

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

A regular meeting of the Mayor and Council was held on November 7, 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, Council President Lota, 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.

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

PRESENTATION OF EAGLE SCOUT STEVEN MICCIO

- **VFW Memorial**

Mr. Hart stated that the Eagle Scout, Steven Miccio, was not able to attend this meeting and will be at next week's meeting. Mr. Miccio will describe his project which is a large letter "V" proposed for display at the VFW building.

OPEN TIME FOR PUBLIC COMMENT

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

Jack Keyser, III, 230 Tanglewood Court, said that he is a lifelong resident of Franklin Lakes who worked at the High Mountain Golf Course. He asked that the Council deny the request by the Golf Course to change the zoning at this location. The one acre zoning is part of the integrity of the Borough and any change will negatively impact property values.

Jack Keyser, Jr., 230 Tanglewood Court, said that his concern with the Toll Brothers, the potential developers of the site, is that it is all about profit. They are not concerned about the community and they want to cram in as many houses as they can. Mr. Keyser gave numerous examples relative to the Toll Brothers negative reputation and asked that the one acre zoning be respected.

Maryann Van Blarcom, Terhune Terrace, Wyckoff, said that some time ago a former pig farm in Wyckoff was turned into the McFaul Wildlife Center. This happened thanks to visionaries in the town and she asked the Council to keep that in mind when considering what is about to happen in Franklin Lakes.

Gary Lockwood, 731 Lawlins Road, asked for more information on this proposed development and he questioned whether or not an impact study has been done relative to the Golf Course.

Mayor Bivona responded stating that the golf course property consists of 131 acres all of which is located in Franklin Lakes. There was a lengthy meeting last Tuesday relative to

the golf course. Mayor Bivona stressed that this is only a proposal at this time and no agreements have been made. The public hearing process is only just beginning and at some point during the meeting this evening the Council will discuss a plan and consider alternatives. They will also hear from legal, planning and engineering experts. The Council may decide to list the plan for introduction at the next Council meeting and he added that the proposal must be reviewed by the Planning Board. Mayor Bivona noted that the developer is within their rights to construct 100 homes on this property; however, the 275 units that are proposed would require a change in the zoning ordinance. There is a multi-stepped process that must take place before a new ordinance could be adopted. Mayor Bivona anticipates at least two meetings before the Mayor and Council and there will be time allotted for comments from the public.

Mayor Bivona said that he favors keeping the golf course but the owners made a decision not to renew the lease and sell the property. The only decision the Council has in this matter is whether or not to continue with the present zoning. The only reason to consider raising the allowable number of units on this property would be because of the potential of the development to grow even larger than what is being proposed.

Peter Moska, Wyckoff, said that he is a member of the golf course which is a great source of enjoyment for the surrounding area. He considers himself part of the High Mountain area and he is disappointed at the disappearance of green space in the area as well as increased traffic. He questioned the estimates provided relative to the number of school children that would result from the development as well as added strain on the police and fire departments. Mr. Moska was concerned about whether the economy could support this development or would the area become a dustbowl if the economy went into another recession. The proposal before the Board doesn't fit the definition of what is good for the town overall.

Juliana Mazzuoco, 608 Covington Place, stated that the town seems unable to cope with the problems it faces at the present time and she can't imagine what the future would hold if this development goes forward. The town will become a condominium village and she asked that any changes to the zoning ordinance be denied.

Rick Harrison, 676 High Mountain Road, asked why Mayor Bivona hasn't asked for feedback from residents relative to this proposal which will have a major impact on the town. He learned that negotiations have been going on for a year and a half. Mayor Bivona said that this topic was discussed at the "Meet the Mayor" meeting in May of 2012. He has been talking about it since he learned that the Gallenkamps and the McBrides had sold the property and they have been working with the developers in an attempt to reduce the number of units.

Susan Miller, 116 Delaware Lane, said that her major concern is road access to the property and safety. She asked that the Council consider prohibiting any new roads from coming through existing neighborhoods. She suggested buffers for any new development and pointed out that property values would decline for those homeowners who once had homes on the golf course.

Laurie Burnette, 860 Woodfield Road, questioned the current requirements for affordable housing. Mayor Bivona stated that this is still under discussion in the Courts; however, the Borough has significant obligations for affordable housing that have not been met. A legal expert will explain the process this later this evening.

