

**MEETING OF THE MAYOR AND COUNCIL
JULY 7, 2015
7:30 P.M.**

A regular meeting of the Mayor and Council was held on July 7, 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, Council President Kelly, Councilperson Lambrix, Councilperson Ramsey, Councilperson Swist, Borough Administrator Greg Hart, Borough Attorney Smith and Deputy Borough Clerk Jennifer Crespo.

SUNSHINE LAW STATEMENT

Deputy Borough Clerk Jennifer Crespo 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 Lambrix, seconded by Council President Kelly, all ayes.

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

APPOINTMENTS

- Part-Time Dispatcher – Kelsey Furman
- Part-Time DPW Worker – Guy Capello

Councilperson Kahwaty made a motion to appoint Kelsey Furman as Part-Time Dispatcher and Guy Capello as Part-Time DPW Worker, seconded by Councilperson Cadicina.

Roll Call Vote

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

Nays: None

Abstain:

Absent:

Motion Approved

Mayor Bivona swore in Mr. Capello.

PRESENTATION

- Recreation Department

Mayor Bivona introduced Stuart Levine, of Ramsey Outdoor Store, who spoke about paddle boarding and boating at the Nature Preserve. Mr. Hart gave some general background stating that there would be an award of contract for boat rental at the Nature Preserve to Ramsey Outdoor Store later this evening. The Council had approved the use of roof top boats, canoes and kayaks at the Preserve which has been extremely successful

and recently the Council considered the use of paddle boards. Mayor Bivona thanked Mr. Levine for sponsoring three different events at the Preserve which have been a wonderful opportunity for the community and very successful.

Mr. Levine stated that paddle boarding has become an extremely popular activity and very safe when done properly. He said that Ramsey Outdoor Store has been renting boats over the past ten years and at the different events at the Nature Preserve people indicated that these boats should be available for rent during the summer months. The boat rental would be a way for Ramsey Outdoor Store to get involved in the community and he hopes to begin the service on Saturday, July 18th if Ramey Outdoor Store is awarded the contract. The service would be available on weekends and if it is successful the Council may want to consider an expansion of the service for next year. Ramsey Outdoor Store has the appropriate liability insurance and no one would be allowed on the boats without a life jacket. Mr. Levine said that a similar program is being run in Mahwah.

Mr. Hart thanked Mr. Levine for his time this evening and said that he would let him know the Council's decision.

McCOY ROAD FENCE ISSUE

Kerry Kennedy introduced herself and stated that she and her husband Dan McBride reside at 729 McCoy Road. There is a blind curve in this area of McCoy Road which has become a safety issue. People tend to speed in this area and Ms. Kennedy is worried that their children or their dog could get hit by a car. Several years ago they installed a berm about 13 feet from the curb. There is a monument on the road which is approximately 9 feet from the interior of the curb which is not in keeping with the 10 foot right of way. She is hoping to install a fence at the tree line; however, she has been told that this would impede the growth of the trees. They are proposing to place the fence 8 feet, 5 inches just before the monument. The fence would conform in terms of height and would be black wrought iron or white PVC.

Ms. Kennedy said that there have been two major accidents in front of the home. She pointed out that there are several properties on McCoy Road where fences are situated in the right of way. Mr. Hart stated that the Borough Tree Specialist met with Ms. Kennedy and he has indicated there would be no issue with placing the fence 10 feet back. There is a County headwall type structure and Kevin Boswell, Borough Engineer, commented that a fence could not be located in front of the headwall. Mr. Hart asked if it would be possible to wrap the fence around the headwall and remain 10 feet back. Mr. Boswell stated that he is not concerned about the penetration into the right of way and he will visit the property to determine if a compromise can be reached. He added that the monument is a county structure in the right of way belonging to the Borough. Mr. Hart stated that this item will be listed on the next agenda and a Hold Harmless Agreement would be necessary if the proposal is approved.

PRESENTATION

- **Recreation Department**

Jason Robinson, Director of Parks and Recreation, presented an overview of the Parks and Recreation Department. The Department's goal is to provide passive and active recreation opportunities to town residents. He focuses on all of the children in the various programs and he noted the importance of team effort, commitment and sportsmanship. Safety is the number one concern and the Borough has purchased the best helmets available for the various sports. All of the coaches are certified. There have been some program modifications including offering baseball to third and fourth graders, competitive cheerleading and a "B" basketball team. Players are purchasing their own football jerseys to ease the financial burden.

