

**MEETING OF THE MAYOR AND COUNCIL
JULY 5, 2016
7:30 P.M.**

A regular meeting of the Mayor and Council was held on July 5, 2016, in the Municipal Building.

MEETING CALLED TO ORDER

ROLL CALL

The following Council Members and Professionals responded to the roll call: Mayor Bivona, Councilperson Cadacina (7:54 P.M.) Councilperson Kahwaty, Council President Lambrix Councilperson Kelly, Councilperson Ramsey, Councilperson Swist, Borough Administrator Greg Hart, Borough Attorney Smith and Deputy Borough Clerk Jennifer Crespo.

SUNSHINE LAW STATEMENT

The Borough Clerk read the Sunshine Law Statement.

FLAG SALUTE

MOMENT OF SILENT REFLECTION

APPOINTMENT

- **Police Sergeant – Donald Wilson**

Councilperson Swist made a motion to appoint David Wilson as Police Sergeant. Councilperson Kahwaty seconded the motion.

Roll Call Vote

Ayes: Kahwaty, Kelly, Lambrix, Ramsey, Swist
Nays: None
Abstain: None
Absent: Cadacina

Donald Wilson was sworn in as Police Sergeant by Mayor Bivona.

Police Chief Pezzuti stated that Officer Wilson is a dedicated police officer who is always searching for ways to improve the department. He is happy to have him as a member of the senior staff.

OPEN TIME FOR PUBLIC COMMENT

Motion to open the time for public comment was made by Council President Lambrix. Councilperson Kahwaty seconded the motion.

No one from the public came forward. Motion to close the time for public comment was made by Councilperson Swist, seconded by Councilperson Kelly.

BOROUGH ENGINEER'S REPORT

Eileen Boland of Boswell Engineering stated that the Road Program is nearing completion. Drainage work continues on Sunset Avenue and Mr. Hart said they are still trying to understand the scope of work at Police Headquarters. They are hoping to use the remaining amount of the appropriation towards some additional scope of work at Police Headquarters parking lot and at the Recreation Center between the annex building and the community center. They are waiting to receive a credit from the contractor which will be applied towards this cost.

Ms. Boland said that the bid for work on Huron Road and Old Mill Road has been awarded at \$110,000, and there a change order will be necessary in order to use the entire amount of grant money. They will have to figure what portion of Pulis Avenue is in worst need of repair. Huron Road will be finished and there is a pre-construction meeting regarding the guard rails. Ms. Boland reported that she had seen a list of roads to be paved by the County and Summit Avenue between Franklin Avenue and High Mountain Road is on the list.

**Resolution 195-16
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 196-16 Accept Report of the Finance Committee
- Resolution 197-16 Award Contract – Construction Office Filing Cabinets
- Resolution 198-16 Amend Capital Budget
- Resolution 199-16 Tax Refund – Givant
- Resolution 200-16 Chapter 159 – Click it or Ticket
- Resolution 201-16 Chapter 159 – Meyer Foundation
- Resolution 202-16 Award Contract – Drug and Alcohol Testing

Resolution introduced by Councilperson Kahwaty. Seconded by Councilperson Kelly.

Roll Call Vote

Ayes: Kahwaty, Kelly, Lambrix, Ramsey, Swist
Nays: None
Abstain: None
Absent: Cadacina

Council President Lambrix questioned the amendment to the Capital Budget and Mr. Hart explained that Mr. Pike had noticed some errors in prior Capital Amendment Budget resolutions. This resolution corrects the mistakes but the plan overall has not changed.

MAYOR’S REPORT

Mayor Bivona stated that he and Mr. Hart recently met with Joe Alpert relative to supportive housing. Bids will go out in August with ground breaking expected in September. Boswell will be completing the design of a pump station. Councilman Kahwaty stated that there are no outstanding funding issues and all conditions have been met. Mayor Bivona commented that the other group probably would not have received funding without strings attached and this will be a voucher program run through the County.

Mayor Bivona stated that he was at the Nature Preserve recently and counted 25 paddle boards and boats on the water. This area is an asset to the community, well used and very clean. He added that the Council made this happen and Ramsey Outdoor Store is doing a great job as well.

Mayor Bivona, Mr. Hart and Mary Ellen Mara met today to discuss this year’s Town Fair along with Lynette and Lenore. There was a discussion relative to changing the name to the Franklin Lakes Festival. There will be a car show on Friday night. More information will follow shortly.

