

**MEETING OF THE MAYOR AND COUNCIL
JUNE 6, 2013
7:30 P.M.**

A regular meeting of the Mayor and Council was held on June 6, 2013 in the Municipal Building.

MEETING CALLED TO ORDER

ROLL CALL

The following Council Members and Professional responded to the roll call:

Mayor Bivona, Councilperson Kahwaty, Councilperson Kelly, Councilperson Pedone and Councilperson Ramsey, Also present were Borough Administrator Greg Hart, Borough Attorney Smith and Borough Clerk Sally Bleeker. Councilperson Lambrix was absent this evening. Council President Lota arrived at 7:50 P.M.

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

APPOINTMENT

- **Tax Collector**

Elaine Erlewein introduced herself and stated that she is the full time Tax Collector at the Township of Washington. She will be in Franklin Lakes on Monday afternoons for two hours and one evening a week which has not yet been determined.

Councilman Pedone made a motion to appoint Elaine Erlewein as Tax Collector. Councilmember Kahwaty seconded the motion. Discussion – none.

Roll Call Vote

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

ORDINANCES FOR FINAL READING

Ordinance 1560

**AN ORDINANCE INCORPORATING RULES AND REGULATIONS
APPLICABLE TO THE MUNICIPAL SEWER SYSTEM IN CHAPTER 390,
ARTICLE I OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES**

WHEREAS, an ordinance 1560 was introduced at a meeting of the Mayor and Council held on the 15th day of January, 2013 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 1560 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 by Councilperson Kahwaty to consider Ordinance 1560 for adoption. Seconded by Councilperson Pedone. Discussion – none. On voice vote, all in favor, motion approved.

The Borough Clerk read the ordinance by title.

Motion by Councilperson Kahwaty to open the public hearing on ordinance 1560. Councilperson Kelly seconded the motion. Discussion:

Mayor Bivona stated that he has a signed copy of a Memorandum of Understanding between the Northwest Bergen County Sewer Authority and the Borough of Franklin Lakes. Mr. Smith explained that this document makes clear that the agreement that was signed in 2006 does not require that the Borough or property owners tie into the system or that there be any expansion of the system. This agreement will pave the way for sewers in the downtown area and there are plans to do some more work off of the main line. The plan allows for the future connection of Borough Hall and other Borough buildings. The Authority has agreed to provide a gravity feed under the railroad tracks at Pulis Avenue making a system available for hook up by the Borough. There would be a hook up fee of \$50,000 which has been agreed to by the Borough and is to be paid in advance.

Mr. Smith stated that this agreement sets the fees and requirements at the time of hook up as well as the responsibilities for repairs. Councilperson Ramsey thanked Mr. Smith for his intense scrutiny of the agreement.

No one from the public came forward to speak and Councilperson Pedone made a motion to close the public hearing. Councilperson Kelly seconded the motion. Discussion – none.

Resolution read by Councilperson Kahwaty, seconded by Councilperson Kelly. Discussion –None.

Roll Call Vote

Ayes: Kahwaty, Kelly, Pedone and Ramsey

Nays:

Abstain:

Absent: Lota, Lambrix

Motion Approved

OPEN TIME FOR PUBLIC COMMENT

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

Laurie Burnette, 860 Winfield Road, stated that the agenda notes a discussion on the Ambulance Corps Facilities Use Policy. She asked why the other Borough owned buildings were not included. Mr. Hart said that there are policies in place concerning the other buildings. He agreed that it makes sense to make all existing policies uniform but tonight's discussion will focus on what policy should be at the Ambulance Corps Building. There is a memo describing a proposed policy for use of the Ambulance Corps Building. Ms. Burnette said that her concern is that the building may be overused. Mayor Bivona said that the Council has the same concerns regarding overuse by outside parties relative to all Borough facilities.

Councilwoman Lota arrived at the meeting at 7:50 P.M.

Ms. Burnette stated that the Ambulance Corps has recommended a refundable fee of \$250 per use. She pointed out that the septic is another issue for consideration. Mr. Hart remarked that the security deposit was an additional administrative fee for the Borough. He stated that the Mayor and Council has the authority to waive coverage requirements relative to the use of these Borough buildings because most organizations carry

insurance. In the case of individual residents, homeowner's coverage may or may not apply and the Borough has some discretion in whether to waive insurance. Mayor Bivona said that the Council is continuing to work on the policy.