Mr. Robinson stated that information about the Recreation Department and registration is available on line. He noted that repairs of approximately \$10,000 have been done to the fields. He would like to focus on the tennis courts and a tennis program during the course

of the upcoming year. He looks forward to working with the YMCA particularly in the area of children with special needs. He is researching software that would help to manage scheduling. Mr. Robinson addressed questions concerning the erosion of tackle football and programs for children with special needs.

FACILITIES USE REQUESTS

Mr. Hart stated that the Parks and Recreation Department has examined requests for the use of Borough fields. A spread sheet was prepared showing seventeen requests including some small requests that do not impact Borough fields. It was recommended that English Pro Soccer be restricted to the camp only. The carnival, the soccer tournament and Triathlon parking have a huge impact on the field and the Recreation Department is recommending that these uses be curtailed. Mr. Robinson said that he doesn't want to take the fields away from the children and Mayor Bivona suggested some compromise. Regarding the soccer tournament, Mr. Robinson said that some fields are in poor condition and he would prefer to have them rest. He suggested using Pulis Field but wasn't sure if it is big enough. The lacrosse tournament has a huge impact on the fields and Mayor Bivona suggested rotating the tournament with surrounding towns.

Mr. Robinson said he would like to use the fields and expose the Borough to visitors, however, if the weather conditions are bad the fields suffer. He suggested that the DPW assess the conditions of the fields. Mayor Bivona recommended that Mr. Robinson include more details when submitting his approvals or disapprovals of field use requests. It was noted that Franklin Lakes' activities must always take priority when assessing use requests and the new uses must be scrutinized.

Mr. Hart stated that English Pro Soccer will be notified that in the future the fields in Franklin Lakes will only be available for camp. The Council will discuss use by the carnival. Councilperson Lambrix asked why use of the field for the Christian Assembly picnic is being approved since there is no benefit to the community. Mr. Hart said that this is a minor activity.

SUSTAINABLE COMMUNITY – COMPANION ANIMAL

On behalf of the Environmental Commission, Carole Holden stated that she is asking for the support of Councilmembers relative to passing the "Companion Animal Management Pledge". Ms. Holden said that Franklin Lakes is a sustainable community under the standards of the Sustainable New Jersey Program; however, there are many other things that could be done to expand this program. There has been a Green Fair and two environmental film festivals and they are working to adopt a Green Purchasing Policy for the Borough. Ms. Holden stated that there are a great number of dogs and cats in Franklin Lakes as well as wildlife such as deer, fox and bears. The Companion Animal Management Pledge is the first effort which would indicate that the Borough is interested enough in the animals to develop an action plan.

Ms. Holden stated that over 3,000 companion animals in New Jersey are euthanized monthly and 100,000 are impounded every year. Many Franklin Lakes residents have adopted rescue animals and passage of this pledge would indicate that residents in the Borough are working towards the active betterment of the animals and working to decrease the number of unwanted and neglected animals. Copies of the pledge will be sent to all Borough Departments so that it becomes part of a community effort. Ms. Holden pointed out that there is nothing in the pledge that isn't already being done and Tyco Animal Control Service is on board with the pledge that animals should be treated humanely.

Councilperson Kahwaty asked if the pledge would impose any costs to the community. Mr. Hart said that no costs are contemplated and he wondered if the Board of Health should be involved. Ms. Holden will check into this. This will be listed for approval on July 21st.

ORDINANCES FOR FINAL READING AND ADOPTION

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

- *Summary – This ordinance accepts the sanitary sewers on Colonial Road that were installed by developer Franklin Lakes Realty, LLC*

WHEREAS, Ordinance 1631 was introduced at a meeting of the Mayor and Council held on the 4th day of June, 2015 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 1631 be and the same is hereby adopted on second and final reading; and,

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

Motion by Councilperson Kahwaty to take up Ordinance 1631 for consideration of adoption on second and final reading, and direct the Clerk to read by title, seconded by Council President Kelly, On voice vote all in favor.

The Deputy Borough Clerk read the Ordinance by title only.

Motion by Councilperson Cadicina to open the public hearing on Ordinance 1631. Seconded by Council President Kelly. On voice vote, all in favor.

No one from the public came forward at this time.

Motion by Councilperson Kahwaty to close the public hearing, seconded by Council President Kelly on voice vote, all in favor.

