

**MEETING OF THE MAYOR AND COUNCIL
OCTOBER 1, 2013
7:30 P.M.**

A regular meeting of the Mayor and Council was held on October 1, 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 Lambrix, Councilperson Pedone and Councilperson Ramsey. Also present were Borough Administrator Greg Hart, Borough Attorney Smith and Borough Clerk Sally Bleeker. Council President Lota was absent this evening.

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

APPOINTMENT

- **Robert Lynch – Electrical Inspector**

Mr. Hart stated that the prior electrical inspector resigned resulting in a three week backlog of inspections. The Construction Official has recommended the appointment of Robert Lynch as the Electrical Inspector. Motion to approve the appointment of Robert Lynch was made by Councilperson Pedone, seconded by Councilperson Kelly. Discussion – none.

Roll Call Vote

Ayes: Kahwaty, Kelly, Lambrix, Pedone and Ramsey

Nays:

Absent: Lota

Abstain:

Motion Approved

OPEN TIME FOR PUBLIC COMMENT

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

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.

BOROUGH ENGINEER'S REPORT

- **Status Report**

Eileen Boland, of Boswell Engineering, presented the Status Report and asked if any Councilmembers had questions. Kevin Boswell reported that the floating bridges had been delivered and it appears that gangways will be necessary which will bring the price back to the price quoted by the original dock builder. This price is \$34,141.40. There will be a temporary gangway in place until the permanent gangways are delivered and

installed. Mr. Hart pointed out that an amended resolution has been prepared to include the price of these gangways.

Mr. Boswell recalled that a question was raised previously regarding the Ambulance Corps Building test wells and what needs to be done to resolve the open issues. He recommends that they continue to do the sampling over four additional quarters in order to demonstrate that there has been a tapering off over time. Assuming that the tests come back to show a decline over time, Boswell will submit a request to NJDEP. If there is no decline, they will have to do a further study of the situation. Mr. Boswell submitted a proposal to do this sampling work and Mr. Hart indicated that he will be looking at funding options for this monitoring.

Mr. Boswell referred to the culvert replacement behind the Municipal Building and said that one of the three culverts had been replaced. Work is about to begin on the second culvert tomorrow. Mr. Boswell reported that initial work has begun on the Recreation Center parking lot. The base course is complete which will be followed by grading and installation of the final coat in about ten days to two weeks.

Mayor Bivona questioned the road work on Woodside Avenue. Mr. Boswell stated that the final paving is being coordinated with the ongoing sewer work on Pulis Avenue. Mr. Hart reported that the work on the "S" curve on Colonial Road is scheduled to be done overnight Friday beginning at 10 P.M. and ending Saturday at 6 P.M.

Councilperson Ramsey asked about the site issue at 870 Colonial Road. Mr. Hart stated that the Police Department has determined a site issue exists and the Construction Official has recommended that the brush be cleared at this address. The owner of record is deceased and the municipality will clear the area and put a lien on the property to cover the cost. He explained that this falls under the Borough's Property Maintenance Ordinance. Mayor Bivona said that the Property Maintenance Officer needs to survey properties in the Borough and put the appropriate parties on notice relative to these types of violations. The Shade Tree Department should also be involved. Mr. Boswell pointed out that in many cases this is the job of the County.

Mr. Hart stated that the County Engineer has recommended that the circle at High Mountain Road be made a true traffic circle. The Mayor, several Councilmembers, the DPW Superintendent, the Police Chief, Kevin Boswell and Gary Ascolese from the County visited the site. At the moment, there are two stop signs with a free go through at 40 miles an hour for those travelling on Franklin Lakes Road. A design showing yield areas has been submitted. Councilperson Lambrix said that he favors the true circle but he is concerned with the transition period. Mr. Boswell suggested a warning apparatus that would be comprised of solar powered LED flashing lights to slow traffic. He is also suggesting chevron stripping to channel the traffic and have it slow down. Mayor Bivona said that this plan would preserve the circle and address the key issues of confusion and speed. He added that education, communication and effective signage will be key and he anticipates some negative response because people do not react well to change. Mayor Bivona pointed out that the new plan will force people to slow down and he suggested lowering the speed limit. Councilperson Lambrix indicated that he would support a yield to traffic sign in the circle on all four sides which has also been recommended by the Traffic Officer. Mr. Smith asked about lowering the speed limit between MBS and the Firehouse and Mr. Hart said that this request has been submitted to the County.