Councilwoman Swist asked about Memorial Park and Mr. Hart asked her to give him a schedule of her availability relative to a discussion on a fund raiser to replenish the Memorial Park Fund.

COMMITTEE/LIAISON REPORTS

PUBLIC SAFETY & LIBRARY

Amend Parking Ordinance County Roads

Regarding the prohibition against parking on County roads, Mr. Hart said that the Traffic Officer indicated that as many as thirty or as few as fifteen signs might be necessary on the five roads that would be affected. Councilwoman Swist said that thirty signs seem like a lot and the Mayor pointed out that the Borough doesn't have signs prohibiting overnight parking. He is concerned about "sign pollution" and Councilperson Ramsey suggested painting the curb yellow. After a short discussion, the Council agreed that the number of signs need to be clarified and they were not in favor of 30 signs. They recognized that signs are needed in order to enforce the ordinance. Mr. Hart will discuss these suggestions with the Traffic Officer.

- **Drones Ordinance**

Mr. Hart reported that he met with Brian Walk to discuss the implications of the new federal regulations regarding drones. They considered requiring people who fly drones to register with the Borough but after some discussion decided that rules should be put into place. Mayor Bivona was concerned that allowing the registration of drones in the Borough would attract a great number of people to the Borough for the sole purpose of flying drones. These rules would prohibit the flying of drones over private property without permission of the property owner. A drone could only be operated if no one is present within a 100 foot radius of the drone and all other uses have priority. Drones cannot be flown over streets or public buildings and they can only be flown during the day. Mr. Hart stated that the goal is to address the privacy and safety concerns.

Councilperson Swist mentioned that all drones must be registered through the FAA. The new federal regulations allow for the commercial operation of drones and Mr. Smith added that eventually drones will be under State control and not regulated by municipalities.

Mayor Bivona said that parks are for natural enjoyment and he doesn't want to invite drones since other towns are banning them. Mr. Hart reiterated that they are imposing certain regulations including a prohibition on the flying of drones over private property without permission and a drone can only be operated if no one is present within a 100 foot radius of the vehicle. Drones cannot be flown over streets or public building and drones can't be operated at night. The Borough is not banning drones because it is not a problem at the present time. Mr. Hart will check on the "peeping tom" statute to ensure clarity. Mr. Hart said that Mr. Walk supports these proposals and Mr. Hart will have an ordinance for introduction on July 21st.

PUBLIC WORKS

ADMINISTRATION AND FINANCE

Council President Lambrix said that he would give his report during Closed Session.

PUBLIC WORKS

Councilperson Swist reported that the beaver deceiver has been installed

Mr. Hart said that the DPW had installed plantings at the traffic circle. The Parsons Pond Park signage has been ordered and will be identical to the signs at the Nature Preserve.

- **Tilson Box Request**

Mr. Hart stated that there is nothing new to report. Mayor Bivona recalled that he requested that the box be moved from the pole on the Circle to an alternate location.

ENVIRONMENTAL AND COMMUNITY AFFAIRS

- **Book Recycling**

The Recycling Coordinator has reported on the proposed book recycling program. She identified three possibilities but recommended Planet Aid. The Borough has a good relationship with Planet Aid and they are moving forward with the program. This is not a money maker for the Borough but rather a convenience. A resolution will be prepared for July 19th. Councilperson Swist said that there will be a focus on recycling at the Town Fair.

RECREATION AND PARKS

Councilman Kelly reported that enrollment on fall soccer is complete with 120 registered players. This is an increase over the past few years. The strategy is being completed for Parsons Pond Park and other recreational facilities and it will be available at the next work session. Councilperson Kelly reported on a workshop for coaches and he added that they are working on rules and regulations relative to the use of buildings and fields by non-residents. They are also working on enhanced landscaping for Parsons Pond Park.

Mr. Hart stated that the risk manager will look at Parsons Pond Park and the other baseball fields to address any outstanding safety issues.