Resolution read by Councilperson Kahwaty, seconded by Councilperson Cadicina, Discussion – none.

Roll Call Vote

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

Nays: None

Absent: None

Abstain: None

Motion Approved

BOROUGH ENGINEER’S REPORT

Eileen Boland, of Boswell Engineering, introduced herself. Ms. Boland spoke concerning the rebid of the sanitary sewers for the Municipal Complex. There is a proposal to include the Library and Kevin Boswell explained additional work that would be done if the Library were to connect to the sewers. The resolution includes the Base Bid and Alternates A and B along with Alternate C. Alternate C includes the packaged pump station and decommission of the existing septic systems at the Library. The Library will make a decision on July 20th and the contract will be awarded by the Mayor and Council on July 21st pending this decision. Mr. Boswell said that the Library will reimburse the Borough approximately \$17,000 if the connection is made. Mayor Bivona added that residents on Mabel Ann Avenue would have to pay \$18,000 in order to hook up to the sewers. Pipe locations were discussed and Mr. Boswell said that the contractor is being told that the work must be completed before school resumes.

Ms. Boland stated that some curb work is being done at Woodside Avenue. Milling and paving will begin July 16th and is expected to take a week to complete. Mr. Boswell said that spot curb repairs are being done on Huron Road. The entire road program including work on the sidewalks on Woodside Avenue will be done before school starts in September.

- **Street Openings by Utilities**

Mr. Hart referred to an ordinance in Westwood which relates to work on roads that were installed within the preceding year. The ordinance requires that the applicant be required to repave the entire width of the road to achieve a cosmetic and surface match. Mr. Boswell explained that these types of ordinances have generally been enforceable and Westwood is now applying this ordinance to anything that has been paved within a five year period. Mr. Boswell explained that this ordinance would put the Borough in a better negotiating position and he recommended that the Borough include the maintenance of roads that have been paved within the last five years. He added that the Council should strengthen the language relative to the word “repair”,

Resolution 190-15
CONSENT AGENDA RESOLUTION

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

- Resolution 191-15 Accept Report of the Finance Committee
- Resolution 192-15 Liquor License Renewals
- Resolution 193-15 Tax Lien Redemption – 309 Indian Trail Drive
- Resolution 194-15 Tax Refund – Finnan
- Resolution 195-15 Tax Refund – Premier Homebuilders, LLC
- Resolution 196-15 Chapter 159 – Click it or Ticket
- Resolution 197-15 Declaratory Judgment Resolution

Resolution introduced by Councilperson Kahwaty. Seconded by Councilperson Lambrix. Discussion – The liquor license renewals were discussed. Councilperson Ramsey thought that there were two different types of licenses and Mr. Smith said he would look into this further.

Roll Call Vote

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

RESOLUTIONS

Resolution 198-15
Award Contract – Municipal Complex Sanitary Sewers (corrected)

WHEREAS, the Borough of Franklin Lakes advertised for and opened bids on July 7, 2015 for the installation of sanitary sewers for the Municipal Complex; and,

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

WHEREAS, two (2) contractors submitted bids for the installation of sanitary sewers for the Municipal Complex;

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 contract for the installation of sanitary sewers for the Municipal Complex be and is hereby awarded to the bidder that submitted the lowest cost proposal, Underground Utilities Corp., 711 Commerce Road, Linden, New Jersey 07036, for the base bid amount of \$918,399.90, Alternate “A” for \$72,800.35, and Alternate “B” for \$17,199 for a total bid amount of \$1,008,399.25 in accordance with the bid specifications; and,

BE IT FURTHER RESOLVED that this contract award is subject to review and approval of the bid submissions by the Borough Attorney; and,

BE IT FURTHER RESOLVED that the Mayor and Council is deferring a decision on whether to award Alternate “C” pending input from the Franklin Lakes Public Library, which is scheduled to meet on July 20, 2015; 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 the Borough Engineer and Underground Utilities Corp.

A motion was made and the resolution was read by Council President Kelly, seconded by Councilperson Kahwaty. Discussion - Mr. Hart explained that a mistake had been made in the amount which he noted should read \$1,008,399.25.

