

MEETING OF THE MAYOR AND COUNCIL
December 16, 2014
7:30 P.M.

A regular meeting of the Mayor and Council was held on Tuesday, December 16, 2014 in the Municipal Building.

MEETING CALLED TO ORDER

ROLL CALL

The following Council Members and Professional Staff responded to the roll call: Mayor Bivona, Councilmember Kahwaty, Councilmember Cadicina, Councilmember Kelly, Councilmember Lambrix, Councilmember Swist and Council President Ramsey. Also present were Borough Administrator Greg Hart, Borough Clerk Sally Bleeker and Borough Attorney William T. Smith.

SUNSHINE LAW STATEMENT

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

FLAG SALUTE

MOMENT OF SILENT REFLECTION

PROCLAMATION

HONORING BRIAN PETERSON

WHEREAS, Superintendent of Public Works Brian Peterson will be retiring from the Borough of Franklin Lakes effective December 31, 2014; and,

WHEREAS, Brian has served dutifully and with distinction with the Department of Public Works for nearly 39 years, having been appointed to the Department on January 5, 1976, including the past 24 ½ years as Superintendent of Public Works; and,

WHEREAS, in recognition of his exceptional service, then-Maintenance Worker Peterson was promoted to the position of Foreman in or around 1987; and then to the position of Superintendent of Public Works on June 1, 1990; and,

WHEREAS, as Superintendent of Public Works, Brian assumed many responsibilities, too numerous to enumerate herein, including the following:

- Recycling Coordinator
- Safety Coordinator
- Clean Communities Coordinator
- Right to Know Coordinator

WHEREAS, Brian is known to all as a dedicated, hard-working and loyal worker and Superintendent, and he always had the Borough of Franklin Lakes as his first priority;

NOW THEREFORE, I, FRANK BIVONA, Mayor of the Borough of Franklin Lakes, County of Bergen and State of New Jersey, on behalf of the Mayor and Council and our residents, wish Superintendent of Public Works Brian Peterson and his family good health and happiness, and do hereby honor and commend Brian for his many years of outstanding service to the Franklin Lakes community.

IN WITNESS HEREOF, I have hereunto set my Hand and caused the Seal of the Borough of Franklin Lakes to be affixed this 16th day of December, 2014.

APPOINTMENTS

Tyler Braun – Franklin Lakes Vol. Fire Dept. - Junior Member

Motion to appoint Tyler Braun as a Junior Member of the Franklin Lakes Volunteer Fire Department was made by Councilmember Kahwaty and seconded by Councilmember Cadicina.

Roll Call Vote:

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist
Nays:
Abstain:
Absent:
Motion Approved.

Pantaleo Belgiovine – Alternate Electrical Inspector

Motion to appoint Pantaleo Belgiovine as an Alternate Electrical Inspector for the Borough Franklin Lakes was made by Councilmember Swist and seconded by Councilmember Kelly.

Roll Call Vote:

Ayes: Kahwaty, Kelly, Lambrix, Ramsey, Swist
Nays:
Abstain: Cadicina
Absent:
Motion Approved.

ORDINANCES FOR FINAL READING AND ADOPTION

ORDINANCE 1611

AN ORDINANCE ESTABLISHING FRANKLIN LAKES SEWER DISTRICT # 1 AND AUTHORIZING THE CONSTRUCTION OF A SANITARY SEWER BY FRANKLIN LAKES REALTY LLC ON COLONIAL ROAD AND ESTABLISHING CONNECTION FEES

Summary – This ordinance establishes the Colonial Road Sewer District, consisting of 27 properties located on Colonial Road, and establishes a connection fee for properties within the District.

WHEREAS, Ordinance 1611 was introduced at a meeting of the Mayor and Council held on the 12th day of November, 2014 and duly published by law; and,

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 1611 be and the same is hereby adopted on second and final reading; and,

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

Motion made by Councilmember Kahwaty to take up Ordinance No. 1611 for consideration of adoption on second and final reading, and direct the Clerk to read by title, seconded by Councilmember Kelly. On voice vote, all in favor.

The Borough Clerk read the Ordinance by title only.

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

No one from the public came forward at this time.

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

Resolution read and introduced by Councilmember Kahwaty, seconded by Councilmember Kelly. Discussion – none.

Roll Call Vote:

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist

Nays:

Abstain:

Absent:

Motion Approved.

