

**MEETING OF THE MAYOR AND COUNCIL  
JANUARY 3, 2013  
7:30 P.M.**

A regular meeting of the Mayor and Council was held on January 3, 2013 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 Lota, Councilperson Kahwaty, Councilperson Lambrix, and Councilperson Ramsey (7:35 P.M.). Also present were Borough Administrator Greg Hart, Borough Attorney Smith and Borough Clerk Sally Bleeker. Councilperson Kelly and Councilperson Pedone were absent this evening.

**SUNSHINE LAW STATEMENT**

Borough Clerk Bleeker read the Sunshine Law Statement.

**FLAG SALUTE**

**MOMENT OF SILENT REFLECTION**

**OPEN TIME FOR PUBLIC COMMENT**

Motion to open the time for public comment was made by Council President Lota, seconded by Councilperson Kahwaty. Discussion – none. On voice vote, all in favor.

No one from the public came forward and a motion to close the time for public comment was made by Councilperson Lambrix. Seconded by Councilperson Kahwaty. Discussion – none. On voice vote, all in favor.

**BOROUGH ENGINEER'S REPORT**

• **Status Report**

Eileen Boland of Boswell Engineering asked if there were any questions regarding the Status Report. There were no questions this evening.

Mayor Bivona spoke about the Capital Budget Projects and said that Boswell Engineering usually outlines recommended projects for the upcoming year. Mr. Hart said that a list of roads for paving and upgrading will be prepared after consultation with the DPW. This will be considered as part of the Budget meetings. Mr. Hart commented that there had been a discussion relative to pipes and culverts and Ms. Boland said that the Borough has been notified by the County concerning two culverts that are in need of repair. There is damage around an inlet on Huron Road that can be repaired by the DPW. Repairs are needed to a culvert on Reservoir Road and Boswell Engineering will get three proposals for this work.

Mr. Hart pointed out that there is a change order listed on the consent agenda pertaining to work done on McCoy Road. It was noted that the figure in the resolution should be corrected to read \$153,209.50. Ms. Boland explained the changes to the amount and said that the estimate was too high. This project was part of a Municipal Aid Grant Program and the proper paperwork still needs to be filed with the State in order for reimbursement.

**CONSENT AGENDA RESOLUTION 19-13**

**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 20-13      Accept Report of the Finance Committee  
Resolution 21-13      Accept Donation of Ambulance from County of Bergen  
Resolution 22-13      Change Order – Improvements to McCoy Road  
Resolution 23-13      Budget Transfer

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

Roll Call Vote

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

**RESOLUTION 24-13**

**Award Contract – Radio Communications Equipment**

**WHEREAS**, the Borough of Franklin Lakes Ambulance Corps wishes to purchase Radio Communication Equipment from an authorized vendor under the State of New Jersey Cooperative Purchasing Program 1-NJCP; and

**WHEREAS**, the purchase of goods and services by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A 40A:11-12; and

**WHEREAS**, Motorola, ICO/Goosetown Communications, 58 North Harrison Ave. Congers, NY 10920 has been awarded New Jersey State Contract number 53804 for Radio Communication Equipment; and

**WHEREAS**, the Ambulance Corps Captain Marc McKeon and the Borough Administrator recommend the utilization of this contract on the grounds that it represents the best price available; and

**WHEREAS**, the actual cost for the purchase of this equipment is \$10,502.40; and

**WHEREAS**, the Chief Financial Officer has certified the availability of funds for this purchase,

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Franklin Lakes that Radio Communication Equipment is purchased from Motorola, ICO/Goosetown Communications, 58 North Harrison Ave. Congers, NY 10920

Mr. Hart explained that this is a two year contract under State contract and he added that there is a very small price increase from the prior contract. Councilperson Lambrix questioned what was involved in this contract which seems expensive at \$28,000. Mr. Hart stated that this is the central communications system for the Borough and includes preventative maintenance and immediate replacement if the system were to go down.

Resolution introduced by Council President Lota. Seconded by Councilperson Kahwaty.  
Discussion –none.