Roll Call Vote

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

Nays: None

Abstain:

Absent:

Motion Approved

Resolution 199-15

Award Contract - Boat Rental at Franklin Lakes Nature Preserve

WHEREAS, the Mayor and Council are desirous of permitting a vendor to rent boats at the Franklin Lakes Nature Preserve for the period from July 11 to August 30, 2015; and,

WHEREAS, in accordance with the requirements of N.J.A.C. 5:34-9.4, the Borough Administrator solicited three proposals for these services; and,

WHEREAS, the Borough received proposals from two boat rental vendors; and,

WHEREAS, the cost proposals submitted by the two vendors were identical and the proposals from both vendors complied with the Proposal Specifications; and,

WHEREAS, the Borough Administrator recommends that the contract for boat rental services at the Franklin Lakes Nature Preserve be awarded to Ramsey Outdoor Stores, 281 Route 10 East, Suite 16, Succasunna, New Jersey 07876, based on the Borough’s favorable experiences with the vendor, the vendor’s involvement with the community, and the vendor’s offer to provide “Paddle Days”;

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 hereby approved for the reasons stated hereinabove, and

the contract for renting boats at the Franklin Lakes Nature Preserve for the period from July 11 to August 30, 2015 be and is hereby awarded to Ramsey Outdoor Stores in accordance with its June 27, 2015 proposal, with participants to be charged \$20 for one hour and \$30 for two hours for use of kayaks and canoes; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to Ramsey Outdoor Stores.

A motion was made and the resolution was read by Councilperson Kahwaty, seconded by Council President Kelly. Discussion – Mr. Hart stated that both vendors offered boats at \$20 per hour or \$30 for two hours. Ramsey Outdoor Store offered additional services and Mr. Hart noted that the Borough has had a good working relationship with them in the past.

Roll Call Vote

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

Nays: None

Abstain:

Absent:

Motion Approved

Mayor Bivona spoke about paddle boards and said that he feels this activity is safer than kayaking because it is easier to get back on a paddle board after falling out. He is in favor of paddle boarding which appeals to young people. Councilperson Kahwaty said that he is not aware of any downsides to paddle boarding and participants expect to fall into the water.

Councilperson Kahwaty made a motion to amend the ordinance to allow paddle boarding at the Nature Preserve with the requirement that life jackets be worn at all times. Council President Kelly seconded the motion.

Roll Call Vote

Ayes: Cadicina, Kahwaty, Kelly, Swist

Nays: Lambrix, Ramsey

Abstain:

Absent:

Motion Approved

Resolution 200-15

Bonus Grant for Food Waste, Abandoned Tires and Public Space Recycling

WHEREAS, The New Jersey Department of Environmental Protection has announced a \$400,000 “Bonus” grant program that will provide targeted grants for recycling initiatives in three areas: food waste recycling, scrap tire removal and recycling in public spaces. Bonus grants will be made available to local governments (municipalities and counties) and to county institutions (colleges, health care and corrections facilities). This program is funded through the Recycling Tax established in the “Recycling Enhancement Act”.

WHEREAS, The recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, A resolution authorizing this municipality to apply for the Bonus Grant for Food Waste, Abandoned Tires and Public Space Recycling will memorialize the commitment of this municipality to recycling and to indicate the assent of (name of governing body) to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

NOW THEREFORE BE IT RESOLVED by the Borough of Franklin Lakes that Franklin Lakes hereby endorses the submission of the Bonus Grant for Food Waste, Abandoned Tires and Public Space Recycling grant application to the New Jersey Department of Environmental Protection; and designates Liz Morris, Recycling Coordinator to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the Bonus Grant for Food Waste, Abandoned Tires and Public Space Recycling grant be used solely for the purposes outlined in the Bonus Grant application.

Mr. Hart stated that the Borough is seeking a grant of \$6,500 for a dumpster for recycling purposes. The resolution was read by Councilperson Kahwaty, seconded by Councilperson Cadicina.

Roll Call Vote

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

Nays: None

Abstain:

Absent:

Motion Approved

MAYOR'S REPORT

Mayor Bivona encouraged everyone to support and attend the Field of Dreams program on Friday nights. He will be working on ways to ensure that the program will continue. He announced a movie night at McBride Field on July 30th preceded by lawn games. Mayor Bivona said that everyone is invited to a flag retirement dinner on Thursday at 5:30 P.M. He added that John Spizziri is retiring and following the brief Planning Board meeting of July 15th, there will be a gathering to wish him well. Mayor Bivona stated that Steve DiFlora, Zoning Board Chairman, has notified him that he will be leaving Franklin Lakes and the Zoning Board after his house is sold. Mr. Hart said that there will be a proclamation for John Spizziri at the meeting of July 21st.

