

MEETING OF THE MAYOR AND COUNCIL
JUNE 4, 2015
7:30 P.M.

A regular meeting of the Mayor and Council was held on June 4, 2015, in the Municipal Building.

MEETING CALLED TO ORDER

ROLL CALL

The following Council Members and Professionals responded to the roll call: Mayor Bivona, Councilperson Cadicina, Councilperson Kahwaty, Councilperson Kelly, Councilperson Lambrix, Councilperson Ramsey, Councilperson Swist, Borough Administrator Greg Hart, Borough Attorney Smith and Borough Clerk Sally Bleeker.

SUNSHINE LAW STATEMENT

Borough Clerk Bleeker read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

OPEN TIME FOR PUBLIC COMMENT

Motion to open the time for public comment was made by Councilperson Kahwaty, seconded by Councilperson Cadicina, all ayes.

Mike Ryan, 214 Van Houten Avenue, Wyckoff, said that he was cycling recently at 6:45 A.M. in Franklin Lakes when he was hit by a car at the circle. Police and EMT officers responded within five minutes and he learned that he fractured his clavicle in six places. He said that this area had recently been redesigned by the County and this might have contributed to this incident. Although he realizes that the County is responsible for this intersection, he asked Councilmembers to communicate with the County relative to the dangerous conditions.

Mayor Bivona said that the County made the changes to the intersection because it had been plagued with a high number of accidents. There has actually been a decrease in the number of accidents at this location since it was redesigned. Mr. Ryan suggested that the yield signs be placed 75 feet in advance of the intersection or stop signs should be put in place again. Mayor Bivona reminded Mr. Ryan that this area is under County jurisdiction and even though it is not perfect, there has been an improvement in traffic incidents. Mr. Ryan again asked for stop signs to be erected again and possibly a traffic light.

Mike Mitarotonda, 710 Smoke Hollow Trail, stated that he has lived on Kings Pond for four years. During this time, his back yard has regressed from a pond to a swamp. The phragmites are out of control and he is concerned that this is a hazard in addition to the mosquito and rodent issue. He added that the leaves and vegetation decompose resulting in a strong and unpleasant odor.

Kevin Boswell, Borough Engineer, gave a history of the pond stating that this had been a farm pond before the property was subdivided in the late 1980s. At that time, Kings Pond was designated as a storm water detention pond. Last year, Mr. Boswell and Mr. Hart visited that area and found that the pond continues to function as a storm water basin for which the Borough was responsible to operate and maintain. An inspection this year revealed that the area by the dam is functioning but the area at Mr. Mitarotonda's property has become worse and is not functioning. Mr. Boswell recommended that the Borough secure the permits from New Jersey Department of Environmental Protection (NJDEP) to allow dredging of the area. The pond would qualify for the type of dredging that is done at no charge by the Bergen County Mosquito Control Commission, however, the material has to be removed and stockpiled for six months. The size of the area in

question is over an acre. Mr. Boswell said that this work cannot be done piecemeal and the entire area would have to be dredged. This is a lengthy process and the Borough would have to work around the availability of the Mosquito Commission. This means obtaining the permits this year and completing the work next year.

Councilperson Lambrix asked if all the property owners affected were in agreement with the proposed dredging. Mr. Mitarotonda said he has contacted everyone involved and they agree that the work has to be done. Mayor Bivona questioned access to the pond and Mr. Mitarotonda said that he has an easement at the side of his property that could be used. Mr. Boswell added that there are two drainage easements and the Borough Attorney would prepare the necessary Right of Entry Agreements. Upon questioning by Councilperson Lambrix, Mr. Boswell said that the pond has not been drained since 1991 and he added that the Borough might want to take this opportunity in a general ordinance to regulate fertilizers which are contained in the run-off from lawns that drain into the pond. There is also a lot of rock salt and sand from the storm sewers that run into the pond. Mr. Mitarotonda indicated that he would be supportive of this type of ordinance but the condition of the pond is a result of years of neglect.