Mayor Bivona asked for a consensus to go forward with the plan and Councilmembers were supportive of the plan. Councilperson Lambrix suggested putting signs up at the Market Basket and MBS. Sandwich board signs should be placed at other locations in the Borough in addition to an e-blast. The Borough should be given at least thirty days by the County to communicate this change to the residents. Mayor Bivona asked that Councilmembers submit any additional comments or recommended changes to Mr. Hart.

Ms. Bleeker said that a resident has notified the Borough about a "sidewalk to nowhere" across from Iron Latch Road in the area of South Plaza. The sidewalk needs to be repaired or removed and Councilperson Ramsey said that she would be in touch with resident about the situation.

SURPLUS AND FUND BALANCE POLICY

William Pike, Borough CFO, said that he wrote this policy paper to provide the Mayor and Council with a formal document outlining the policies being used relative to balances and surpluses during the last three budget cycles. He noted two key elements including the Target Fund Balance Policy which consists of information relative to fund balance and how it affects bond ratings. The information also includes a historical table demonstrating the percentage of the fund balance for the prior year's budget. Mr. Pike is proposing that the percentage be kept between 14% and 15% which is what it has been in recent years.

Mr. Pike stated that the other key element is the Regeneration Policy. This means that the Borough must be able to regenerate any fund balance that is utilized in the same year. There is a subsection which refers to any type of special project. An example of a special project was the pay down from surplus of the preferred pension liability which was done to benefit the Borough because of interest rates.

After some discussion, Mayor Bivona indicated that he was concerned about being in breach of policy. Mr. Pike said that basic parameters must be set relative to fund balances and a resolution could be put in place for a specific reason.

Mr. Pike stated that the policy could be amended going forward provided there are valid reasons. He added that this is a guide for operating expenses which is particularly important at the beginning of the year. It is important to monitor this policy from year to year, in order to analyze the situation and change the percentages as necessary. Mayor Bivona pointed out that debt is another consideration that is being paid down slowly in the Borough.

Councilperson Lambrix asked for the benefits of adopting a formal surplus policy. Mr. Pike explained that the question as to whether or not the Borough has adopted a formal Surplus Policy is a question included under Best Practices Checklist. He noted that rating agencies and investment companies are concerned about the Surplus Policy. A formal policy makes everyone stop and think about that policy as well as any specific reasons for making changes to the policy. Mayor Bivona stressed that this is an important issue from a rating agency standpoint.

Mr. Smith questioned whether or not a policy would make any difference to the rating agencies. Mayor Bivona said that rating agencies have requirements relative to adopted policy stating that equity won't go beyond a certain level or percentage. Mr. Smith stated that Mr. Lambrix is questioning the reason for a resolution that can be changed at any time. Mr. Pike commented that this type of policy defines fiscal discipline for the benefit of the Borough and its finances and a rating agency looks for credibility and stability in the municipality for investment purposes.

After further discussion, the Council decided to adopt the resolution by the Finance Committee on October 15th.

BEST PRACTICES CHECKLIST

Mr. Pike summarized the Best Practices Checklist and Mr. Hart said that the Clerk must certify that the Mayor and Council have discussed the Checklist at a meeting. The Council unanimously agreed that there are no glaring problems and approval was in order.

Resolution 244-13

CONSENT AGENDA RESOLUTION

BE IT RESOLVED that the following resolutions, placed on this agenda by consent, require no discussion and the same having been previously reviewed by each Governing Body member, be and are hereby adopted in their entirety by the Mayor and Council of

the Borough of Franklin Lakes. Full text of all consent agenda resolution can be found after the Adjournment.

- Resolution 245-13 Accept Report of Finance Committee
- Resolution 246-13 Tax Refund – 563 Colonial Road
- Resolution 247-13 Tax Refund – 883 Cherokee Lane
- Resolution 248-13 Tax Refund – 337 Briarly Drive
- Resolution 249-13 Tax Refund – 879 Scioto Drive
- Resolution 250-13 Tax Refund – 686 Ginger Lane
- Resolution 251-13 Community Development Block Grant – Handicapped Accessible Doors at Bender Court Firehouse
- Resolution 252-13 DOT Grant Huron Road
- Resolution 253-13 Tax Refund – 585 Navaho Trail Drive