COMMITTEE/LIAISON REPORTS

PLANNING & DEVELOPMENT

- **Solar Panel Ordinance**

Councilperson Kahwaty stated that the Planning Board has reviewed the ordinance and recommended that solar panels be allowed on accessory structures. If plans for the solar panels are conforming, approval by the Construction Official would be necessary and there would be no requirement for Planning Board approval. The ordinance will be introduced on July 21st.

- **Amendment to Storm Sewer Ordinance**

Councilperson Kahwaty said there are no major changes in this ordinance and no hose, pipe or anything else can be connected to a storm sewer. Any exceptions must be approved by the Mayor and Council. The key change is that residents are allowed to pump water into the street as long as no puddles, icy conditions or ponding occurs.

PUBLIC SAFETY

Mr. Hart recalled a recommendation from the Police Department that the Snow Removal Ordinance be expanded to include every sidewalk in the Borough. He suggested that they look into this in committee.

ADMINISTRATION AND FINANCE

- **Employee Recognition Program**

Councilperson Lambrix referred to a proposal to include \$5,000 in the budget to fund a program that recognizes employees for their performance above and beyond what is typically required. The program would be administered by the Borough Administrator. The proposal states that department heads could be included and amounts would vary based on the Administrator's recommendations. This will be approved at the July 21st meeting.

- **Borough Code Review**

Mr. Hart reviewed changes and updates to the code. There is a provision in the ordinance relative to alarm registrations which is not being practiced. There had been a requirement for an annual alarm registration, however, the police department did not feel this was necessary. They do feel that any changes in alarm information be registered. The Recycling Coordinator will administer the Clean Communities Grant program rather than the Borough Administrator.

- **Resident Survey Memo**

Mr. Hart was interested in a Resident Survey done by the Borough of Oradell. He contacted the Administrator there who told him that it cost Oradell \$15,000 to work with a non-profit company to develop a resident survey. He encouraged Councilmembers to review the survey and said they could borrow some of the questions and set up done in the Oradell survey.

Councilperson Lambrix noted that there were some questions that could be considered personal and intrusive by residents and may not be appropriate. Councilperson Cadicina questioned the resources needed to administer the survey. Mayor Bivona said he has had experience with these types of surveys and most of the time they confirm what is already known, however, this is a tool that would demonstrate to residents that the Mayor and Council are concerned about them and value their opinions. Councilperson Kahwaty suggested that this survey be used during budget discussions. Councilperson Swist reminded everyone that when the survey is complete, residents will expect the Council to address their concerns. Councilperson Cadicina was concerned about low response.

Mr. Hart said it is important to get a significant number of responses and said that there were 600 responses in Oradell. He is confident they could get a good response if the survey was promoted correctly. Mr. Hart thinks this proposal is doable and he has been working with an intern who could assist in administrating the survey. This would be an online survey and there would be no outside agency involved. He would like to present a draft to the Mayor and Council if they are interested. Councilmembers indicated they would like to see a draft form of the survey with questions.

PUBLIC WORKS

Mr. Hart stated that they are looking into getting new high quality "Welcome to Franklin Lakes" signs. He has received one proposal at a cost of \$8,400 and he will obtain other proposals. The funding for the signs will come from the Beautification Trust Fund.

ENVIRONMENT AND COMMUNITY AFFAIRS

- **Tree Removal on Borough Property**

Councilperson Swist stated that Kris Hasbrouck is recommending that certain trees on Borough property be removed. These trees pose a safety hazard and the cost is covered by the tree escrow fund. There are proposals by three contractors and the resolution will be listed on the July 21st agenda.

- **Tree Removal Permit - 736 Orchard Lane**

Councilmembers were in agreement to issue this permit.

Councilperson Swist spoke about the Stigma Free initiative and she pointed out that there is information on the Borough website. A team will meet on July 24th and will include a New York City psychiatrist and psychiatric social worker. She stressed the importance of reaching out to the schools to expand this program.

Councilperson Swist referred to the Shade Tree Commission Meeting and said she wants to include the tree farm on their agenda. There are a number of issues regarding maintenance issues at the tree farm and they need to evaluate the purpose and future of the tree farm.

RECREATION AND PARKS

- **Bergen County Open Space Application**

Mr. Hart spoke about the extension of primitive trails, dog-park, tennis court improvements, Nature Preserve parking lot paving and several other projects that could be funded if their application was approved by the County. Mayor Bivona indicated that the tennis courts need work and the playground could easily be transformed into a dog park. Mr. Hart will try to link the two projects together when submitting the application.