Roll Call Vote

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

Motion Approved

**RESOLUTION 25-13**

**Ambulance Corps Radio Communication Equipment**

**WHEREAS**, the Borough of Franklin Lakes wishes to purchase two (2) year Radio Service Maintenance from an authorized vendor under the State of New Jersey Cooperative Purchasing Program 1-NJCP; and

**WHEREAS**, the purchase of goods and services by local contracting units is authorized by the Local Public Contracts Law, N.J.S.A 40A:11-12; and

**WHEREAS**, Motorola, 1301 East Algonquin Road, Schaumburg, IL 60196 has been awarded New Jersey State Contract number S00001021313 for Radio Communications & Equipment repair services; and

**WHEREAS**, the Sgt James Schnaidt and the Borough Administrator recommend the utilization of this contract on the grounds that it represents the best price available; and

**WHEREAS**, the actual cost for the purchase of this two (2) year service agreement is \$1,200.81 per month for a total two year contract cost of \$28,819.44; and

**WHEREAS**, the Chief Financial Officer has certified the availability of funds for this purchase,

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Franklin Lakes that a two (2) year Radio Communications & Equipment repair service maintenance agreement is purchased from Motorola, 1301 East Algonquin Road, Schaumburg, IL 60196

Mr. Hart stated that this resolution covers radios and related software equipment which was budgeted in 2012. Mr. Hart said that although this item was included in the budget he recommended getting several quotes for the equipment. The Ambulance Corps have indicated that Motorola equipment can only be purchased from the State representative and is sold through State contract. After some discussion, the Council felt comfortable voting on the resolution even though they indicated that they still have some questions and would like further clarification.

Resolution introduced by Council President Lota. Seconded by Councilperson Kahwaty. Discussion –none.

Roll Call Vote

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

**MAYOR'S REPORT**

Mayor Bivona reported on the celebration recognizing 50 years of service to the Planning Board by Jules Lauber. He said that he would be reading a proclamation tomorrow night which recognizes Hank Corsale who has spent 50 years as a basketball coach at MBS.

**COMMITTEE/LIAISON REPORTS**

**ENVIRONMENTAL AND COMMUNITY AFFAIRS**

Councilperson Pedone was absent this evening. Mayor Bivona reported on revisions to the Tree Ordinance that were received by the Planning Board. Mayor Bivona asked the Board to review the ordinance and submit their comments. A presentation to the

Planning Board is scheduled for the meeting on February 6<sup>th</sup>. Mr. Hart stated that they have been working on revisions to this ordinance for some time and everyone is working hard to get it finalized. He prepared a summary of the changes including language changes and he encouraged Councilmembers to review the document and understand the context of the updated changes including the elimination of the no-disturbance area. There are definitions of jurisdictional responsibility and the position of tree specialist is being created by ordinance. Some fees or escrow requirements for development applications are being raised in order to pay for the services of the tree specialist rather than burdening the tax payer. The priorities of the Shade Tree Commission have been reviewed as well as preservation of the tree canopy and how that affects development in the Borough. Requests for tree removal will now be under the jurisdiction of the Council. Regarding buffers and the no-disturbance ordinance, Mr. Hart said that they should think about amending the Master Plan so that it is consistent with the ordinance.

Mr. Hart reiterated that the tree ordinance will be discussed by the Planning Board on February 6<sup>th</sup>. The Mayor and Council meeting is on February 5<sup>th</sup> and this item could again be listed at that time for questions and comments. The goal would be to introduce this ordinance in March.

Mayor Bivona announced that Linda Allen is the new president of the Seniors.

## **PLANNING & DEVELOPMENT**

Councilperson Kahwaty reported that at the Planning Board meeting Jules Lauber was honored for 50 years of service to the Planning Board and Assemblyman David Russo presented Mr. Lauber with a joint resolution from the Senate and the Assembly.

