Pedone, Ramsey

Nays:

Abstain: Lota – October 2, 2012

Absent: Kelly
Motion Approved.

OLD BUSINESS

Mayor Bivona thanked the first responders for all their help during Hurricane Sandy. He gave special thanks to OEM Coordinator Craig Goldman. He has written thank-you cards to various organizations.

NEW BUSINESS

At this time, there is no new business to discuss.

CLOSED SESSION

There were no Closed Session items to be discussed.

At this time, Borough Planner, Beth McManus, came forward to discuss a proposal for planning services for Franklin Avenue regarding the impact of the sewers being installed. She spoke about the implications of what will happen as the sewers are installed on Franklin Avenue. There are 3 phases to the proposal. The first is taking a look at the area affected and to get a feel for it. The second will analyze existing conditions and the opportunities for improvements for a thriving business district. The last phase will set forth an agenda for the Borough to make improvements. The final document will include zoning recommendations and could be used for the Master Plan.

The proposal includes 2 meetings for public input and questions. There would be 2 public meetings before the Planning Board. The proposal price is \$21,000.

Councilmember Lambrix asked how long the study will take. Ms. McManus said it will finish in spring of 2013.

Councilmember Lota asked if this is in the budget for this year. Greg Hart said we could transfer funds.

Mayor Bivona and Councilmember Lambrix would like Ms. McManus' input on the rezoning on Franklin Avenue. Councilmember Lambrix supports the planning services proposal and would like it expanded and accelerated. Mayor Bivona wanted to make sure the public would be included. Ms. McManus said there are three opportunities for the public to comment.

Further discussion ensued regarding meeting dates with the Council and public hearings and scope of services. Ms. McManus gave a brief run through of past projects she has been a part of at the request of Councilmember Ramsey.

It was decided that the proposal will be amended further to include additional options and acted on at the next meeting in December. Mr. Hart will make it clear on where the appropriation for the planning services listed in the proposal is coming from.

ADJOURNMENT

Motion to adjourn the meeting at 10:30 pm was made by Councilmember Lambrix, seconded by Councilmember Pedone. On voice vote, all in favor.

Resolution 232-12 Accept Report of the Finance Committee

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 \$368,889.44 as shown on the Claims Bill List; \$4,826.50 as shown on the Soil Account Bill List and \$1,608.50 as shown on the Developers Escrow List.

Resolution 233-12 Extend Cleaning Contract

WHEREAS, by resolution adopted on December 20, 2011, the Mayor and Council of the Borough of Franklin Lakes awarded a contract for cleaning services to Maverick Building Services, Inc., 22 Chestnut Street, Rutherford, New Jersey 07070, for the period from January 1, 2012 to December 31, 2012, with a Borough option for two additional one year periods; and,

WHEREAS, the Borough Administrator has recommended that the Borough exercise its option to extend the contract for the period from January 1, 2013 to December 31, 2013;

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 Administrator is approved and the contract with Maverick Building Services, Inc., for cleaning services be and is hereby extended for the period from January 1, 2013 to December 31, 2013;

BE IT FURTHER RESOLVED that a Certification of Funds has been prepared and authorized by the Temporary 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, subject to appropriation of sufficient funds in the 2013 Municipal Budget; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to Maverick Building Services, Inc, and the Chief Financial Officer.

Resolution 234-12 Stipulation of Settlement – TD Bank

WHEREAS, an appeal of the tax assessment for the years 2010, 2011, and 2012 has been filed for the following property; and

Block:	1421
Lot:	1
Street Address:	768 Franklin Avenue
Owner:	TD Bank

WHEREAS, the property for these years was assessed at \$1,575,000; and

WHEREAS, TD Bank has agreed to withdraw all pending tax appeals for the years 2010, 2011, and 2012; and

WHEREAS, the Borough Attorney, the Borough Assessor, and the Borough Appraiser have all recommended a nominal reduction in the assessment for the year 2013 to \$1,525,000 reflecting the fact that the ratio of true value to assessed value in Franklin Lakes has dropped to approximately 94%; and therefore

IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that the assessment on the property located at 768 Franklin Avenue, Block 1421, Lot 1 shall be reduced for the year 2013 to \$1,525,000.