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

Roll Call Vote

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

RESOLUTIONS

Resolution 254-13

Award Contract – Nature Preserve Floating Bridges – Amended

WHEREAS, by resolution adopted on June 18, 2013, the Mayor and Council awarded a contract for the construction and installation of two floating bridges at the Franklin Lakes Nature Preserve to KLC-Dock & Waterfront, 863 Mayapple Glen, Dawsonville, Georgia 30534, for the proposal amount of \$25,925; and,

WHEREAS, the Borough Engineer has recommended that the contract be amended to include four gangways at a total cost of \$8,216.40, for an amended contract total amount of \$34,141.40;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that the contract for the construction and installation of two floating bridges with KLC-Dock & Waterfront at the Franklin Lakes Nature Preserve be and is hereby amended to include four gangways, for an amended contract total amount of \$34,141.40; and,

BE IT FINALLY RESOLVED that a Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there is a sufficient appropriation to fund the purchase authorized in this resolution as an express and mandatory condition of the award of this contract.

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

Roll Call Vote

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

MAYOR’S REPORT

Mayor Bivona reported that Paddle Day at the Reservoir was a great success and he thanked Ramsey Outdoor Store for their contribution to the day. He would like the Council to consider opening up the Reservoir for car top boating on a future agenda.

Mayor Bivona spoke regarding the recent Town Fair and Biathlon at the Indian Trail Club. He said that 300 people took part in a recent half marathon and pep rally. He reported that he has received quite a few accolades recently on the state of the town recognizing the Borough's roads, fields, parks, ramps, plantings and other public areas. He thanked everybody for all of the improvements that have taken place.

Mayor Bivona said that there have been continuing discussions on the golf course ordinance which is scheduled for October 15th. He recalled that a contract had been awarded to the Alpert Group for development of special needs housing and they are working on an outline of the process. There is a lot of work ahead and the developer has indicated flexibility in design as well as other features.

Mayor Bivona suggested that the Chairpersons of the various Boards should be scheduled to give brief presentations at upcoming Work Sessions and he will make arrangements for these appearances. He asked Council Members for their continuing support for Oktoberfest.

COMMITTEE/LIAISON REPORTS

PUBLIC WORKS

Councilperson Ramsey echoed Mayor Bivona's recognition of the incredible amount of work that has been done recently in the Borough by the DPW. The DPW will be replacing some of the windows in the Police Department building. Councilperson Ramsey said the DPW would like to add one employee.

ENVIRONMENTAL & COMMUNITY AFFAIRS

Councilperson Pedone thanked Ann Swist for her work on the Town Fair.

PLANNING AND DEVELOPMENT

Councilperson Kahwaty reported on the last Planning Board Meeting relative to the Indian Trail Club reverse subdivision. He added that the Sabbah issue is ongoing.

Amendment to Fence Ordinance

Councilperson Kahwaty stated that the Zoning Official, Raymond Dressler, is recommending a change to the ordinance regarding fences recommending that opaque fences shall not be located in any required building setback areas in certain zones except for those fences located on property facing Route 208 or Route 287 or any non-residential use. Mr. Hart said that he will have this ordinance amendment ready for October 15th.

Councilperson Pedone mentioned that the Zoning Official should look at a chain link fence on a property located on High Mountain Road just after Summit Avenue. Mr. Hart will follow up on this.

Special Needs Housing Redevelopment Plan

Councilperson Kahwaty referred to a Redevelopment Plan submitted by the Planner. This Redevelopment Plan is part of the necessary criteria for the 9% tax credit program and the Alpert Group has indicated that they will cover the cost involved. Mayor Bivona said that the Council and the Planning Board has to approve the plan and layout for the property. The Alpert Group will get points that will make it easier to get funding if the plan is authorized by the Mayor and Council. Mayor Bivona explained that the Alpert Group will put up the money and the Borough's financial obligation is the contribution of the property.

Rent Control Ordinance

Mr. Smith has written an opinion dated September 30, 2013. He referred to the question of whether it was necessary to the health, safety and welfare of Franklin Lakes' residents and added that there are exemptions that may apply. Mayor Bivona suggested two separate meetings of the owners and residents from Horizons. The Mayor will follow up on this.

RECREATION AND PARKS

Councilperson Kelly reported that the department has been running smoothly. The parents, athletes and coaches appear satisfied that their needs are being addressed which is a result of the commitment of the new Recreation Director. The recent kick off rally was well done and well received.

Mr. Hart said that it is necessary to charge a fee for the Girls Traveling Cheerleading team. This fee must be established by ordinance which will be listed on the October 15th meeting agenda.