Councilperson Kahwaty reviewed the Planning Board meeting of December 5<sup>th</sup> and reported on the proposal to amend the zoning on Block 1424.01, Lot 2 from residential to LB-1. The area in question is the Franklin Avenue and Shirley Avenue area and testimony was taken from area residents. The majority of residents appeared to agree with the proposal. A special meeting resulted in a split decision by the Planning Board and no recommendation was made to the Council. Councilperson Kahwaty reported that the Hold Harmless agreement for Wyandotte was approved. The site plan application for J.P. Morgan Chase was approved with some changes in lighting and signage.

### **• Sewer Ordinance**

Councilman Kahwaty said that the ordinance relative to North West Bergen County Utility Authority (NWBCUA) is before the Council this evening. Mr. Hart stated that the ordinance hasn't changed since December. Mr. Smith advised against moving forward with adoption of the ordinance due to the lack of a signed agreement with NWBCUA. Mr. Hart said that the ordinance could be introduced in good faith if needed. Councilperson Lambrix stated that the ordinance should not be adopted without the agreement but he agreed with the introduction of the ordinance. Mayor Bivona said that the NWBCUA is skeptical about the Council's ability to act. If NWBCUA doesn't add to their escrow fund including paying for lights, he would not agree to adopt the ordinance and their work will be shut down. He pointed out that the NWBCUA has proceeded to install the sewer line under the railroad in order for the municipal complex to hook up to the sewers. The Borough has verbally agreed to pay a \$50,000 advance on the hook-up fee.

Councilperson Ramsey was concerned that payments are not being made to traffic officers who are assisting with traffic during construction. These payments should be coming from the escrow account which is deficient. Mayor Bivona commented that this is a separate issue. He stated that they need to consider the other issue which is the introduction of an ordinance that can be leveraged into a contract. The project should be shut down if there are deficiencies in their escrow account even if there is an agreement in place. Councilperson Lambrix recommended that the ordinance should be introduced and Mayor Bivona agreed stating that no one wants an adversarial relationship.

Mayor Bivona reviewed the discussions stating that the Council will agree to introduce the ordinance on January 15<sup>th</sup>. NBCUA will be contacted tomorrow and told that the project will be shut down if escrow money is not received by Monday. Councilmembers were in agreement with this recommendation.

## **RECREATION AND PARKS**

- **Code of Conduct Ordinance Revisions**

Councilperson Lambrix referred to the changes to the Borough's Code of Conduct ordinance. These changes would clarify the roles and responsibilities of the Director of the Department and the Recreation Committee including behavior which would be prohibited by all parties associated with Recreation Committee and the Code of Conduct Committee along with penalties. Mr. Hart stated that this ordinance was reviewed at the December meeting, however, the Recreation Committee hadn't had the opportunity to review the proposed amendments at that time. The ordinance has now been reviewed by the Recreation Committee who did not have any comments during the last meeting attended by Councilperson Lambrix. He commented that to be effective the ordinance should maintain consistency throughout the entire document.

After a lengthy discussion, Mr. Hart said that the ordinance could be listed for introduction in February. He will find out if there will be further input from the Recreation Department and if necessary the ordinance will be introduced in March instead of February.

- **McBride Field**

Mayor Bivona reviewed his email dated December 14, 2012 which stated that the new United Water facility will be complete in the spring and will include a new entranceway along with trees and shrubs and a parking lot. The new JP Morgan Chase Bank will be built in the area once occupied by the Exxon gas station and the bank is required to enhance the crosswalk that goes across Franklin Lakes Road in the area of the Market Basket to the field. Mayor Bivona commented that McBride Field tends to be used more as a parking lot and he would like to see the area turned into a more park like setting which could result in the park being used less for events due to a decrease in size. He proposed that the field be a single field for soccer and lacrosse which would be set back from the road for safety. Mayor Bivona proposed extensive tree planting and a grove like setting which could be paid for through the Shade Tree escrow fund. Low maintenance corner bed plantings would eliminate any possibility of signage for local events which will help to enforce the ordinance.