Michael Grella, 729 Jane Drive, asked why three apartment buildings are being constructed on Ewing Avenue and not integrated through this development. He pointed out that in the past developers have paid fees to COAH to avoid the obligation to provide low income housing units in their developments. Mr. Smith, Borough Attorney, said that the law has changed and this practice is no longer permitted. The town is using some of the COAH monies paid by developers to build special needs housing on McCoy Road.

Mary Keyser, 230 Tanglewood Court, asked that the Council stand firm and adhere to the existing zoning laws. Mayor Bivona again stated that this is not Borough owned property and the two owners have entered into a private transaction with Toll Brothers. They are

subject to the zoning laws for the 31 acres; however, as stated earlier this is all about money. The commercial value of this property for use as a golf course is small and this property becomes much more valuable as a 275 unit subdivision. Zoning would allow 100 homes and the Council has to consider a pending legal threat if it is not prepared to consider a compromise.

Maryann Van Blarcom, Wyckoff, spoke about the Russell Farms property in Wyckoff which was sold for a housing development about eight years ago. Soon after the sale, the real estate market began to decline and a group of concerned citizens worked hard to persuade the town of Wyckoff to purchase that property. The town bought the property and the area is now a beautiful walking park.

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 Kelly. Discussion – none.

BOROUGH ENGINEER'S REPORT

- **Status Report**

Kevin Boswell and Eileen Boland, of Boswell Engineering, came forward. Mr. Boswell reported that Boswell has been researching a drainage problem at the Keyser property which is 230 Tanglewood Court. There appears to be no major obstruction with the pipes downstream and he believes there could be a downstream capacity problem in the drainage system. He recommended a preliminary drainage study be done to determine whether or not the piping system is adequate in this area. He will get back to the Council with a cost for the study. Mr. Hart said that Tanglewood Court becomes a lake in flash flood situations and he stressed the importance of moving ahead with the study.

Ms. Boland spoke about six permit applications recently received for road openings. Borough ordinance does not allow the engineer to approve road opening permits between November 1, and March 30 due to winter weather and road opening permits can only be approved by the Mayor and Council during this time. There is one permit being requested for a road which has been paved within the last three years. This case also requires approval of the Mayor and Council. Ms. Boland indicated that the engineer has no issues with these permits because the weather has been good. She asked that the Mayor and Council approve the permit for Crescent Drive which would allow a gas line for a generator. This is a health and safety issue for an elderly resident. Mayor Bivona said that these items are listed on the consent agenda.

Mayor Bivona stated that many residents have complained about the paving work on Pulis Avenue. Mr. Hart said he had spoken to Tom Connolly from Bergen County and an official from North West Bergen Utility Authority (NWBUA). The County has given written approval for the paving of Pulis Avenue to Phelps Road and they are asking for permission to pave Susquehanna Road at the same time. Councilperson Ramsey asked that NWBUA be notified that the contractor who had performed this work be prohibited from working in Franklin Lakes in the future. She said that both the paving work and the contractor have been burdensome to residents and a drain on the police department.

Mr. Hart referred to the Primitive Trail Network and asked about the possibility of going forward with other work in this area that doesn't require permits. This is because of the six month permit review process by the DEP for the bridge construction. Mr. Hart was concerned about losing grant money if work isn't ongoing. Mr. Boswell agreed and added that the estimate for bridge construction was based on a 25 foot span; however, it appears now that a 38 foot span will actually be needed. He needs to know if this added expense will negatively affect this project.

Councilperson Ramsey inquired about ADA accessible doors for the Fire House. There is grant money available and the Borough needs to move forward since this is a polling place. Mr. Boswell said that he would contact the two door manufacturers. Mr. Hart commented that the Police Headquarters also needs handicapped accessible doors and a resolution is needed for the CD grant.

Mr. Hart reported that Franklin Lakes will be receiving in excess of \$29,000 for the trail at the Nature Preserve. He said that half of this project has been fully funded through matching grants from Bergen County Open Space monies.

Resolution 271-13
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.