PLANNING AND DEVELOPMENT

- **Abandoned Properties Ordinance**

Councilman Kahwaty announced that there will be a meeting tomorrow to review the Abandoned Properties Ordinance. He is concerned with some of the language contained in the ordinance. Mr. Hart noted that the ordinance is modeled after the Camden County program and one of the requirements of the ordinance is registration of abandoned properties at a cost of \$400 if a homeowner defaults on their mortgage. The mortgage company would be required to inspect and maintain the property. Mr. Hart thought this requirement might be difficult to enforce and was not sure if it was even practical. He commented that they might be inclined to use this model in the event of a foreclosure and not in the instance of default. Mr. Smith asked if this had been tested in Court and Mr. Hart said he was not aware if it had or had not.

Mr. Hart referred to the Abandoned Properties Rehabilitation Act which is used by Construction Officials to identify properties that meet this criteria. If the properties do meet the criteria the Construction Official will publish a list, give notice to the property owner and include the process to be followed in order to remove the property from the list. This process also gives the municipality an opportunity to seek control and possession of the property, if necessary, through a Court process. Mr. Hart said that a recommendation might be made at tomorrow's meeting to introduce this ordinance at the July 19th meeting. Councilperson Ramsey commented that pools at abandoned homes are becoming a health issue due to frogs and mosquitos.

- **Amendment to Area and Bulk Schedule**

Mr. Hart explained that this is a clarification relative to impervious coverage. Mayor Bivona said that the prior wording referred to "total impervious coverage" and it is being changed to "total coverage" which is an administrative correction.

BOROUGH ADMINISTRATOR'S REPORT

Mr. Hart asked everyone to test 888777 on their cell phones, and enter their zip code 07417, in order to get the Nixle alerts. This alert gives information on street closings and other major events such as water main breaks. He noted that this is mainly for emergency management use.

Mr. Hart added that a capital ordinance will be introduced on July 19th relative to Parsons Pond Park to fund expenditures such as signage and striping.

OLD BUSINESS

There was no old business this evening.

NEW BUSINESS

There was no new business this evening.

INTRODUCTION OF ORDINANCE ON FIRST READING

Move to take up consideration of Ordinance 1686 for introduction, and direct the Deputy Borough Clerk to read by title was made by Councilperson Kahwaty, seconded by Councilperson Swist, all in favor.

The Deputy Borough Clerk read Ordinance 1686 by title only.

ORDINANCE 1686

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR CERTAIN
PARK IMPROVEMENTS, AND APPROPRIATING \$46,970.00 FOR SAID
IMPROVEMENTS AUTHORIZED TO BE UNDERTAKEN IN, BY AND
FOR THE BOROUGH OF FRANKLIN LAKES, IN THE COUNTY OF
BERGEN, NEW JERSEY**

WHEREAS, Ordinance 1686 was introduced at a meeting of the Mayor and Council held on the 5th day of July 2016;

NOWHEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, State of New Jersey, that Ordinance 1686 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 19th day of July 2016 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 1686; 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 read and introduced by Councilperson Kahwaty, seconded by Councilperson Swist. Discussion – Mr. Hart stated that this is for the tennis courts and the dog park and is double the amount of the matching grant.

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 5, 2016 which begins at 7:30 PM, in the Conference Room at the Municipal Building to discuss the following:

Closed meeting issues:

- Pending Litigation – Affordable Housing Litigation
- Contractual – Child Care Center
- Tax Appeal – LaPietra
- Personnel – Keene Medical Coverage

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 was read by Councilperson Kahwaty, seconded by Councilperson Cadicina at 8:45 P.M. On voice vote, all in favor.

Mr. Hart said that there would be a discussion of the Child Care Center at the next meeting.

Council returned from Closed Session at 9:00 P.M.

ADJOURNMENT

Motion by Council President Lambrix to adjourn the meeting at 9:00 P.M. Councilperson Kahwaty seconded the motion.

Roll Call Vote

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

Resolution 196-16

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 \$4,746,874.80 as shown on the Claims Bill List; \$5,210.00 as shown on the Soil Account Bill List and \$2,743.45 as shown on the Developers Escrow List.

BE IT FURTHER RESOLVED, that the payroll of June 2, 2016 in the amount of \$203,434.88, the payroll of June 16, 2016 in the amount of \$226,638.24 and the payroll of June 30, 2016 in the amount of \$215,315.39 be hereby ratified and approved.