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

BOROUGH ENGINEER'S REPORT

- **Status Report**

Eileen Boland of Boswell Engineering introduced herself. Council President Lota reported that she has received numerous complaints from residents on Crest Place who indicated that they were not notified of the milling and paving on their street. She added that Farmdale Road was milled and left unpaved for two weeks. Mr. Hart said that there were break downs with machinery and weather conditions have been poor. Councilperson Ramsey said that Woodside Avenue from the bridge to Pulis Avenue is in poor condition and needs paving. Ms. Boland will look into this.

Mayor Bivona referred to the poor condition of some roads due to developers and home construction projects. There is an ordinance pertaining to silt fencing which doesn't seem to be followed or enforced. Ms. Boland said that the engineer makes an inspection to ensure that silt fencing is installed properly, however, after the initial visit the fences fall into disrepair. Mayor Bivona described several other job sites which violate the ordinance. Mr. Hart said that the Construction Office needs to monitor these sites on a regular basis. Ms. Boland stated that the Engineering Department has added the requirement for a bond as a line item to the as built inspection check list for subdivisions. A Certificate of Occupancy will not be issued unless the appropriate bond, relative to the condition of the road, has been posted. After discussion, Mr. Smith said that a bond should be required prior to the construction of new homes to insure that curbs and roads are not damaged.

Mr. Hart reported that he met with United Water for a tour of their new building. The parking lot will be installed in two to three weeks and will accommodate two stacked rows of 50 cars. Mr. Hart stated that the blasting has concluded at the Shadow Ridge Station and United Water is hoping to get permission to be able to pour the concrete foundation all at once which would involve 70 trucks over a 24 hour period. United Water must provide notice to all of the property owners. The installation of the water line from Pulis Avenue to the water tank is the next step. Mr. Hart said that United Water is adding a transfer switch which will alleviate the need for a portable generator.

- **Emergency Replacement of the Culverts**

Mr. Hart said that the Borough is considering another culvert on Wyandotte Road; however, Ms. Boland stated that inspectors from Boswell Engineering do not believe this is necessary. Cleaning of garbage by the DPW may be all that is needed. The Borough has no choice but to replace the culvert along the path behind the Municipal Complex. Three bids have been received for this work and the Borough is waiting for a funding source and appropriation.

RESOLUTION 162-13 CONSENT AGENDA

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 163-13 Accept Report of Finance Committee
Resolution 164-13 Overpayment of Taxes – Wells Fargo

Resolution 165-13 Authorize Advertisement for Bids – Summit Avenue Repaving
Resolution 166-13 Authorize Advertisement for Bids – Recreation Center Parking and
Basketball Courts

Resolution introduced by Councilperson Kahwaty. Seconded by Councilperson Kelly.
Discussion – None.

Roll Call Vote

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

Resolution 167-13 Authorize Agreement – NWBCUA (Sanitary Sewer System)
**Memorandum of Understanding between Northwest Bergen County Utilities
Authority and the Borough of Franklin Lakes**

RESOLVED, that the Mayor be authorized to sign and the Borough Clerk to witness the
Memorandum of Understanding between the Northwest Bergen County Utilities
Authority and the Borough of Franklin Lakes.

Resolution introduced by Councilperson Kahwaty. Seconded by Councilperson Kelly.
Discussion – None.

Roll Call Vote

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

MAYOR’S REPORT

Mayor Bivona spoke about the 3 on 3 basketball tournament that is scheduled for
Saturday and thanked Dina Robinson for organizing the event.