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| Resolution 272-13 | Accept Report of Finance Committee |
| Resolution 273-13 | Chapter 159 – Drunk Driving Enforcement Fund |
| Resolution 274-13 | Chapter 159 – Private Donation – D&J Altana |
| Resolution 275-13 | Award State Contract – Police Vehicle |
| Resolution 276-13 | Approval of Road Openings |
| Resolution 277-13 | Award Contract – Borough Calendar |
| Resolution 278-13 | Tax Refund – Harold |
| Resolution 279-13 | Tax Refund – Godino |
| Resolution 280-13 | Tax Refund – Abrams, Paul (Trste) |
| Resolution 281-13 | Tax Refund – Abrams, Sara Jane |
| Resolution 282-13 | Cancel Grant Receivable Balances and Unexpended Budget
Appropriation Balances |

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

RESOLUTIONS
Resolution 283-13
Award Contract – Snow Plowing

WHEREAS, the Borough of Franklin Lakes advertised for and opened bids on October 24, 2013 for snowplowing services; and,

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

WHEREAS, two snowplowing contractors submitted bids; and,

WHEREAS, the bid submitted by the lowest bidder, Stephen J. Miller Enterprises Inc., 28 Ramapo Valley Road, Mahwah, New Jersey 07430, does not comply with the bid specifications as it contains exceptions which are unacceptable, as follows:

- The bid submission contains a notation that provides that option periods to extend the contract would require acceptance by the contractor, which is contrary to the bid specifications.
- The bid submission contains a notation that “Trucks contracted move every snow storm. No exceptions.” This exception is inconsistent with the bid specifications.

WHEREAS, the DPW Superintendent and Borough Administrator have reviewed the bid submitted by the other bidder, Cipriano Enterprises Inc., PO Box 796, Franklin Lakes, New Jersey 07417, and have determined that the bid submission meet the specifications;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey that the bid for snowplowing services submitted by Stephen J. Miller Enterprises Inc. be and is hereby disqualified for failure to comply with bid specifications; and,

BE IT FURTHER RESOLVED that the contract for snowplowing services be and is hereby awarded to Cipriano Enterprises Inc. for the 2013/2014 plowing season, with a Borough option for two additional one season periods in the amount of \$140 per truck per hour, \$150 per hour for Rubber Tired Loader, and \$98 per hour Standby Rate, in accordance with the bid specifications; and,

BE IT FURTHER RESOLVED that a Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there are sufficient appropriations to fund the purchases authorized in this resolution as an express and mandatory condition of the award of this contract; and,

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to sign the contract documents necessary to effectuate the award of this contract; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to Stephen J. Miller Enterprises Inc., Cipriano Enterprises Inc. and the Superintendent of Public Works.

Mr. Hart explained that this resolution would reject the bid of the low bidder due to a failure to comply with specifications. The bid award is recommended to Cipriano Enterprises at \$140.00 per truck per hour.

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 had no report this evening.

COMMITTEE/LIAISON REPORTS

ADMINISTRATION AND FINANCE

Unclaimed Funds

Mr. Hart said that they have received notice from the State that there are a number of unclaimed funds due to the Borough in the amount of \$3,723.00. A resolution is required which will designate an individual to claim these funds.

PUBLIC WORKS

Community Energy Aggregation

Mr. Hart explained that, if approved, the Borough would enroll in a program to purchase natural gas or electricity on behalf of its residents through a proposal process. This is an aggregation concept and Franklin Lakes could join with other municipalities to combine purchasing power. Mr. Hart stated that other towns have done this and have realized savings of between 10% to 20%. The WOLF towns are considering this on a joint basis and further information is contained in the packets. Mr. Hart said that he would report back to the Council on this situation.

Electrician Proposals

Mr. Hart stated that he was hoping to have a recommendation on an electrician this evening but he still needs to meet with the second lowest bidder. He will report back to the Mayor and Council at the next meeting.

Councilperson Ramsey asked about the Borough Building Audit with PSE&G. Mr. Hart said that he has provided PSE&G with all the information including bills and prior energy audit information and he is waiting for their response.

Mr. Hart spoke about the problem with the garbage dumpster at the DPW. He recalled that the Borough made a decision to place a dumpster at the DPW for residents who wanted to dump their garbage more frequently when they decided to go to once a week garbage pick-up in the winter. It turns out that people are abusing this privilege and contractors are dumping construction debris in the dumpster. The dumpster has to be emptied at a rate which is very costly to the Borough and the DPW Committee is recommending that the dumpster be discontinued.

ENVIRONMENTAL & COMMUNITY AFFAIRS

Councilperson Pedone stated that the Shade Tree Commission has identified every tree on public land that was in danger of falling. A contractor has been hired to take the trees down and the work is ongoing. Councilperson Pedone thanked them for their efforts.

Councilperson Pedone reported that there is some confusion over handicapped parking spots at Fire Headquarters. Denis Knuble explained that the areas that are not marked are locations used to discharge and pick up in the mornings and afternoons.

Councilman Pedone thanked Laurie Burnette and her staff for saving the life of a reporter from the Villadom Times at a recent Mayors Meeting.