Mr. Hart recalled that other areas needing cleaning and de-snaging had been discussed at the Engineering Oversight Meeting. There was a question of whether a general permit could be issued for this work as well as other areas where work is needed. Mr. Boswell explained that there are no benefits to be gained by getting several permits. Mayor Bivona noted that there is some pending legislation pertaining to dredging and de-snaging. Mr. Boswell said that the legislation may not cover the present situation in the Borough, however, he will check into it further.

No one else from the public came forward at this time and Councilperson Kelly made a motion to close the time for public comment, seconded by Councilperson Lambrix, all ayes.

BOROUGH ENGINEER'S REPORT

Eileen Boland, of Boswell Engineer, introduced herself. Mr. Hart pointed out that the recommendation and the cost estimate relative to the Kings Pond dredging has been submitted by Boswell Engineering. The total estimated fee associated with the work is proposed at \$18,500 which does not include permit fees that Mr. Boswell estimates between \$3,000 and \$5,000. Mr. Hart said that a capital ordinance would be necessary to fund the estimated \$25,000 cost. Mr. Boswell described some of the other aspects of the project including restoration through seeding but not sodding the area. The Council agreed to appropriate \$25,000 in order to begin the project.

Ms. Boland stated that a Pre-Construction meeting has been set for June 9th on the sewers. Councilperson Lambrix reported that he is happy with the way the Primitive Trail network is taking shape. Mr. Boswell spoke about the civil engineering student intern, Mark French, who will shadow Dan Lapinski and subsequently revise the road rating survey at minimal cost to the Borough. He will be trained to work with the Geographic Information System (GIS) which is a requirement of the DEP. Mr. French will work with the Tax Department to gain more experience in the field of this digital filing system.

Mayor Bivona asked Mr. Boswell about the proposed ordinance which would prohibit the direct discharge of sump pumps into the roadway or the channeling of water into the roadway. This ordinance was recommended by the Construction Official who was concerned about the creation of hazardous icing conditions in the winter. Mr. Boswell said he would review the ordinance. Councilmembers described several areas where the icing had been particularly bad this winter. Mayor Bivona mentioned the issue of property owners draining the water from their pools into the street because from time to time this water ends up on neighboring properties due to gravity. An ordinance is necessary to prevent dangerous water conditions resulting in ponding on a road or on neighboring properties. Mr. Boswell suggested that after the situation is reviewed by the Engineering Department waivers could be granted to property owners who cannot keep water on their property. Mayor Bivona disagreed stating that the ponding of water on

The resident is waiting for a decision by the Council and is unlikely to proceed if a variance is necessary.

COMMITTEE/LIAISON REPORTS

RECREATION AND PARKS

- **FLNP Boating – Ramsey Outdoor**

Councilperson Kelly stated that Ramsey Outdoor Store is proposing a boat rental facility on the Reservoir. He supports this idea because it promotes increased use of the Reservoir. Kayak and kayak type boats along with paddle boards would be provided. Mr. Hart explained that this use is considered to be a concession and the Borough would have to draft a specific type of resolution to authorize this use if the Mayor and Council are in favor of the proposal. Mr. Hart explained that it is necessary to get proposals even though there are no costs involved to the Borough and he could have a resolution ready for the next meeting. Councilperson Kelly said that this is a time sensitive matter and Mr. Hart said that this concession would be awarded in July. He will find out if Ramsey Outdoor Store would prefer to defer this to next year or whether they want to move forward in late July. Councilperson Kelly pointed out that Ramsey Outdoor Store would like to have the boating season extended as far as mid-November. Councilperson Ramsey recommended that this proposal be reviewed by the Risk Manager.