Mayor Bivona stated that the parking lot should be ample to accommodate parking for a single event and alleviate the need for parking on Wyandotte Road. However, parking for events such as the Lion's Club Carnival and the Triathlon might not be feasible. Funding would be available through grants and donations and some of the work such as the fence could be done by the DPW. He added that the new pump house will be larger than the previous structure and the additional plantings mean that less space is available for events such as the car show. He foresees that this project would be complete in 2014. This means that they should go ahead with the events scheduled for 2013 and then put the various groups on notice that, if the project goes forward as envisioned, these groups will have to find an alternative location for their events beginning in 2014.

Mayor Bivona stated that the next step would be for the Council to agree to the plan with the understanding that all scheduled events to go forward in 2013. Groups that normally stage events on the field would be advised to make alternative plans for 2014. He recommended that the Council look for a landscape architect who would be willing to donate time and skills to design a plan for the field. The Council agreed that they should move forward with Mayor Bivona's plan.

Councilperson Lambrix stated that the Wyckoff Lions Club is requesting use of the field in July for their carnival. William Luyke, of the Lions Club, introduced himself and stated that the majority of the area of the field was used for the carnival. Alternate

parking was available but not used and Mr. Luyke concluded that it would still be possible to run the carnival on the field if this offsite parking was used. Council President Lota said that she has issues with the carnival employees but not members of the Lions Club. She referred to unacceptable behavior by carnival employees which include undressing on Franklin Lake Road, illegal drugs and hitchhiking. Mr. Luyke said that he would speak to the owners of the carnival about these concerns and he would obtain assurances in writing that these concerns will be addressed. He will try to get these assurances to the Council before the meeting of January 15<sup>th</sup>.

## **ADMINISTRATION AND FINANCE**

- **Opposition to the Approval Process for Non-SHBP Health Insurance Plans**

Mr. Hart explained that this resolution was drafted by the Joint Health Insurance Fund. These proposed rules would impact municipalities that are not part of the State Health Benefits Plan which includes Franklin Lakes. The proposed rule would require that when negotiating a collective bargaining agreement the Borough would be required to provide an analysis to the State which demonstrates that money is being saved. These proposed rules would impact municipalities who are not in the State Health Benefits Plan. He recommended that the Council strongly consider this resolution because these regulations are not in the best interests of the Borough. Upon questioning, Mr. Hart stated that the resolution came from the State organization of Joint Insurance Funds. The resolution will be listed for January 15<sup>th</sup>.

- **Shared Services Agreement with Village of Ridgewood – Municipal Court Teleconferencing**

Mr. Hart stated that regarding arraignments this resolution allows for video teleconferencing from Ridgewood and is considered a shared service.

- **Support Payment of Energy Taxes to Municipal Governments**

Mr. Hart said that this is proposed legislation requiring payment of energy taxes. The State had taken over the collection of energy taxes that had previously gone straight to municipalities and the legislation proposes that municipalities would receive more of the energy receipts tax. This resolution will be listed for the meeting of January 15<sup>th</sup>.

## **PUBLIC SAFETY**

Council President Lota reported on the purchase of new narrow band radios for the ambulance rigs and UHF radios for senior members. She stated that there are proposals relative to a 2012 capital ordinance to purchase turnout gear and hose for the Fire Department. The cost of the turnout gear is \$12,000 and the cost for the hoses is \$16,000. Mr. Hart said that the money has already been appropriated and the resolution can be listed for January 15<sup>th</sup>.

## **PUBLIC WORKS**

Mr. Hart reported that a good job was done relative to the two snow storms and contractors were called in during the most recent storm. Councilperson Ramsey reported that there has been a slight delay in the construction of sleeping quarters at the DPW. She added that John Keene is doing well. Councilperson Ramsey reported that the DPW will be replacing the part of the fence at the Reservoir which was destroyed as the result of a recent accident.

## **BOROUGH ADMINISTRATOR'S REPORT**

There were no questions of Mr. Hart this evening.

## **OLD BUSINESS**

Councilperson Lambrix has reviewed his meeting notes from 2012 and he sent Mr. Hart a list of items that remain unresolved. He asked Mr. Hart to give a report on these items at the next meeting.

## **NEW BUSINESS**

Councilperson Lambrix said that there is a landscaper on Lawlins Road in Wykoff who is storing huge trees on his property which abuts the Franklin Lakes' border. The trees appear to be encroaching on Franklin Lakes Green Acres property. Mr. Hart will have the Zoning Officer look into this.