PUBLIC SAFETY

Councilperson Ramsey said that the DPW should be notified about the location of the recycling container and that the position of recycling coordinator is going to be reviewed.

Bow and Arrow Usage

Councilperson Ramsey noted that the Police Chief is recommending that bows and arrows not be utilized within 150 feet of dwellings or roadway. This is also recommended by the New Jersey Division of Fish and Wildlife. The Borough's ordinance would have to be amended to reflect this addition.

Police Vehicle

Councilperson Ramsey disagreed with the Police Chief's recommendation to change the colors of patrol cars to black and white. The Police Chief's memo of September 18, 2013 outlines various reasons for this change. Mayor Bivona commented that the Chief should come to the Council for approval of a design before another car is ordered.

Police Car Security Cameras

Mr. Hart stated that money has been donated to cover the cost of the security cameras for police cars and a resolution will be prepared for October 15th.

Traffic Ordinance Amendments

Councilperson Ramsey asked that the Council move quickly on the recommendation of the Traffic Officer. He is recommending against any stopping or standing in the area of Franklin Avenue Middle School. Mr. Hart said that this ordinance will be introduced on October 15th.

ADMINISTRATION AND FINANCE

Councilperson Lambrix announced that the Finance Committee will begin regular monthly meetings.

BOROUGH ADMINISTRATOR'S REPORT

Mr. Hart reported that he has regular monthly meetings with the Police Chief and the Construction Official on performance management. He reported that a Sewer Oversight Committee has been established to meet monthly in order to review all the issues pertaining to the sewers and the process involved.

OLD BUSINESS

Councilperson Lambrix questioned the status of the landscaper encroachment on Lawlins Road. Mr. Hart said that boulders were donated and placed on the property line by the DPW resulting in no further encroachment.

NEW BUSINESS

No one had any new business to discuss 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 Tuesday, October 1, 2013 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Tax Appeal – Gross
- Tax Appeal – Ordway
- Tax Appeal – Shtemberg
- Contractual – Manchester Utilities Authority Easement
- Contractual – Nature Preserve

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 Lambrix at 9:30 P.M. to enter into Closed Session. Discussion – none.

Roll Call Vote

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

ADJOURNMENT

Motion by Councilperson Pedone to adjourn the meeting at 10:05 P.M. Councilmember Lambrix seconded the motion.

Roll Call Vote

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

Resolution 245-13

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 \$3,888,864.68 as

shown on the Claims Bill List; \$5,796.00 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 September 12, 2013 in the amount of \$241,903.79, the payroll of September 26, 2013 in the amount of \$248,607.31 be hereby ratified and approved.

Resolution 246-13

WHEREAS, overpayments were received on several accounts during 3rd quarter 2013 and,

WHEREAS, Corelogic, tax service company for Valley National Bank is seeking a refund in order to credit the appropriate lender/owner and,

NOW, THEREFORE, BE IT RESOLVED that the Treasurer is authorized to issue a check in the amount listed below and to be current year's taxes.

<u>Block</u>	<u>Lot</u>	<u>Duplicate Payment</u>	<u>Refund</u>
1417.01	8	\$2,065.42	\$2,065.42

Former homeowner: Diaz, 563 Colonial Road
Corelogic RTS
One Corelogic Drive
Attention: Tax Refunds (DFW1-3)
Westlake, TX 76262

Resolution 247-13

WHEREAS, overpayments were received for 3rd quarter 2013 and,

WHEREAS, Corelogic, a tax service company is seeking a refund in order to credit the appropriate lender/owner,

NOW, THEREFORE, BE IT RESOLVED that the Treasurer is authorized to issue a check in the amount listed below and to be charged against current year's taxes.

<u>Block</u>	<u>Lot</u>	<u>Duplicate Payment</u>	<u>Refund</u>
2101.10	16	\$4,478.81	\$4,478.81

Homeowner: Taylor, 883 Cherokee Lane

Corelogic RTS
One Corelogic Drive
Attention: Tax Attention: Tax Refunds (DFW 1-3)
Westlake, TX 76262

Resolution 248-13

WHEREAS, overpayments were received on several accounts during 3rd quarter 2013 and,

WHEREAS, Corelogic, tax service company for PHH Mortgage is seeking refund a in order to credit the appropriate lender/owner and,

NOW, THEREFORE, BE IT RESOLVED that the Treasurer is authorized to issue a check in the amount listed below and to be current year's taxes.