Mr. Hart proposed an ordinance to allow paddle boarding subject to review by the Risk Manager. Councilperson Cadicina was not comfortable with paddle boarding and suggested looking at this proposal in steps. After more discussion, Councilmembers agreed to limit the ordinance to the approval of the boat concession and an extension of the season. The Risk Manager will review paddle boarding at the Reservoir.

Mayor Bivona stated that June 27th is Paddle Day.

- **Bergen Bike Tour – October 4, 2015**

Mr. Hart stated that this is for informational purposes only. Area roads involved include Pulis Avenue and Campgaw Road.

- **Facilities Use Request**

Mr. Hart said that these requests have been submitted without backup. The Committee is reviewing applications from previous years and is working to come up with a recommendation concerning outside groups which will be submitted next month. Councilperson Kelly said that they are considering implementing the use of a security deposit for use of the field.

PUBLIC SAFETY

- **Sidewalk Snow Removal**

Mr. Hart stated that the Traffic Officer has recommended that the requirement for snow removal for sidewalks be extended Borough wide. Boswell Engineering will supply a map showing all of the sidewalks and Mr. Hart suggested deferring this matter until next month.

Mr. Hart is expecting a report from the Traffic Bureau relative to speed reduction on several County roads. The County will respond when they have completed their traffic studies which could take some time.

Councilperson Ramsey stated that they have gone out to bid concerning renovations to the Police Department. She spoke about the Relay for Life at Ramapo High School and stated that the PBA has made a donation to the fund.

Councilperson Kahwaty said that he has received a report from the Police Chief noting that accidents at the traffic circle have trended downward from fifteen in the previous year to two since August of 2014. Councilperson Swist commented that it would be interesting to know about the types of accidents that occur most frequently at the circle. Mr. Hart has been told that drivers are traveling at a slower rate when proceeding around the circle which would mean that accidents are less severe.

ADMINISTRATION AND FINANCE

- **Amendment to Overtime Policy**

Mr. Hart explained that the cause for the change in the overtime policy was a grievance involving an employee and the AFSCME attorney. There was a question concerning how overtime is calculated. Under the State Law, overtime must be calculated in one minute increments which have been clarified in this amendment.

- **Six Year Capital Plan**

Councilperson Lambrix stated that the year 2020 has been added to the Capital Plan and includes funding for DPW equipment, roads and fire trucks. This is consistent with what was approved last year and from year to year additions will be made to the capital plan. Unanticipated capital is listed at \$120,000. The new plan will be on the agenda of June 15th for approval.

- **Private Emails**

Mr. Hart said that there is a Borough policy in place requiring the Mayor and Council to use their Borough assigned email addresses instead of their personal email addresses. This concern is a result of OPRA and if personal addresses are used they become part of the public record. If emails are requested and are not provided, a Court may require all emails be turned over for their review. Mr. Hart pointed out that this is a privacy issue which can be avoided through the use of Borough assigned email addresses. Even though some Borough email addresses are set up to automatically forward to personal email addresses, the problem occurs when a response is generated from the private email address. Mr. Smith noted that there is no legal obligation to use a Borough email address but it is a violation of Borough policy. Mr. Hart noted that emails that are part of the public record should be retained for three years according to the law.

After a lengthy discussion, Mayor Bivona said that use of a Borough email address should be a personal choice and optional. The policy will be amended to allow the use of private emails and Councilmembers should be aware that their personal email could be subject to OPRA requests.

- **Borough Code Review**

Mr. Hart reviewed his recommendations and addressed the section on business hours. In order to be consistent, Chapter 186 will be amended to read that restaurants and diners may be open to the public from 5 A.M. to 3 A.M. and all other businesses may open from 5 A.M. to midnight. Councilperson Ramsey was concerned about coffee shops adjacent to residential areas. Councilperson Lambrix suggested going forward and if complaints are received they can be addressed at that time.

After more discussion, Mr. Hart said that he has been working on this code review for three months and he will have an ordinance for introduction on June 15th.