## **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 Thursday, January 3, 2013 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Personnel – DPW Superintendent
- Anticipated Litigation – Affordable Housing
  - COAH Counsel Letter 12-11-12
  - COAH Counsel Letter 12-20-12
  - COAH Counsel Letter 12-27-12

**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 Kahwaty, seconded by Council President Lota at 9:24 P.M. to enter into Closed Session. Discussion – none.

### Roll Call Vote

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

The Council returned from Closed Session at 10:40. Mr. Smith reviewed his letter which pointed out substantial differences between Colonial Road GS Realty and the Borough.

## **ADJOURNMENT**

Motion by Councilperson Lambrix to adjourn the meeting at 10:45 P.M. Councilperson Ramsey seconded the motion. On voice vote, all in favor.

### **Resolution 20-13**

**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 \$3,804,700.94 as shown on the Claims Bill List.

### **Resolution 21-13**

**Accept Donation of Ambulance**

**WHEREAS**, the County of Bergen possesses a 1976 Cadillac Ambulance, previously donated to it by the Borough of Franklin Lakes; and

**WHEREAS**, the ambulance is no longer needed by the Bergen County Law & Public Safety Institute for training purposes; and

**WHEREAS**, the Borough of Franklin Lakes has requested the use of the County's 1976 Cadillac Ambulance for the benefit of its residents; and

**WHEREAS**, by resolution adopted on December 19, 2012, the Bergen County Board of Chosen Freeholders authorized the donation of the ambulance to the Borough of Franklin Lakes;

**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 donation by the County of Bergen of the County's 1976 Cadillac Ambulance, more particularly described as VIN #6Z90S6Q199427, be and is hereby accepted; and

**BE IT FINALLY RESOLVED** that a copy of this resolution be forwarded to the Bergen County Board of Chosen Freeholder, the Franklin Lakes Volunteer Ambulance Corps, and the Borough's Risk Manager.

**Resolution 22-13**

**Change Orders – Improvements to McCoy Road**

**WHEREAS**, by Resolution adopted on August 7, 2012, the Mayor and Council of the Borough of Franklin Lakes awarded a contract in the amount of \$195,325 to Tilcon N.Y., Inc., 625 Mt. Hope Road, Wharton, New Jersey, hereinafter referred to as "the Contractor", for the construction of improvements to McCoy Road; and,

**WHEREAS**, the Contractor has submitted Change Order #1, which reduces the amount of the contract by \$42,115.49 for an amended contract amount of \$153,209.51, which Change Order has been approved by the Borough Engineer; and,

**WHEREAS**, the Contractor has submitted Change Order #2, which increases the amount of the contract by \$2,800.65 for an amended contract amount of \$156,010.16, which Change Order has been approved by the Borough Engineer; and,

**NOW THEREFORE, BE IT RESOLVED** that Change Order #1 and 2 are hereby authorized and approved for the construction of improvements to McCoy Road, for a net reduction of \$39,314.84, for a revised contract amount of \$156,010.16; and,

**BE IT FINALLY RESOLVED** that a copy of this Resolution be forwarded to Tilcon N.Y., Inc., the Borough Engineer, and the Chief Financial Officer.

**Resolution 23-13**

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Franklin Lakes that the following 2012 Budget Transfers be made for the following accounts:

<u>From</u>	<u>From</u>	<u>To</u>
Road Repairs & Maintenance OE	16,800	
Electricity - Borough	18,210	
<b>To</b>		
Public Buildings & Grounds		10,000
Water		6,800
Electrical Inspector S&W		200
Plumbing Inspector S&W		100

Fire Protection Official S&W  
Uniform Fire Safety S&W  
Garbage & Trash Removal

110  
800  
17,000

35,010

35,010

Respectfully submitted,

A handwritten signature in cursive script that reads "Sally T. Bleeker". The signature is written in black ink and is positioned centrally on the page.

Sally T. Bleeker, Borough Clerk