- **Bergen County Open Space Representatives**

Mr. Hart stated that this is an annual appointment and last year consisted of the Mayor and himself as an alternate. Councilmembers agreed with Mr. Hart's recommendation.

- **Bergen County Community Development Representative**

Mr. Hart explained that this is similar to what had been discussed previously. In addition to the Mayor's representatives, there are governing body representatives consisting of Councilperson Ramsey and alternate Councilperson Kahwaty. Councilmembers agreed to move forward with these appointments.

- **Facilities Use Requests**

Requests were discussed earlier this evening. Councilmembers agreed to have the Recreation Director negotiate with Ramapo Youth Soccer Association.

BOROUGH ADMINISTRATOR'S REPORT

There were no questions on Mr. Hart's report.

OLD BUSINESS

There was no new business this evening.

NEW BUSINESS

Councilperson Swist said that the Council should consider a safe zone for Craig's list like transactions. This has been done in some local municipalities and Mr. Hart said he would look into this.

INTRODUCTION OF ORDINANCES ON FIRST READING

Motion to consider Ordinance No. 1636 for introduction and to direct the Deputy Clerk to read by title was made by Councilperson Kahwaty. Seconded by Council President Kelly. Discussion – Mr. Hart explained that repairs and additional space are needed at the Police Department building resulting in extra costs. This may impact other capital needs in the Borough.

The Deputy Clerk read Ordinance 1636 by title.

ORDINANCE 1636

**SUPPLEMENTAL ORDINANCE AMENDING BOND
ORDINANCE 1603 PROVIDING FOR CAPITAL
IMPROVEMENTS TO POLICE HEADQUARTERS
IN AND BY THE BOROUGH OF FRANKLIN
LAKES, COUNTY OF BERGEN, STATE OF NEW
JERSEY**

WHEREAS, Ordinance 1636 was introduced at a meeting of the Mayor and Council held on the 7th day of July 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 1636 be and the same is hereby introduced on First Reading; and,

BE IT FURTHER RESOLVED that said Ordinance will be further considered for final passage at a meeting of the said Mayor and Council to be held on the 21st day of July 2015 at 7:30 PM in the evening or as soon thereafter as the matter can be reached in the Council Chambers 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 1636; 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 Cadicina. 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 Tuesday, July 7, 2015 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Anticipated Litigation – Affordable Housing
- Contractual – Police Dispatch
- Personnel – Police Department
- Contractual – Multi Street Right-of-Way

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 enter into Closed Session at 10:32 P.M. was read by Councilperson Kahwaty, seconded by Councilperson Lambrix.

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 Cadicina seconded the motion.

Roll Call Vote

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

Resolution 191-15

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 \$4,514,921.99 as shown on the Claims Bill List; \$1,503.81 as shown on the Soil Account Bill List and \$180.00 as shown on the Developers Escrow List.

BE IT FURTHER RESOLVED, that the payroll of June 4, 2015 in the amount of \$194,115.73 and the payroll of June 18, 2015 in the amount of \$226,497.14 be hereby ratified and approved.

Resolution 192-15

BE IT RESOLVED, that the Mayor and Council of the Borough of Franklin Lakes approve the following A.B.C. Licenses for 2015-2016:

Franklin Lakes Indian Trail Club, Inc., 830 Franklin Lake Road
Lic. # 0220-33-002-001 at a fee of \$2,332.00

The Mountain Club, Inc., 845 Ewing Avenue (Inactive License)
Lic. # 0220-33-006-001 at a fee of \$2,332.00

Endless Vine, LLC, PO Box 208 (Inactive License)
Lic. # 0220-33-001-006 at a fee of \$2,332.00

Vishant, Inc., 799 Franklin Avenue
Lic. # 0220-44-003-005 at a fee of \$2,332.00

Resolution 193-15

WHEREAS, at the Tax Sale held on December 28, 2012, the Borough of Franklin Lakes sold a tax lien on Block 1110.01, Lot 10, also known as 309 Indian Trail Drive, for delinquent 2011 taxes, owned by Bigica, Laura and;

WHEREAS, this Tax Lien Certificate #12-00001 was sold to Sunshine State Certificates IV/Bankunited, 7900 Miami Lakes Drive, Miami Lakes, FL 33016 at zero percent interest rate and a premium of \$86,000.00;

WHEREAS, Cole Schotz P.C., the firm representing 100 Mile Lake Estate, LLC, holder of the mortgage on this property will redeem of Certificate #12-00001 in the amount of \$174,446.94, and

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue check in the amount of \$260,446.94 to Sunshine State Certificates IV/Bankunited, 7900 Miami Lakes Drive, Miami Lakes, FL 33016.