PLANNING AND DEVELOPMENT

GOLF COURSE DEVELOPMENT

Special Needs Housing Redevelopment Plan

Proposed Plan

Proposed Mediation Agreement

Mayor Bivona introduced Jeff Surenian, the Affordable Housing Attorney for the Borough. Mr. Surenian explained that he has been involved in this aspect of the law since 1983 and his firm only represents municipalities in affordable housing matters. He said that Franklin Lakes has a substantial obligation of 348 units from the first and second housing cycle and the Council of Affordable Housing (COAH) is in the process of formulating the third cycle. The town has submitted a plan stating that it only has enough land available for 109 units; however, the Gallenkamps have now come forward with 131 acres that could be developed for affordable housing. This creates risks and issues for the town and he said that the more density a developer can get the more money they make. Mr. Surenian said that his job is to limit the risk to the municipality by determining the municipality's rights and the best ways to protect these municipalities.

Mr. Surenian said that he is working on an agreement that would establish a process that would give the public the ability to comment. The town would sign an agreement that would allow an ordinance to be introduced which would be followed by hearings on the

ordinance and required changes to the Master Plan. Both the Mayor and Council and the Planning Board would have the opportunity of hearing from the public. At the conclusion of the hearings the documents would be adopted, the agreement would be perfected and risk would be limited. Mr. Surenian stated that the agreement would cap the number of units at 220 with the developer being obligated to set aside 55 units as affordable units. The agreement has an option which would give the town a six month window from the time the development application is filed to ask for money in lieu of the affordable units. This aspect has been built into the agreement; however, the option is only feasible if the town has a method of spending the money. Mr. Surenian commented that Toll Brothers could walk away from their option to buy the property. The agreement would remain in place even if a successor were to come in and decide to work differently.

Mr. Surenian stated that the developer has filed an objection and under this agreement, the developer relinquishes all rights to pursue any further objections and would relinquish the right to pursue a builder's remedy. If this agreement is successfully defended and upheld against a developer wanting more on this site, the town could avoid the risk of the 1,000 unit scenario. Mr. Surenian stated that a concept plan will be part of the hearings and will be available to the public in order for residents to review the plan and provide feedback to the Mayor and Council and the Planning Board. The developer will be obligated to file development applications substantially consistent with the concept plan which provides for a measure of predictability.

Mr. Hart questioned the Borough's affordable housing obligation. Mr. Surenian stated that COAH established the first cycle or set of rules in 1986, followed by a second set of rules in 1994. This means that every municipality was assigned an obligation, however, cycle three obligations were invalidated. After a challenge to COAH was heard by the Supreme Court in September, the Court decided that COAH needed to establish obligations to municipalities in the future in the same way as was done in the past. This means that the Borough's obligations for Cycle One and Cycle Two are known, however, obligations for Cycle Three remains unknown. A number of 348 is the obligation for Cycle One but Franklin Lakes took the position that it only had enough land available for 109 units. The Court agreed to this number but now the golf course property is available for development which means that the plan will need to be revised. Mr. Surenian anticipates Cycle Three obligations to be colossal because the Supreme Court told COAH to use the formulas of the past to assign numbers of affordable housing units. He would expect developers to put more pressure on municipalities to address their unmet affordable housing requirements. Mr. Smith stated that the number of affordable housing units could range between 2,000 and 2,800, assuming a density of six to eight units per acre.

Councilperson Pedone asked Mr. Surenian to explain how the COAH law has affected towns throughout the State. Mr. Surenian stated that the Court will assign a Master to a town and the Master provide recommendations as to the obligation and the number of units to be constructed. He noted that the town is responsible to pay the Master for his time and he added that if it is determined that the developer is entitled to a Builder's Remedy the town loses leverage.

Councilperson Kelly asked what would happen if the town could not meet Cycle Three requirements. Mr. Surenian explained that there would be increased pressure on the town to develop at a higher density to achieve as much of the obligation as is possible. Mr. Smith added that if the obligation is not satisfied, the zoning could become unenforceable. This could result in builder filing a Builder's Remedy lawsuit and control would be turned over to a decision making Judge who would appoint a Master. This means that all control of the governing body would be forfeited. Mr. Smith commented that COAH is in a shambles and this is the only reason that there haven't been issues yet. COAH is in the process of regrouping and reassigning numbers leaving municipalities vulnerable.