Resolution 235-12 Chapter 159 – Becton Dickinson & Company Donation

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Franklin Lakes has received a \$10,000.00, 2012 Private Donation-Becton Dickinson & Company and wishes to amend its 2012 Budget to include said amount as a revenue;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Franklin Lakes, that permission be requested by the Director of the Division of Local

Government Services to approve the insertion of an item of revenue in the 2012 Budget in the sum of \$10,000.00 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:	
2012 Private Donation- Becton Dickinson & Company – Franklin Lakes Fire Department	\$5,000.00
2012 Private Donation- Becton Dickinson & Company – Franklin Lakes Ambulance Squad	\$5,000.00

BE IT FURTHER RESOLVED that a sum of \$10,000.00 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":

Public and Private Programs Offset by Revenues:	
2012 Private Donation- Becton Dickinson & Company – Franklin Lakes Fire Department	\$5,000.00
2012 Private Donation- Becton Dickinson & Company – Franklin Lakes Ambulance Squad	\$5,000.00

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

Resolution 236-12 Chapter 159 – Meyer Foundation Donation

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Franklin Lakes has received a \$130,000.00, 2012 Private Donation-Meyer Foundation and wishes to amend its 2012 Budget to include said amount as a revenue;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Franklin Lakes, that permission be requested by the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2012 Budget in the sum of \$130,000.00 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:	
2012 Private Donation- Meyer Foundation- Franklin Lakes Police Department-Two Police Vehicles	\$60,000.00
2012 Private Donation- Meyer Foundation- Franklin Lakes Police Department-Camera System for Patrol Cars	\$70,000.00

BE IT FURTHER RESOLVED that a sum of \$130,000.00 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":

Public and Private Programs Offset by Revenues:	
2012 Private Donation- Meyer Foundation- Franklin Lakes Police Department-Two Police Vehicles	\$60,000.00
2012 Private Donation- Meyer Foundation- Franklin Lakes Police Department-Camera System for Patrol Cars	\$70,000.00

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

Resolution 237-12 Chapter 159 – 2010 Recycling Tonnage Grant

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Franklin Lakes has received a \$21,672.36 Solid Waste Administration - 2010 Recycling Tonnage Grant and wishes to amend its 2012 Budget to include said amount as a revenue;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Franklin Lakes, that permission be requested by the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2012 Budget in the sum of \$21,672.36 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:	
Solid Waste Administration -	
2010 Recycling Tonnage Grant	\$21,672.36

BE IT FURTHER RESOLVED that a sum of \$21,672.36 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":	
Public and Private Programs Offset by Revenues:	
Solid Waste Administration -	
2010 Recycling Tonnage Grant	\$21,672.36

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

Resolution 238-12 Chapter 159 – Matthew Susan Lyons Family Foundation Donation

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Franklin Lakes has received a \$15,000.00, 2012 Private Donation-Matthew Susan Lyons Family Foundation and wishes to amend its 2012 Budget to include said amount as a revenue;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Franklin Lakes, that permission be requested by the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the 2012 Budget in the sum of \$15,000.00 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:	
2012 Private Donation- Matthew Susan Lyons Family Foundation –	

Franklin Lakes Volunteer Fire Department

\$15,000.00

BE IT FURTHER RESOLVED that a sum of \$15,000.00 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":

Public and Private Programs Offset by Revenues:

2012 Private Donation- Matthew Susan Lyons Family Foundation --

Franklin Lakes Volunteer Fire Department

\$15,000.00

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

Resolution 239-12 Mutual Aid-Emergency Services

WHEREAS, the Mayor and Council of the Borough of Franklin Lakes has considered the bylaws of the Northwest Bergen Mutual Aid Association relating to mutual assistance between communities in the event of fire, disaster, or other emergencies; and,

WHEREAS, mutual aid agreements and relationships with the Northwest Bergen Mutual Aid Association and other Bergen County and Passaic County municipalities will enhance the Borough's ability to provide fire protection and emergency service to the Franklin Lakes community and other area municipalities; and,

WHEREAS, the State of New Jersey considers reciprocal assistance with area municipalities for emergency services a best practice; and,

WHEREAS, the Fire Chief recommends that the Mayor and Council renew mutual aid agreements and relationships with the Northwest Bergen Mutual Aid Association and other Bergen County and Passaic County municipalities;

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 Borough of Franklin Lakes renews its participation in the Northwest Bergen Mutual Aid Association; and,

BE IT FURTHER RESOLVED that the Borough of Franklin Lakes renews its mutual aid relationship with other Bergen County and Passaic County municipalities; and,

BE IT FURTHER RESOLVED that the adoption of this resolution shall serve as the formal written mutual aid agreement for all emergency response units and said emergency responses shall be conducted pursuant to State law and in accordance with standard emergency operating practices.

BE IT FINALLY RESOLVED that a copy of this resolution shall be provided to all municipalities in Bergen County and Passaic County.