Principal	\$ 128,091.07
Redemption Penalty	1,297.15
Tax Penalty	6,927.59
Interest	38,076.13
Recording Fees	43.00
Other Fees	12.00

Redemption Total: **\$ 174,446.94**

Plus Premium: **\$ 86,000.00**

Grand Total: **\$ 260,446.94**

Resolution 194-15

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(s) 2013 and 2014, on Block 1201.03 Lot 18 whose property location is 300 Locust Court, homeowners Finnan, John & Linda,

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>
1201.03	18	\$ 188,500 (2013)	\$ 2,934.95
		\$ 188,500 (2014)	\$
2,177.22			
		Total Refund	<u>\$ 5,112.17</u>

All checks made payable to:
 McKirdy & Riskin, P.A.
 136 South Street
 P.O. Box 2379
 Morristown, NJ 07962-2379

Resolution 195-15

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(s) 2013 and 2014, on Block 1110.04 Lot 1 whose property location is 649 Dakota Trail, property owner Premier Homebuilders, LLC.,

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>
1110.04	1	\$ 21,900 (2013)	\$ 340.98
		\$ 21,900 (2014)	\$
344.27			

Total Refund \$ 685.25

All checks made payable to:
 Waters, McPherson, McNeill, P.C.
 Attorneys for Premier Homebuilders, LLC.
 P.O. Box 1560
 Secaucus, NJ 07096

Resolution 196-15

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 \$3,877.60, 2015 Click It or Ticket 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 \$3,877.60 which will be available as a revenue from:

Miscellaneous Revenues:
 Public and Private Programs Offset by Appropriations:
 2015 Click It or Ticket Grant \$3,877.60

BE IT FURTHER RESOLVED that a sum of \$3,877.60 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 Click It or Ticket Grant \$3,877.60

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

RESOLUTION 197-15

**RESOLUTION OF THE BOROUGH OF FRANKLIN LAKES,
 COUNTY OF BERGEN, (1) AUTHORIZING THE FILING OF A
 DECLARATORY JUDGMENT ACTION AND A MOTION FOR
 TEMPORARY IMMUNITY, AND (2) DECLARING ITS INTENT
 TO FULLY COMPLY WITH ITS CURRENT AND FUTURE
MOUNT LAUREL OBLIGATIONS AND TO SERVE AS THE
 "CATALYST FOR CHANGE" TO RENDER ANY MOUNT
 LAUREL LAWSUITS AS "UNECESSARY LITIGATION"**

WHEREAS, in So. Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158, 279-80 (1983) ("Mount Laurel II"), the New Jersey Supreme Court ruled, subject to

several other limitations, that in order for a plaintiff to be entitled to a builder's remedy, it must "succeed in litigation;" and

WHEREAS, in Toll Bros. Inc. v. Tp. of W. Windsor, 173 N.J. 502, 507 (2002), the Supreme Court ruled that in order for a developer to succeed in litigation, it must not only prove that the municipality failed to create a realistic opportunity to satisfy its affordable housing obligation, but also must be the “catalyst for change;” and

WHEREAS, on September 26, 2013, the Supreme Court released In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 215 N.J. 578 (2013) which invalidated the Round 3 regulations adopted in 2008 by the New Jersey Council on Affordable Housing (“COAH”); and

WHEREAS, on March 14, 2014, the Supreme Court issued an order directing COAH to propose new Round 3 regulations on or before May 1, 2014 and to adopt them by October 22, 2014; and

WHEREAS, the March 14, 2014 Order further provided that, if COAH failed to meet these deadlines, the Court would entertain a Motion in Aid of Litigant’s Rights which could include an application for the right, on a case-by-case basis, to file a builder’s remedy suit against a municipality under COAH’s jurisdiction, such as the Borough; and

WHEREAS, on April 30, 2014, in accordance with the March 14, 2014 Order, COAH proposed Round 3 regulations and published them in the New Jersey Register on June 2, 2014; and