Mr. Hart explained that Mr. Surenian is working on a proposed Mediation Agreement which would obligate the Mayor and Council to go through the process of introducing the ordinance. He explained again that this would be followed by hearings on the Master Plan by the Planning Board, and the adoption of the ordinance after public hearings at the

municipal stage. If the ordinance is rejected by either the Planning Board or the Mayor and Council, the Borough would be at odds with the developer. Mayor Bivona asked about the protections afforded by this agreement and Mr. Surenian stated that the application will be frozen and Borough will not be forced into immediate litigation and conflict with COAH. Mr. Smith commented that nothing will happen unless both sides are happy and the developer acknowledges that they cannot compel the Borough to rezone the site or to make changes to the Master Plan. When the Council introduces the ordinance it doesn't mean that the Council approves the ordinance it only means that the process has begun to move forward.

Mayor Bivona introduced Beth McManus, the Borough Planner, who has worked closely on affordable housing matters for many years. She said that the Borough has been working with the developer to formulate a concept plan and mediation agreement that everyone feels comfortable with in order to move forward. This must be a development that minimizes the negative impact on the surrounding community. The site must be developed to minimize traffic impact and visual impact while trying to maintain the character of this part of the Borough. The proposal calls for 60 single family homes along the perimeter of the site in addition to another 220 carriage homes or townhouse type homes. This includes 55 affordable units, based on a 20% set aside, to be located along the intersection of the site on Ewing Avenue. Buffering will be required from the street and also between the single family units, the townhouses and the multi-family units.

Regarding environmental impact, Ms. McManus said that there are streams running throughout the property which will be retained and protected as part of the development. Required buffers and setbacks pertaining to wetlands will be maintained as well as trees along the perimeter. The site includes a small amount of steep slopes. Ms. McManus stated that a club house is proposed for the property with tennis courts. She explained the process involved in calculating the amount of school children generated by this development and she anticipates a total of 122 public school children as a result of this development.

Kevin Boswell, of Boswell Engineering, introduced himself and stated that both this Council and prior Councils have done an excellent job of anticipating future developments such as these. He noted that about eight years ago the Council took the initiative to purchase the Haledon Reservoir in order to preserve 148 acres as open space. Mr. Boswell said that the area in question lies within the service area of the North West Bergen Utility Authority and can be serviced by sewers. It can also be serviced by United Water and it is clear that this area can support high density housing. Mr. Boswell reiterated that this is about a developer maximizing its return and the key is to establish a defensible position for the Borough. He described the proposed lot size and impervious coverage and stressed the importance of parody with both Franklin Lakes and Wyckoff which borders the site. The maximum building height for the single family homes and the carriage homes is 40 feet. Mr. Boswell said that roadways will be 30 feet in width with parking on both sides except for cul de sac areas where parking is allowable only on one side of the road. Within the multi-family area, off street parking requirements must be satisfied so that the adjacent single family roadway becomes overflow parking. The available parking must be consistent with single family homes in other areas of the Borough. Mr. Boswell used Mountain Shadows as an example of the type of density that would exist in the multi-family areas at this location.

Mayor Bivona said that one of the biggest concerns is traffic flow and access from Franklin Lake Road near the High School. He asked Mr. Boswell to have a traffic expert review the impact of this development. Councilperson Ramsey pointed out that the County will have a large impact on the location of access roads due to the proximity to Ewing Avenue and Franklin Lake Road. Mr. Boswell said that part of the initial review could be that these roads will have to meet County standards for traffic.

Councilperson Ramsey expressed concern relative to sewers and Mr. Boswell thought that it would make the most sense to connect into Wyckoff. Councilperson Ramsey said that the Planning Board will be concerned about fire protection because fire ponds don't seem to work. There was further discussion and Mr. Surenian stated that the Borough is

under the umbrella of COAH's jurisdiction which protects the Borough by enabling them to try to work out some type of agreement without being exposed to Builders Remedy lawsuit. He anticipates that the builder will seek relief through a lawsuit if there is not amicable solution which means that the Borough's leverage will be lost.

Mr. Hart recalled that COAH regulations favor integrating affordable housing. Mr. Surenian said that the regulations encourage but do not mandate integration. He explained that this pertains to how the affordable units are provided and he confirmed that the units do not need to be integrated. Ms. McManus stated that what makes the units affordable is not defined by the building quality but by the sale price. The units are held to the same building standards as the market rate units and the ordinance does not provide leniency for the affordable units. Councilperson Ramsey noted that the affordable units do not have a garage which is required by Borough ordinance.