PUBLIC WORKS

- **Shared Services Vehicle – WOLF**

Mr. Hart explained that this is a renewal of the Shared Services Agreement.

ENVIRONMENT AND COMMUNITY AFFAIRS

- **Tree Removal Permit – 830 Scioto Drive**
- **Tree Removal Permit – 744 Ontario Court**

Councilperson Swist described the background relative to the tree removal permits.

Councilperson Swist reported on the recent Seniors Meeting at which time there was discussion relative to whether dues should be raised for former residents. Fifty-one people voted with thirty-five or 65% voting to raise the dues. The Seniors are asking that the Council determine what these dues should be. Mayor Bivona said there should be different rates for residents and non-residents, however, the Seniors should make the decision on the dues. Councilperson Swist will advise the Seniors concerning the feelings of the Council.

Councilperson Swist stated that the Shade Tree Commission is working on proposals for maintenance of the tree farm. Mr. Hart discussed a flat fee of \$200 for tree inspections as opposed to taking the fee from the applicant's escrow fund which is the procedure at the moment. Councilmembers were agreeable to this ordinance change.

PLANNING AND DEVELOPMENT

- **Ordinance 1626 – Amendment to Storm Sewer Ordinance**

This was postponed to the next meeting.

- **McCoy Road Fence Issue**

Mayor Bivona stated that he was contacted by a resident who had attended a Planning Board meeting where he explained that he wanted to install a conforming fence in the right-of-way in his front yard. Mr. Hart said that the resident should come to a meeting and bring a plan so that the Council can get a better idea of what is involved. Mr. Hart will contact the resident.

BOROUGH ADMINISTRATOR'S REPORT

Mr. Hart said that bids have been received for the Municipal Sewer Complex. An objection to the bid was received this afternoon, therefore, the award of the bid has been postponed until the next meeting.

Mr. Hart said that there will be a proclamation recognizing Barbara Schaaf at the next meeting. Ms. Schaaf has been a crossing guard at High Mountain Road School for the past twenty-nine years.

Mr. Hart announced that Liz Morris completed the required course of study and is now a Certified Recycling Professional.

OLD BUSINESS

Councilperson Lambrix spoke about the house owned by the Bulgarian Embassy at 355 Freemans Lane. A neighbor has complained several times that the house is in complete disarray. Mr. Smith said that this is an ongoing problem and he has been in touch with the State Department. The State Department confirmed in July of 2014 that this is a legal embassy. Mayor Bivona said that both Mr. Whittekind and Mr. Hart have contacted the State Department asking them to have the Bulgarians take care of the problem without success. Mr. Hart said that this is a tax exemption; however, no one is living there.

Councilperson Lambrix suggested reaching out to Congressman Scott Garrett and Senators Robert Menendez and Cory Booker. Mr. Hart will supply Mr. Smith with details of the current condition of the property. Mayor Bivona said that they will compile a list of properties with property maintenance issues and have them cleaned up

with money that had been budgeted for this purpose. The Borough will initially try to get the owners to clean up the properties themselves; however, a lien will be placed on the properties if the request is ignored by the property owner. Councilperson Ramsey asked if Clean Communities money could be used and Mr. Hart said he doubted it but would look into this.

NEW BUSINESS

There was no new business this evening.

INTRODUCTION OF ORDINANCES ON FIRST READING

Motion to consider Ordinance No. 1631 for introduction and direct Clerk to read by title was made by Councilperson Kahwaty. Seconded by Councilperson Cadicina. Discussion – none. On voice vote, all in favor.

The Borough Clerk read Ordinance 1631 by title.