WHEREAS, COAH accepted public comments on the proposed Round 3 regulations until August 1, 2014, and indeed received roughly 3,000 comments; and

WHEREAS, on October 20, 2014, the COAH board met to consider adopting the proposed regulations; and

WHEREAS, the COAH board reached a 3-3 deadlock and therefore did not adopt the proposed regulations; and

WHEREAS, COAH therefore failed to meet the Supreme Court’s October 22, 2014 deadline; and

WHEREAS, on October 31, 2014, Fair Share Housing Center (“FSHC”) filed a Motion In Aid of Litigant’s Rights urging the Supreme Court, among other things, to direct trial judges -- instead of COAH -- to establish standards with which municipalities must comply; and

WHEREAS, COAH’s failure to adopt the proposed regulations has left the Borough in a continuing state of limbo despite its unwavering commitment to constitutional compliance without the need for litigation; and

WHEREAS, on March 10, 2015, the Supreme Court issued a decision entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), in which it (1) found that COAH had violated its March 14, 2014 Order by failing to adopt new Round 3 regulations by October 22, 2014, (2) held that, without new Round 3 regulations, COAH could not process petitions for substantive certification for the 314 municipalities currently under COAH’s jurisdiction, (3) directed trial courts to assume COAH’s functions, (4) authorized municipalities under COAH’s jurisdiction to file a Declaratory Judgment Action along with a motion for Temporary Immunity by July 8, 2015, or risk possible exposure to exclusionary zoning lawsuits and (5) ruled that municipalities would have five months to prepare and file a Housing Element and Fair Share Plan with a trial court for review; and

WHEREAS, trial courts must now (1) calculate the “fair share” obligations for Round 3 and establish the standards with which municipalities must comply; (2) process declaratory judgment actions filed by municipalities seeking approval of an affordable

housing plan based upon the new judicially established standards; and (3) entertain motions by municipalities for immunity from exclusionary zoning lawsuits while the municipality and its planning board prepare, adopt/endorse and seek approval of an affordable housing plan as may be amended; and

WHEREAS, the Supreme Court stated that municipalities bear no responsibility for COAH's inexcusable failure to adopt Round 3 regulations, and emphasized the desirability of municipalities complying voluntarily consistent with case law that reaches back for decades; and

WHEREAS, at this juncture, the Borough's Round 3 obligation is unsettled; and

WHEREAS, regardless of whatever obligation is ultimately determined, the Borough remains committed to comply voluntarily with its obligations; and

WHEREAS, the Borough brought itself under COAH's jurisdiction so that it could comply voluntarily under the protective umbrella of COAH's jurisdiction; and

WHEREAS, the Borough wishes to complete the process of complying voluntarily and without the need for litigation by outside parties; and

WHEREAS, accordingly, the Borough wishes to follow the path provided by the Supreme Court by bringing a declaratory relief action and simultaneously bringing a motion for immunity so that the Borough can complete its efforts to comply voluntarily with whatever standards the trial judge may determine are appropriate; and

WHEREAS, the Borough has previously instructed its professionals to prepare and file a declaratory judgment action and motion for temporary immunity between June 8, 2015 and July 8, 2015 in accordance with the Supreme Court's March 10, 2015 decision;

WHEREAS, the Borough wishes to memorialize its decision; and

WHEREAS, the Borough herein intends to make its intentions inescapably clear to the public and all concerned.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Borough hereby reaffirms its commitment to satisfy its affordable housing obligations voluntarily and in the absence of any exclusionary zoning lawsuit.

2. The Borough hereby memorializes its authorization and direction to its special Mount Laurel counsel in accordance with the Supreme Court opinion to file a declaratory relief action between June 8, 2015 and July 8, 2015 and to file simultaneously a motion seeking temporary immunity.

3. The Borough authorizes and directs special Mount Laurel counsel to submit to the court its amended 2008 Housing Element and Fair Share Plan, as will be further amended and resubmitted to the Court within the five month period articulated by the Supreme Court.

4. The Borough directs its legal and planning professionals in accordance with the Supreme Court's opinion to seek a judicial determination of its Round 3 obligations, as well as other related standards that the court may apply and to take all reasonable and necessary action to enable Franklin Lakes and its Planning Board to comply expeditiously therewith.

5. This Resolution shall take effect immediately.

Respectfully submitted,

Sally T. Bleeker

Sally T. Bleeker, Borough Clerk