COMMITTEE/LIAISON REPORTS

PUBLIC SAFETY

- **No Parking on Waterview Drive**

Mayor Bivona stated that there residents in the Waterview Drive area are concerned for
their safety due to unknown people parking in this area. The majority of these people are
fishermen who are using the Franklin Lakes Nature Preserve. Mr. and Mrs. Romano
have asked if there is some way to restrict the parking. The Police Department pointed
out that if this is designated as a no parking zone, neither visitors or landscapers would be
allowed to park on the street. Mayor Bivona said that he understands the neighbor’s
concerns and is looking into some options. There are several easily accessible points to
the Nature Preserve and trail and there may be a way to move the fence closer to the curb

Mr. Hart listed some of the suggestions relative to parking for fishermen that were
offered by Mrs. Romano. Mayor Bivona suggested that they procure a small parking area
adjacent to the park near the church and the golf course. After additional discussion, no
conclusion was reached and Mayor Bivona said that they will defer this issue for now
while continuing to work on a long term solution for this problem.

- **County Dispatch**

Mr. Hart reported that he is not ready to move forward on this matter because he is waiting for more input from the Fire Department and the Ambulance Corps.

- **Ambulance Corps Facilities Use Policy**

Mr. Hart reviewed his memo and said that the maximum occupancy of the building would be approximately 100 people with a \$50 fee charged for the use of the facility. Ambulance members should have priority use of the facility at no cost. In some cases, insurance could be waived but any organization carrying insurance should provide insurance and a Hold Harmless Agreement. The main substantive change is limiting the use to Borough organizations.

After a lengthy discussion, Mayor Bivona commented that more work needs to be done on the policy. Mr. Hart indicated that he would have something drafted on a policy for all Borough buildings for next month.

ADMINISTRATION AND FINANCE

Councilman Kelly said that he had no report for this evening.

PUBLIC WORKS

- **Award Contract DPW Uniforms**

Councilperson Ramsey reported that DPW employees find their polyester uniforms uncomfortable when it is hot. Mr. Hart said they will look into alternatives and the contract is scheduled to be awarded on June 18th.

ENVIRONMENTAL AND COMMUNITY AFFAIRS

- **Sustainable State Funding Source for Open Space and Farmland Preservation**

Mr. Hart recalled that this was discussed last month and the concern was that this was open-ended with no specific state funding source being identified. He reiterated that the League of Municipalities wants municipalities to pass a resolution to support an open space and farmland preservation bill without being specific as to how this bill would be funded. Mr. Hart said that perhaps the municipality could support a more specific bill. Councilmembers felt that this would be viewed as additional taxation and concluded that they would not support a resolution of this type.

- **Support for Highlands Act**

Mr. Hart referred to the presentation on the Highlands Act last month and he described this as a vague, non-specific concept; however, no money is involved. Councilperson Kahwaty pointed out that up to 20% of municipal water comes from the Highlands. Mr. Hart was asked to find out whether this Act has the support of Oakland and the Council will make a decision when they have that information.

- **Dog and Cat Licensing**

Mr. Hart stated that dog and cat licenses encompass two different time periods and have different fees. Betsy McGuire, Registrar of Vital Statistics, is suggesting that both dogs and cats licensing be combined into a one year period with one fee schedule. This would result in a significant increase in the fee for a cat license. Ms. McGuire thinks that this system would be more efficient and administration would be much easier. Councilperson Pedone said that there is already a problem with cat owners not licensing their pets and doubling the fee would only result in less compliance not more. Councilmembers agreed with Councilperson Pedone and were not in favor of this change.

PLANNING AND DEVELOPMENT

Councilperson Kahwaty reported on the recent Planning Board meeting which included the Sabbagh home and enhancement of the Verizon police monopole. Mayor Bivona said that Sabbagh matter continues to be carried and he feels that this has gone on long enough. Mr. Smith said that the Planning Board should set a drop dead, final date for the application to be heard.

- **Property Maintenance Issues**

Mayor Bivona spoke about existing properties in the Borough that are not being maintained. The Construction Official has forwarded a list of three properties in particular. These properties have most likely been in foreclosure or abandoned for some other reason. The present ordinance allows for the property owner to be fined or the town will step in and correct the situation. This type of penalty doesn't always alleviate the problem completely and it is only a matter of time before the problem begins again. Mayor Bivona said that the town has to do something because a health issue exists at some of these locations.

Mr. Smith said that if the circumstance causes a safety of health or safety risk the town can take care of the problem and issue a lien on the property. He said that the town can start by issuing summonses which means the property owner will have to appear in Municipal Court. Mayor Bivona said that a list of problem homes should be created and notice should be served. If there is no response to the summons, the Borough could look into having contractors bid on cleaning up the property. Mr. Smith cautioned that unless there a safety or health issue involved, no one can go onto private property without going into Court first. Mayor Bivona indicated that he is focusing more on aesthetics relative to these properties.