Mayor Bivona said that there is an issue with volunteers in the Borough and asked if volunteers would have preference over other potential home buyers relative to the affordable units. Mr. Surenian said that this had been the case previously but the Supreme Court concluded that this was invalid. His experience has been that people who live in, or near the community seem to be more aggressive in trying to get into these units.

Councilperson Ramsey stated that there are many smaller homes in the Borough and asked why those aren't included in the inventory of affordable housing. Mr. Surenian explained that COAH will only give credits for units that are deed restricted and only if they received a Certificate of Occupancy after April 1, 1980.

There were no further questions and Mayor Bivona stated that the ordinance would be introduced on November 12, 2013. The mediation agreement will also be listed on the agenda of November 12th.

SPIKED FENCES

Mayor Bivona introduced Debbie Fabbio, who said she is concerned about deer being impaled on spiked fences surrounding some of the properties in town. She distributed graphic photos of her neighbor's fence and deer that had been split open when trying to jump over the fence. She has not spoken to her neighbor about her concerns and she is also worried that children could be injured. Ms. Fabbio has learned that more and more residents share her concern.

Mr. Hart contacted several other towns to find out if they have ordinances prohibiting spiked fences and found that Waldwick seems to be the only town that responded that has an ordinance of this type. Councilperson Kahwaty asked if the ordinance could be made retroactive and Mr. Smith said that it could be in the case of health, safety or public welfare.

Council President Lota asked about the number of spiked fences existing in Franklin Lakes. Mr. Fabbio said he used to be a landscaper and he knows that there are quite a few spiked fences in the Borough. Councilperson Kahwaty was concerned about the cost of replacing these fences and Mr. Fabbio stated that the spikes usually consist of a removable cap that could be replaced or retrofitted.

Mayor Bivona said that the Council will discuss this further at the December work session.

REDEVELOPMENT PLAN RESOLUTION

Councilperson Kahwaty reported that the Redevelopment Plan resolution came up at last evening's Planning Board Meeting in connection with the Temple property on McCoy Road. Mr. Smith said that the proposed developer has requested the resolution because it will make it easier to get funding. The resolution states that the Borough is allowing a

study of the redevelopment of the area. Mr. Hart stated that this will be on the agenda for the next meeting.

**AWARD CONTRACT – SPECIAL NEEDS HOUSING
ALPERT/HDC BERGEN COUNTY HOME APPLICATION
DEVELOPER’S AGREEMENT – GS REALTY CORP**

Mr. Hart stated that these two items need to be listed on next week’s agenda in order for grant applications to be filed. The HOME application requires endorsement of the governing body to go forward with the \$500,000 grant application.

**RENT CONTROL ORDINANCE
Horizons Rent E-Mail
Rent Control E-Mail with Attachments
Horizons Rent Response**

Mr. Hart stated that a rent control ordinance is being requested by some of the residents of Horizon Development. These residents indicate that their rents are being increased excessively. The developer has responded that the increase has been fairly proportioned at 2% per year and the Borough Attorney says that the project would not qualify for rent control.

Mayor Bivona and Mr. Hart recently met with the management company of Horizon to discuss this issue. Mr. Hart stated that the rents have gone up by 10.9% over a five year period or a little over 2% per year. Mayor Bivona said that during recent times when it was more difficult to rent, Horizon offered lower rates to tenants who now find that their rents are being adjusted according today’s market rates. He also advised the management company to improve communications with the residents and make it clear to potential renters that rents may raise more than anticipated. Mr. Hart will follow up with the tenant spokesperson.

RECREATION AND PARKS

Councilperson Kelly said that he has been studying which sports are trending in order to learn where resources would be better spent. He has learned that football is declining perhaps due to concussions. Lacrosse is booming with soccer being even more popular.

**Facilities Use – Atlantic Coast Football League
Facilities Use – English Pro Soccer**

Mayor Bivona asked if these requests were consistent with the ordinance specifically noting that more than 50% of the participants must be residents in order to use Borough facilities. Both applications have been reviewed and approved by the Recreation Director. Mr. Hart will check into the residency requirements.

Councilperson Kelly stated that the Recreation Director is doing a wonderful job and he finds him to be very innovative and responds quickly to requests.

PUBLIC SAFETY

Police Department Personnel

Council President Lota stated that Officer Smith has submitted the paperwork to the State for his retirement effective February 1, 2014. Police Chief Seltenrich wants to begin the process of hiring a new officer and he is hoping he can get someone from the class at the Academy who will graduate in December of 2013. Councilmembers indicated their agreement.