Resolution 197-16

Award Contract – Purchase of File Cabinets

WHEREAS, the Borough of Franklin Lakes wishes to purchase file cabinets for the Construction Office from an authorized vendor under the State of New Jersey Cooperative Purchasing Program 1-NJCP; and,

WHEREAS, N.J.S.A 40A:11-12(a) provides that local contracting units may purchase goods and services under a State Contract, without advertising for bids; and,

WHEREAS, Garden State Office Systems & Equipment, 115 Campus Drive, Edison, New Jersey 08837 has been awarded New Jersey State contract #A75246; and,

WHEREAS, the Construction Official recommends that the contract for file cabinets be awarded to Garden State Office Systems & Equipment under its State contract, for the price of \$23,752.80; and,

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Franklin Lakes that the contract for the purchase of file cabinets for the Construction Office be and is hereby awarded to Garden State Office Systems & Equipment, for the State contract cost of \$23,752.80; and,

BE IT FURTHER RESOLVED the Chief Financial Officer has certified the availability of funds for the cost of the file cabinets; and,

BE IT FINALLY RESOLVED that a copy of this resolution be forwarded to Garden State Office Systems & Equipment and the Construction Official.

Resolution 198-16

See attached

Resolution 199-16

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

WHEREAS, on June 17, 2016, the case was settled in litigation reducing the tax assessment for the years 2012 & 2013, and also invoked the Freeze Act so that the 2013 reduced assessment is applied to the years 2014 & 2015, and therefore the Borough of Franklin Lakes, has to refund with interest from date of payment to date of refund, on Block 1104 Lot 7 whose property location is 820 Sussex Road, tax payer Givant, Stephen G. & Madelyn J.,

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 Chief Financial Officer 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>
1104	7	\$ 117,140 (2012)	\$ 1,795.76
		\$ 87,550 (2013)	1,363.15
		\$ 87,550 (2014)	1,376.29
		\$ 87,550 (2015)	1,399.92
		2012 5% Interest for 1416 Days (From 8/1/2012 to 7/7/2016)	353.17
		2013 5% Interest for 1056 Days (From 8/1/2013 to 7/7/2016)	199.93
		Refund Tax Payer	<u>\$ 6,488.22</u>

All checks made payable to:
Spiotti & Esposito, P.C.
Attorney Trust Account
271 U.S. Highway 46
Suite F105-106
Fairfield, NJ 07004-2471

Resolution 200-16

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 \$4,929.04, 2016 Click It or Ticket Grant and wishes to amend its 2016 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 2016 Budget in the sum of \$4,929.04 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:
2016 Click It or Ticket Grant \$4,929.04

BE IT FURTHER RESOLVED that a sum of \$4,929.04 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":
Public and Private Programs Offset by Revenues:
2016 Click It or Ticket Grant \$4,929.04

BE IT FURTHER RESOLVED that the Chief Financial Officer will file this resolution and accompanying documents electronically with the Director of Local Government Services.

Resolution 201-16

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 \$160,000.00, 2016 Private Donation- Meyer Foundation and wishes to amend its 2016 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 2016 Budget in the sum of \$160,000.00 which will be available as a revenue from:

Miscellaneous Revenues:

Public and Private Programs Offset by Appropriations:
2016 Private Donation- Meyer Foundation-
Franklin Lakes Police Department - Two police patrol vehicles ,
purchase of new furniture, workstations and filing cabinets
for police headquarters \$160,000.00

BE IT FURTHER RESOLVED that a sum of \$160,000.00 and the same is hereby appropriated under the caption of:

General Appropriations:

(a) Operations Excluded from "CAPS":
Public and Private Programs Offset by Revenues:
2016 Private Donation- Meyer Foundation-
Franklin Lakes Police Department - Two police patrol vehicles ,
purchase of new furniture, workstations and filing cabinets
for police headquarters \$160,000.00

BE IT FURTHER RESOLVED that the Chief Financial Officer will file this resolution and accompanying documents electronically with the Director of Local Government Services.

Resolution 202-16

BE IT RESOLVED, by the Mayor and Council of the Borough of Franklin Lakes that the Borough shall enter into an agreement which is effective July 1, 2016 – July 1, 2018 for Drug and Alcohol Testing with Valley Health Medical Group, 15 Essex Road, Suite 504 Paramus, NJ 07652; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized and directed to execute the agreement after review and approval by the Borough Attorney.

Respectfully submitted,

Jennifer Crespo
Deputy Borough Clerk