ORDINANCE 1612

AN ORDINANCE AMENDING CHAPTER 395 “SMOKING” OF THE CODE OF THE BOROUGH OF FRANKLIN LAKES TO PROHIBIT SMOKING IN PARKS, RECREATIONAL AREAS AND PUBLIC BUILDINGS

Summary – This ordinance prohibits smoking and e-cigarettes in public buildings, parks and recreational facilities.

WHEREAS, Ordinance 1612 was introduced at a meeting of the Mayor and Council held on the 12th day of November, 2014 and duly published by law; and,

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 1612 be and the same is hereby adopted on second and final reading; and,

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

Motion made by Councilmember Kahwaty to take up Ordinance No. 1612 for consideration of adoption on second and final reading, and direct the Clerk to read by title, seconded by Councilmember Cadicina. On voice vote, all in favor.

The Borough Clerk read the Ordinance by title only.

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

No one from the public came forward at this time.

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

Resolution read and introduced by Councilmember Kahwaty, seconded by Councilmember Cadicina. Discussion – none.

Roll Call Vote:

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist

Nays:

Abstain:

Absent:

Motion Approved.

OPEN THE TIME FOR PUBLIC COMMENT

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

No one from the public came forward at this time.

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

CONSENT RESOLUTION 326-14

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

- Resolution 327-14 Accept Report of the Finance Committee
- Resolution 328-14 Authorize Advertisement for Bids – 2015 Road Program
- Resolution 329-14 Tax Exemption – 895 Scioto Drive
- Resolution 330-14 Tax Refund – Corelogic Real Estate Tax Service
- Resolution 331-14 Tax Refund – Ferro
- Resolution 332-14 Stipulation of Settlement – Cassino
- Resolution 333-14 Stipulation of Settlement – Frodella
- Resolution 334-14 Budget Transfer
- Resolution 336-14 Tree Removal Permit – 837 Scioto Drive
- Resolution 337-14 Tree Removal Permit – 753 Jenny Trail

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

Roll Call Vote:

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist
Nays:
Abstain:
Absent:
Motion Approved.

RESOLUTIONS

Resolution 335-14 Award Contract – DPW Fuel Management System

WHEREAS, the Borough Engineer solicited proposals for the replacement of the existing fuel management system at the Department of Public Works facility, and received four proposals; and,

WHEREAS, the Borough Engineer recommends that the contract for the replacement of the existing fuel management system at the Department of Public Works facility be awarded to the contractor that submitted the lowest proposal, Independent Constructors, 1200 Route 22 East, Bridgewater, New Jersey, for the proposal amount of not to exceed \$32,500;

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 Engineer is approved and the contract for the replacement of the existing fuel management system at the Department of Public Works facility be and is hereby awarded to Independent Constructors, for the proposal amount of \$32,500; 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 Independent Constructors, the Borough Engineer and the Chief Financial Officer.

Resolution read and introduced by Councilmember Cadicina, seconded by Council President Ramsey.

Roll Call Vote:

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist

Nays:

Abstain:

Absent:

Motion Approved.

ACTION ON MINUTES

Motion to accept the minutes was made by Council President Ramsey and seconded by Councilmember Kelly:

- November 12, 2014 Regular
- November 06, 2014 Work Session
- November 06, 2014 Closed

Roll Call Vote:

Ayes: Cadicina (with exceptions), Kahwaty (with exceptions), Kelly, Lambrix (with exceptions), Ramsey, Swist

Nays:

Abstain: Cadicina, Kahwaty and Lambrix – November 6, 2014 Work Session and Closed

Absent:

Motion Approved.

OLD BUSINESS

Synergy Project

Councilmember Lambrix was looking for an update on the synergy project. Greg Hart said this will be discussed at the January meeting.

NEW BUSINESS

Toll Brothers Public Hearing

Mayor Bivona said the public hearing regarding the High Mountain Golf Course property will take place at the Planning Board Special Meeting on January 13th.

Healthy Town Application

Mayor Bivona said he submitted an application to the State to be designated a “Healthy Town”.

Events Update

Mayor Bivona said the Tree Lighting went well. The Menorah Lighting will be Thursday, December 18th at 6:00 p.m.

2015 Calendar and Handbook

Borough Administrator reported that the 2015 Calendar and Resident Handbook will be sent out before January 1st.

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, December 16, 2014

which begins at 7:30 PM, in the Council Chamber at the Municipal Building to discuss the following:

Closed meeting issues:

- Personnel – Superintendent of Public Works
- Collective Bargaining – PBA and AFSCME
- Anticipated Litigation – Affordable Housing

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 to go into Closed Session at 8:00 p.m. was made by Councilmember Kahwaty, seconded by Council President Ramsey. On voice vote, all in favor.