Traffic Circle

Mayor Bivona suggested that the County be asked to defer the decision on the traffic circle until there is better information relative to the development of the golf course property. Councilmembers agreed with Mayor Bivona.

BOROUGH ADMINISTRATOR'S REPORT

Mr. Hart announced that the Technical Assistant in the Construction Office had retired without giving any notice. The Borough has advertised for the position, with interviews scheduled for next week. Several people are helping out on a limited basis to try to assist with the backlog of permits. They are also interviewing for a DPW position next week.

Mr. Hart recommended that the holiday party be held at the Indian Trail Club on December 13th. The party will begin at noon and pricing is consistent with what was budgeted.

Mr. Hart stated that the Web Team, who is responsible for the e-blasts, is receiving an award. Lynette Sidoti does most of the work on the e-blasts and she and the team are being recognized in the category of Best Website Social Media by the League of Municipalities.

OLD BUSINESS

There was no old business this evening.

NEW BUSINESS

Councilperson Ramsey pointed out that it is Veterans Day on Tuesday, November 11th. She said that most of the veterans in Franklin Lakes go to the VFW Home to spend the day with the veterans but a wreath will be laid at the VFW.

CLOSED SESSION

There were no Closed Session items this evening.

ADJOURNMENT

Motion by Councilperson Pedone to adjourn the meeting at 10:40 P.M. Councilmember Kahwaty seconded the motion.

Roll Call Vote

Ayes: Kahwaty, Kelly, Lota, Pedone and Ramsey

Nays:

Abstain:

Absent Lambrix

Motion Approved

Resolution 272-13

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 \$6,757,348.44 as shown on the Claims Bill List; \$447.75 as shown on the Soil Account Bill List and \$918.25 as shown on the Developers Escrow List.

BE IT FURTHER RESOLVED, that the payroll of October 10, 2013 in the amount of \$252,447.26, the payroll of October 24, 2013 in the amount of \$255,733.50 be hereby ratified and approved.

Resolution 273-13

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 \$1,892.81, 2013 Drunk Driving Enforcement Fund Grant and wishes to amend its 2013 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 2013 Budget in the sum of \$1,892.81 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:	
2013 Drunk Driving Enforcement Fund Grant	\$1,892.81

BE IT FURTHER RESOLVED that a sum of \$1,892.81 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":	
Public and Private Programs Offset by Revenues:	
2013 Drunk Driving Enforcement Fund Grant	\$1,892.81

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

Resolution 274-13

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 \$724.50, 2013 Private Donation - D & J Altana and wishes to amend its 2013 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 2013 Budget in the sum of \$724.50 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:	
2013 Private Donation - D & J Altana	\$724.50

BE IT FURTHER RESOLVED that a sum of \$724.50 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":

Public and Private Programs Offset by Revenues:

2013 Private Donation – D & J Altana

\$724.50

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

Resolution 275-13

Award Contract Police Vehicles

WHEREAS, the Borough of Franklin Lakes wishes to purchase one (1) 2014 Chevrolet Suburban AWD to be used as a marked Police Utility Vehicles from an authorized vendor under the Cranford Cooperative Pricing System; 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, Mall Chevrolet 75 Haddonfield Road, Cherry Hill, NJ 08002 has been awarded New Jersey State Contract for 2014 Chevrolet Suburban AWD through the Cranford Cooperative Pricing System; and

WHEREAS, the Police Chief and 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 one (1) 2014 Chevrolet Suburban AWD is \$37,030; 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 one (1) Chevrolet Suburban AWD be purchased from Mall Chevrolet 75 Haddonfield Road, Cherry Hill, NJ 08002

Resolution 276-13

WHEREAS, paragraph D of Borough Code §425-15 provides that “[n]o street, road or paved area... repaved within three years of the time that the road is sealed can be excavated... except in case of emergency...”; and,

WHEREAS, paragraph E of Borough Code §425-15 proves that “[n]o Borough street shall be excavated between November 1 and March 30 without prior approval of the Mayor and Council”; and,

WHEREAS, the owner of 351 Crescent Drive, which was paved in 2012, has submitted an application to excavate Crescent Drive after November 1, 2013, for the installation of an emergency generator; and,

WHEREAS, the owners of 4 Penobscott Place, 218 Cedar Street, 222 Forest Street, 910 Iron Latch Road, and 222 Lincoln Street, have submitted applications to excavate after November 1, 2013; and,

WHEREAS, by letter dated November 4, 2013, the Borough Engineer has indicated that they have no objection to the issuance of road opening permits for these property provided that the roads are adequately restored by November 20, 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 Mayor and Council hereby approve road opening permits for 4 Penobscott Place, 218 Cedar Street, 222

Forest Street, 910 Iron Latch Road, 222 Lincoln Street, and 351 Crescent Drive, property provided that the roads are adequately restored by November 20, 2013; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to the applicants, the Borough Engineer, the Police Department and the Superintendent of Public Works.