<u>Block</u>	<u>Lot</u>	<u>Duplicate Payment</u>	<u>Refund</u>
2602.01	8	\$3,302.74	\$3,302.74

Former homeowner: Tulp, 337 Briarly Drive

Corelogic RTS
One Corelogic Drive
Attention: Tax Refunds (DFW1-3)
Westlake, TX 76262

Resolution 249-13

WHEREAS, overpayments were received on several accounts during 3rd quarter 2013 and,

WHEREAS, Corelogic, tax service company for Valley National Bank paid 3rd quarter taxes, as well as the homeowner, which has resulted in duplicate payment for the 3rd quarter installment, homeowner provided canceled check as proof of payment, **NOW, THEREFORE, BE IT RESOLVED** that the Treasurer is authorized to issue a check in the amount listed below and to be charged against current year's taxes.

<u>Block</u>	<u>Lot</u>	<u>Duplicate Payment</u>	<u>Refund</u>
2101.08	26	\$4,610.73	\$4,610.73

Owner: Hufnagel,
Eleanor Hufnagel
879 Scioto Drive
Franklin Lakes, NJ 07417

Resolution 250-13

WHEREAS, overpayments were received on several accounts during 3rd quarter 2013 and,

WHEREAS, Corelogic, tax service company for Chase Bank is seeking refund a in order to credit the appropriate lender/owner and,

NOW, THEREFORE, BE IT RESOLVED that the Treasurer is authorized to issue a check in the amount listed below and to be current year's taxes.

<u>Block</u>	<u>Lot</u>	<u>Duplicate Payment</u>	<u>Refund</u>
2309.02	2.04	\$4,969.60	\$4,969.60

Homeowner: Nicholas Stamos, 686 Ginger Lane
Corelogic RTS
One Corelogic Drive
Attention: Tax Refunds (DFW1-3)
Westlake, TX 76262

Resolution 251-13

BE IT RESOLVED, that the Mayor and Council of the Borough of Franklin Lakes wishes to enter into a Grant Agreement with the County of Bergen of the purpose of using \$33,000 in 2013/2014 Community Development Block for Handicapped Accessible doors at the Bender Court Firehouse

BE IT FURTHER RESOLVED, that the Mayor and Council hereby authorizes Mayor Frank Bivona to be a signatory to aforesaid Grant Agreement; and

BE IT FURTHER RESOLVED, that the Mayor and Council hereby authorizes Gregory C. Hart, Borough Administrator to sign all county vouchers submitted in connection with the aforesaid project; and

BE IT FURTHER RESOLVED, that the Mayor and Council recognizes that the Borough of Franklin Lakes is liable for any funds not spent in accordance with the Grant Agreement; and that the liability of the Mayor and Council is in accordance with HUD requirements.

Resolution 252-13

Approval to submit a grant application and execute a grant agreement with the New Jersey Department of Transportation for the Huron Road project

WHEREAS, the Franklin Lakes Borough is requesting funding from the New Jersey Department of Transportation Municipal Aid Program.

NOW, THEREFORE, BE IT RESOLVED that Council of the Franklin Lakes Borough formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2014-Franklin Lakes Borough-00028 to the New Jersey Department of Transportation on behalf of the Franklin Lakes Borough.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Franklin Lakes Borough and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Resolution 253-13

WHEREAS, the property listed below filed an assessment appeal with the Tax Court of New Jersey and,

WHEREAS, the Tax Court reduced their assessment therefore reducing the property taxes previously paid for the year 2012,

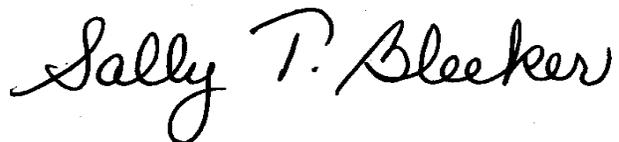
WHEREAS, under the N.J.S.A. 54:3-27.2, in the event a taxpayer is successful in an appeal from a reduced assessment, the taxing district shall refund any excess taxes paid within 60 days of judgment. Thomas Olson is attorney for plaintiff, and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer is authorized to issue a check in the amount listed below and to be charged against Tax Appeals.

<u>Block</u>	<u>Lot</u>	<u>Assessment Reduction</u>	<u>Refund</u>
3103.01	6	1,095,800.00	\$1,471.68

Thomas Olson, Esq., McKirdy and Riskin, P.C.
P.O. 2379
Morristown, NJ 07962-2379

Respectfully submitted,



Sally T. Bleeker, Borough Clerk