APPOINTMENT

Rich Lilienthal – Superintendant of Public Works

Councilmember Cadicina made a motion to appoint Rich Lilienthal as the new Superintendant of Public Works with a 2015 base salary of \$102,000 plus longevity, seconded by Councilmember Kahwaty.

Roll Call Vote:

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist

Nays:

Abstain:

Absent:

Motion Approved.

ADJOURNMENT

Motion to adjourn the meeting at 8:30 p.m. was made by Councilmember Kahwaty, seconded by Councilmember Cadicina. On voice vote, all in favor.

Resolution 327-14 Accept Report of the Finance Committee

RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the report of the Finance Committee be accepted and recommendations adopted; that the report be made part of the record of this meeting; and the proper Borough Officials are hereby authorized and directed to issue warrants in the amount of \$516,586.37 as shown on the Claims Bill List; \$15,039.00 as shown on the Soil Account Bill List and \$682.50 as shown on the Developers Escrow List.

Resolution 328-14 Authorize Advertisement for Bids – 2015 Road Program

BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the Borough Administrator be authorized to advertise for 2015 Road Improvement Program bids.

Resolution 329-14 Tax Exemption – 895 Scioto Drive

WHEREAS, in reference to the property in the Borough of Franklin Lakes known as 895 Scioto Drive, Block 2101.08, Lot 24, and;

WHEREAS, on August 14, 2014, the Federal Government took title to the above described property through settlement, pursuant to an Order issued by United States District Court for the Southern District of New York signed by Judge Naomi Reese Buchwald, and;

WHEREAS, as per New Jersey Assessor’s Handbook states that “Federal property is tax exempt immediately upon acquisition. The Federal Government is not required to file applications for the exemption with the assessor. The appearance of the United States Government as grantor or grantee on abstracts of deeds routinely provided assessors by county registrars or clerks would serve to give the assessor notice”, which grants total exemption from local property taxes and;

WHEREAS, the Borough of Franklin Lakes, New Jersey, authorized, the Tax Collector, Meena Sivakumar, be authorized to cancel all future tax bills as of August 15, 2014. This resolution allows the Tax Collector to cancel the pro-rated 3rd quarter 2014 tax bill in the amount of \$7,539.89 and all future tax bills to be cancelled through this resolution.

Resolution 330-14 Tax Refund – Corelogic Real Estate Tax Service

WHEREAS, the new homeowner Louis Suppa, and the lender Corelogic, made payments for the 2014 Added Assessment taxes and,

WHEREAS, the above leaves an overpayment on the 4Q 2014 taxes and,

WHEREAS, the lender Corelogic is seeking a refund for the payment done in error,

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check for the following amount and the same to be charged to Tax Overpayments Refunded.

| <u>Block</u> | <u>Lot</u> | <u>Refund Duplicate Payment</u> |
|--------------|------------|---------------------------------|
| 1504.04 | 2 | \$ 33.80 |

Resolution 331-14 Tax Refund – Ferro

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) 2013 and 2014, on Block 3207 Lot 19, whose location is 124 Delaware Lane, homeowner Richard C. Ferro,

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 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 Reductions</u> | <u>Refund</u> |
|---------------------|------------|------------------------------|--------------------------|
| 3207 | 19 | \$ 127,800 (2013) | \$ 1,989.85 |
| 3207 | 19 | \$ 127,800 (2014) | \$ 2,009.02 |
| Total Refund | | | <u>\$3,998.87</u> |

Resolution 332-14 Stipulation of Settlement – Cassino

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

Block: 2602
Lot: 4
Street Address: 352 Briarly Drive
Owner: Anthony Cassino, et al

WHEREAS, an adjustment in the assessed value of the above property has been recommended by the tax assessor of the Borough of Franklin Lakes, and it is believed that this adjustment will cause the assessment to reflect the actual fair market value of said property as reflected by comparable sales; and therefore

IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that the tax assessment for the above-referenced property is hereby adjusted for the following years, and the Borough Attorney is authorized to execute an appropriate Stipulation of Settlement agreeing to the entry of a judgment reflecting these adjustments.