**RESOLUTION 277-13
AWARD CONTRACT - BOROUGH CALENDAR**

WHEREAS, the Borough Administrator solicited proposals for the layout, design and printing of the 2014 Borough calendar and the printing of the recycling newsletter, Mayor’s letter, and envelope for the year end mailing, as well as the collating of all materials, and four proposals were obtained; and,

WHEREAS, the Borough Administrator recommends that the contract for the layout, design and printing of the 2014 Borough calendar and the printing and collating of all other items in the year end mailing be awarded to the vendor that submitted the lowest cost proposal, Heritage Inc., 4 Wilsey Square, Ridgewood, New Jersey 07450, for the proposal amount of \$7,835; and,

WHEREAS, this cost will be offset entirely by the sale of advertisements within the calendar and Clean Communities grant funding (if needed);

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 recommendation of the Borough Administrator is approved and the contract for the layout, design and printing of the 2014 Borough calendar and the printing and collating of all other items in the year end mailing be and is hereby awarded to Heritage Inc., for the proposal amount of \$7,835; and,

BE IT FURTHER RESOLVED that a Certification of Funds has been prepared and authorized by the Chief Financial Officer for the said contract assuring that there are sufficient appropriations to fund the payments authorized in this resolution as an express and mandatory condition of the award of this contract; and,

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

Resolution 278-13

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(s) 2012,

WHEREAS, under 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. The law firm of William S. Winters attorney for plaintiff, and

NOW, THEREFORE, BE IT RESOLVED that the Treasure 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 Reductions</u>	<u>Refund</u>
1301	1.02	990,000 (2012)	\$2,064.95
			Total \$2,064.95

William S. Winters, Esq.
199 Route 18 South
East Brunswick, NJ 08816

Resolution 279-13

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(s) 2010, 2011, and 2012

WHEREAS, under 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.

NOW, THEREFORE, BE IT RESOLVED that the Treasure 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 Reductions</u>	<u>Refund</u>
1201.02	7	1,400,000 (2010)	\$2,722.51
		1,400,000 (2011)	\$841.05
		1,400,000 (2012)	\$1,034.78
		Total	\$4,598.34

Godino, John & Melinda
c/o David B. Wolfe, Esq.
293 Eisenhower Parkway
Livingston, NJ 07039

Resolution 280-13

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(s) 2010 and 2012,

WHEREAS, under 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. The law firm of Brach Eichler LLC attorney for plaintiff, and

NOW, THEREFORE, BE IT RESOLVED that the Treasure 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 Reductions</u>	<u>Refund</u>
2602.04	4	1,687,800 (2010)	\$1,328.24
		1,502,000 (2012)	\$1,214.14
		Total	\$2,542.38

Brach Eichler, LLC and Abrams (trste), Paul
101 Eisenhower Parkway
Roseland, NJ 07068

Resolution 281-13

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(s) 2010 and 2013,

WHEREAS, under 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. The law firm of Brach Eichler LLC attorney for plaintiff, and

NOW, THEREFORE, BE IT RESOLVED that the Treasure 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 Reductions</u>	<u>Refund</u>
2602.09	8	1,675,000 (2010)	\$407.44

Total \$407.44

Brach Eichler, LLC and Abrams, Sara Jane
 101 Eisenhower Parkway
 Roseland, NJ 07068

**Resolution 282-13
 Cancel Grant Receivable Balances and Unexpended Budget Appropriation Balances**

WHEREAS, a resolution was adopted at the Mayor and Council meeting held on October 15, 2013, canceling certain grants receivable balances and unexpended budget appropriations; and,

WHEREAS, the resolution mistakenly listed “Obey the Signs, Pay the Fines” for cancelation, instead of “Over the Limit, Under Arrest”;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes, that the typographical error in the October 15 resolution is hereby corrected and the following grant receivable and unexpended budget appropriation balance be and is hereby canceled as of October 15, 2013:

<u>Unexpended Grant Description</u>	Receivable	
	<u>Balance</u>	<u>Appropriation</u>
Over the Limit, Under Arrest	\$100	\$100

Respectfully submitted,



Sally T. Bleeker, Borough Clerk