ORDINANCE 1631

AN ORDINANCE ACCEPTING THE SANITARY SEWER CONSTRUCTED BETWEEN SUNSET TERRACE AND FRANKLIN AVENUE WITHIN COLONIAL ROAD BY FRANKLIN LAKES REALTY LLC, TO BE INCORPORATED WITHIN FRANKLIN LAKES SEWER DISTRICT NO. 1, ALL AS AUTHORIZED BY FRANKLIN LAKES ORDINANCE NO. 1611

WHEREAS, Ordinance 1631 was introduced at a meeting of the Mayor and Council held on the 4th day of June 2015;

NOWHEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, that Ordinance 1631 be and the same is hereby introduced on First Reading; and,

BE IT FURTHER RESOLVED that said Ordinance 1631 will be further considered for final passage at a meeting of the said Mayor and Council to be held on the 7th day of July 2015 at 7:30 PM in the evening or as soon thereafter as the matter can be reached in the Conference Room at Borough Hall, 480 DeKorte Drive, Franklin Lakes, New Jersey, at which time and place all persons who may be interested will be given an opportunity to be heard regarding Ordinance 1631; and

BE IT FINALLY RESOLVED, that the Borough Clerk is hereby authorized and directed to publish the Introduction and Notice of Hearing as required by Law.

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

Roll Call Vote

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

Nays: None

Abstain:

Absent:

Motion Approved

RESOLUTION FOR CLOSED SESSION

BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen and State of New Jersey that a Closed Meeting be held on Thursday, June 4, 2015 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Tax Appeal – Garrambone
- Tax Appeal – McAuley
- Tax Appeal – Meli
- Tax Appeal – Granatell
- Tax Appeal – Pisani
- Tax Appeal - Cox
- Anticipated Litigation – Affordable Housing
- Collective Bargaining – PBA

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 Ramsey at 10:15 P.M.

Roll Call Vote

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist
 Nays: None
 Abstain:
 Absent:
 Motion Approved

ADJOURNMENT

Motion by Councilperson Kahwaty to adjourn the meeting at 11:00 P.M. Councilperson Lambrix seconded the motion.

Roll Call Vote

Ayes: Cadicina, Kahwaty, Kelly, Lambrix, Ramsey, Swist
 Nays: None
 Abstain:
 Absent:
 Motion Approved

Resolution 165-15

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 \$3,853,565.43 as shown on the Claims Bill List; \$3,043.70 as shown on the Soil Account Bill List and \$0.00 as shown on the Developers Escrow List.

BE IT FURTHER RESOLVED, that the payroll of May 7, 2015 in the amount of \$201,031.58 and the payroll of May 21, 2015 in the amount of \$181,403.52 be hereby ratified and approved.

Resolution 166-15

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 2014, on Block 1106 Lot 19 whose property location is 716 Somerset Street, homeowners Smith, Derek & Jill,
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>
1106	19	\$ 25,000 (2014)	\$
393.00			
	Preliminary 1Q & 2Q 2015 Taxes Paid in full		\$
196.50			
		Total Refund	<u>\$589.50</u>

All checks made payable to:
 Derek & Jill Smith
 716 Somerset Street
 Franklin Lakes, NJ 07417

Resolution 167-15

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 \$50,000.00, 2015 Private Donation- Meyer Memorial Foundation and wishes to amend its 2015 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 2015 Budget in the sum of \$50,000.00 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:	
2015 Private Donation- Meyer Memorial Foundation-	
Police Headquarters Improvements	\$50,000.00

BE IT FURTHER RESOLVED that a sum of \$50,000.00 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":	
Public and Private Programs Offset by Revenues:	
2015 Private Donation- Meyer Memorial Foundation-	
Police Headquarters Improvements	\$50,000.00

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

Resolution 168-15

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 \$29,436.42 Clean Communities Grant and wishes to amend its 2015 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 2015 Budget in the sum of \$29,436.42 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:
Clean Communities Grant \$29,436.42

BE IT FURTHER RESOLVED that a sum of \$29,436.42 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":
Public and Private Programs Offset by Revenues:
Clean Communities Grant \$29,436.42

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

Respectfully submitted,



Sally T. Bleeker, Borough Clerk