Tax Year: 2010

| | <u>Original Assessment</u> | <u>Tax Court Judgment</u> |
|--------------|--------------------------------|-------------------------------|
| Land | \$ 636,500 | \$ 636,500 |
| Improvements | \$ 864,300 | \$ 663,500 |
| Total | \$1,500,800 | \$1,300,000 |

Resolution 333-14 Stipulation of Settlement – Frodella

WHEREAS, an appeal of the tax assessment for the years 2012, 2013, and 2014 has been filed for the following property; and

Block: 1201
Lot: 1
Street Address: 277 Heather Lane
Owner: Frodella, Michael and Sylvia

WHEREAS, an adjustment in the assessed value of the above property has been recommended by the Tax Assessor of the Borough of Franklin Lakes, and it is believed that this adjustment will cause the assessment to reflect the actual fair market value of said property as reflected by comparable sales; and therefore

IT IS HEREBY RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that the tax assessment for the above-referenced property is hereby adjusted for the following years, and the Borough Attorney is authorized to execute an appropriate Stipulation of Settlement agreeing to the entry of a judgment reflecting these adjustments.

Tax Year: 2012 Withdrawn

Tax Year: 2013

| | <u>Original Assessment</u> | <u>Tax Court Judgment</u> |
|--------------|--------------------------------|-------------------------------|
| Land | \$ 442,800 | \$ 442,800 |
| Improvements | \$1,089,300 | \$ 957,200 |
| Total | \$1,532,100 | \$1,400,000 |

Tax Year: 2014

| | <u>Original Assessment</u> | <u>Tax Court Judgment</u> |
|--------------|--------------------------------|-------------------------------|
| Land | \$ 442,800 | \$ 442,800 |
| Improvements | \$1,089,300 | \$ 882,200 |
| Total | \$1,532,100 | \$1,325,000 |

Resolution 334-14 Budget Transfer

BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the following 2014 Budget Transfers be made for the following accounts:

| <u>From</u> | <u>From</u> | <u>To</u> |
|-------------|-------------|-----------|
|-------------|-------------|-----------|

Group Insurance-Hospitalization/Rx 78,500

To

| | |
|---------------------------|--------|
| Fire Department OE | 4,000 |
| Road Repairs OE | 52,500 |
| Public Building & Grounds | 4,000 |
| Vehicle Maintenance | 18,000 |

| | |
|---------------|---------------|
| <u>78,500</u> | <u>78,500</u> |
|---------------|---------------|

Resolution 336-14 Tree Removal Permit – 837 Scioto Drive

WHEREAS, paragraph C of Borough Code §300-150 permits applicants to apply to the Mayor and Council to remove trees in addition to those permitted under paragraph B of said section; and,

WHEREAS, in accordance therewith, Flatiron Developers/Brooks Builders, property owners of 837 Scioto Drive, has requested permission to remove trees in excess of those permitted by paragraph B of Borough Code §300-150; and,

WHEREAS, the Mayor and Council referred the application to the Shade Tree Commission for its review and recommendations; and,

WHEREAS, the Shade Tree Commission has recommended approval of the application with certain conditions, as set forth in the memo from the Shade Tree Commission dated December 11, 2014;

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 Shade Tree Commission as set forth in its memo dated December 11, 2014 is hereby approved, and the tree removal application for 837 Scioto Drive be and is hereby approved, subject to the conditions in said Shade Tree Commission memo; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to Flatiron Developers/Brooks Builders, the Tree Specialist and the Shade Tree Commission.

Resolution 337-14 Tree Removal Permit – 753 Jenny Trail

WHEREAS, paragraph C of Borough Code §300-150 permits applicants to apply to the Mayor and Council to remove trees in addition to those permitted under paragraph B of said section; and,

WHEREAS, in accordance therewith, L&L Builders and Developers Corp, property owners of 753 Jenny Trail, has requested permission to remove trees in excess of those permitted by paragraph B of Borough Code §300-150; and,

WHEREAS, the Mayor and Council referred the application to the Shade Tree Commission for its review and recommendations; and,

WHEREAS, the Shade Tree Commission has recommended approval of the application with certain conditions, as set forth in the memo from the Shade Tree Commission dated December 11, 2014;

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 Shade Tree Commission as set forth in its memo dated December 11, 2014 is hereby approved, and the tree removal application for 753 Jenny Trail be and is hereby approved, subject to the conditions in said Shade Tree Commission memo; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to L&L Builders and Developers Corp, the Tree Specialist and the Shade Tree Commission.

Respectfully submitted,

Sally T. Bleeker

Sally T. Bleeker, Borough Clerk