Mr. Hart referred back to the three properties mentioned by Ray Dressler, the Construction Official. He feels that there is almost no chance that these property owners will take care of their properties. Mr. Dressler has recently issued ten violations. Mr. Hart noted that there are property maintenance ordinances that refer to landscaping such as overgrown lawns, hedges and bushes; however, this section of the ordinance does not allow for the town to step in and do the work. He concluded that more active enforcement is needed. Councilperson Ramsey pointed out that there are some commercial buildings that are not being maintained and she asked that Mr. Dressler follow up on those properties as well. She recommended that Mr. Smith and Mr. Dressler work together on a plan.

Mayor Bivona reviewed the procedure and said that the first step is to issue notices and give property owners a time limit for compliance or to give an explanation of why they can't comply. If there is no response, the Borough will have to consider what can be done by law. The objective is to have people maintain their properties to a basic standard.

RECREATION AND PARKS

- **Code of Conduct Ordinance Revisions**

Councilperson Kelly referred to the Code of Conduct Ordinance and Mr. Hart reviewed the provisions. The Parks and Recreation Department has requested two changes. One is a language change for clarification explaining that anyone with a repeat violation will be totally banned. Mr. Hart pointed out that there is no written requirement in the ordinance that directors or coaches be certified under the Rutgers Certification Program. The Department wants to make this a requirement. Mr. Hart stated that this ordinance will be listed on the June 18th agenda.

BOROUGH ADMINISTRATOR'S REPORT

Mr. Hart said that he has no further report this evening.

OLD BUSINESS

There was no old business this evening.

NEW BUSINESS

There was no new business this evening.

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, June 6, 2013 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Personnel – Police Promotions
- Personnel – Sergeants Review
- Personnel – Department of Public Work Issues
- Anticipated Litigation – School Funding Formula
- Litigation – Decker
- Contractual – McCoy Road Property

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 Councilperson Pedone at 9:17 P.M. to enter into Closed Session. Discussion – none.

Roll Call Vote

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

ADJOURNMENT

Motion by Councilperson Kahwaty to adjourn the meeting at 10:00 P.M. Councilperson Pedone seconded the motion.

Roll Call Vote

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

Resolution 163-13

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 \$3,858,380.69 as

shown on the Claims Bill List; \$ 0.00 as shown on the Soil Account Bill List and \$0.00 as shown on the Developers Escrow List.

BE IT FURTHER RESOLVED, that the payroll of May 9, 2013 in the amount of \$251,912.95, the payroll of May 23, 2013 in the amount of \$251,229.03 be hereby ratified and approved.

Resolution 164-13

WHEREAS, the home owner paid the taxes for the 2nd quarter of 2013 and,

WHEREAS, the bank paid again the taxes for the 2nd quarter on this block and lot,

WHEREAS, it leaves an overpayment on the taxes for the 2nd quarter,

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$3,003.00 for the following amount and the same to be charged to current Taxes 2013.

Block 1304 Lot 7.03
542 Kiowa Drive
Franklin Lakes, NJ 07417

All payable to:

Wells Fargo Real Estate Tax Service
Attn: Financial Support
1 Home Campus, MACX2502011
Des Moines, IA 50322-0001

Resolution 165-13

Authorize Advertisement for Bids – Summit Avenue Repaving

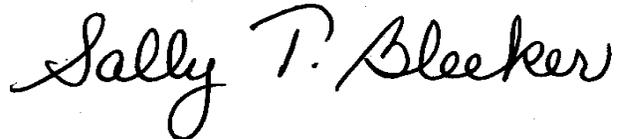
BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the Borough Administrator be authorized to advertise for bids for Summit Avenue Repaving.

Resolution 166-13

Authorize Advertisement for Bids – Recreation Center Parking and Basketball Court

BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the Borough Administrator be authorized to advertise for bids for Recreation Center Parking and Basketball Courts.

Respectfully submitted,



Sally T. Bleeker, Borough Clerk