Resolution 240-12 Support A3393 – Clarifies Verizon's Responsibility to Remit Business Personal Property Taxes

WHEREAS, in 1997, at the request of incumbent utilities, the laws regarding State taxation of telecommunications corporations were amended in response to technological and market innovations, in order to increase competition; and

WHEREAS, the amendments sought to preserve revenues to local governments by providing that local exchange telephone companies subject to the New Jersey Franchise and Gross Receipts Tax on April 1, 1997 would continue to be subject, annually, to the Business Personal Property Tax ("BPPT"); and

WHEREAS, the statute defines local exchange companies as those telecommunications carriers "providing dial tone and access to 51% of a local telephone exchange"; and

WHEREAS, Verizon's self-serving interpretation of the statutory definition has led it to claim exemption from the BPPT in any municipality where the corporation unilaterally determines, in any given year, that it no longer supplies dial tone and access to at least 51% of the local telephone exchanges; and

WHEREAS, Hopewell Borough's challenge to that claim was upheld by the Mercer County Board of Taxation in 2009; and

WHEREAS, Verizon's appeal of that determination to the Tax Court resulted in a June, 2012 trial court decision accepting the corporation's self-serving interpretation of the law; and

WHEREAS, as things now stand, over 100 municipalities know that they enter 2013 without BPPT revenues that will cost property taxpayers well in excess of \$8 million and, unless matters change, more municipalities will lose more millions in the future; and

WHEREAS, remedial legislation (A-3393) has been introduced by Assemblyman Ralph Caputo, which will clarify the perceived ambiguity of the statutory definition to further implement the original legislative intent to preserve revenues to local governments; and

WHEREAS, we anticipate the introduction of companion legislation by Senator Bob Smith, as soon as the Senate next convenes;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Franklin Lakes commends Assemblyman Caputo and Senator Smith and strongly supports A-3393, which would clearly identify the telecommunications carriers subject to taxation on their business personal property and remove the budget uncertainty caused by Verizon's obfuscation; and

BE IT FURTHER RESOLVED, that we urge our State Senator and our representatives in the General Assembly to join as co-sponsors of A-3393 and its companion bill; and

BE IT FINALLY RESOLVED, that copies of this Resolution be forwarded to the Honorable Governor Chris Christie, the Honorable Speaker of the General Assembly Sheila Oliver, the Honorable President of the State Senate Stephen M. Sweeney, the Honorable Assembly Republican Leader Jon Bramnick, the Honorable Senate Republican Leader Thomas H. Kean, Jr., and our own State Senator and Representatives in the General Assembly, and to the New Jersey State League of Municipalities.

Resolution 241-12 Internal Affairs Policy

WHEREAS, Police Chief Joseph Seltenrich has amended the Police Department's Internal Affairs Policy and Procedures document and has recommended that the Mayor and Council review and approve the amended policy;

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 paragraph III(B) "Accepting Reports Alleging Officer Misconduct" of the Franklin Lakes Police Department Internal Affairs Policy and Procedures be and is hereby supplemented by the addition of the following after paragraph 7:

In the event that the Chief of Police is the subject of an internal affairs complaint, the Internal Affairs Unit of the Franklin Lakes Police Department will make timely notification to the Special Investigations Unit of the Bergen County Prosecutor's Office, who will, in turn, assume authority over the internal affairs investigation.

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to Police Chief Joseph Seltenrich.

Resolution 242-12 Alternate Health Benefit Plans

WHEREAS, the Borough provides medical benefits to its eligible employees and dependents through its membership in the Bergen Municipal Employee Health Benefits Fund, hereinafter, the BMED; and,

WHEREAS, under the legislative requirements set forth by P.L. 2011 c. 78 (commonly known as Chapter 78), municipalities are encouraged to offer alternate health benefit plans that provide choice to employees afforded such benefits in accordance with the cost contribution requirements set forth by the legislation; and,

WHEREAS, the Borough's Health Benefits Consultant is performing due diligence in obtaining pricing on several standardized plan designs offered by the BMED that provide alternative methods of benefit delivery at costs lower than the existing base plan of the Borough; and,

WHEREAS, more specifically, the Health Benefits Consultant met with Borough Officials to review three (3) Alternate Plan Designs, entitled, PPO Core Plan, PPO Buy-Up Plan and a High Deductible (HSA) Plan that can provide cost-effective alternative plan designs for consideration by employees looking to contain/reduce their contributions under the statute;

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, hereby endorses and authorizes the specific plans named above be provided as alternate plan offerings for eligible employees to consider in determining the health plan they choose; and,

BE IT FURTHER RESOLVED that the Borough Benefits Consultant and Borough Administrator are hereby authorized to coordinate these offerings as a part of the Borough's Employee Health Benefits Program; and,

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be forwarded to the Borough CFO, Borough Auditor and PIA Security Programs, Inc., 429 Hackensack Street, P.O. Box 818 Carlstadt, NJ Benefits Consultant to the Borough.

Respectfully submitted,



Sally T. Bleeker, Borough Clerk