

**MINUTES OF THE MEETING OF THE
MAYOR AND COUNCIL
OF THE BOROUGH OF FRANKLIN
HELD AT THE FRANKLIN MUNICIPAL BUILDING
46 MAIN STREET, FRANKLIN, NJ
NOVEMBER 23, 2010**

Mayor Crowley called the meeting to order at 7:00 PM and requested the Borough Clerk to call the roll. Upon roll call, the following members of the Governing Body were present: Mr. Kulsar, Mr. Limon, Ms. Miller, Mr. Stoll, Mr. Zschack and Mayor Crowley.

Absent: Mr. Snyder

Mayor Crowley led the assembly in the flag salute.

Mayor Crowley stated "This meeting is being held in compliance with the provisions of the Open Public Meetings Act, P.L. 1975, Ch. 231. It has been properly advertised and certified by the Clerk."

CONSENT AGENDA

Mayor Crowley requested that all persons present review the consent agenda and offer any comments they may have at this time regarding the consent agenda.

CORRESPONDENCE (ACCEPTANCE FOR FILING ONLY OF THE FOLLOWING):

1. Sandyston Township – Resolution Supporting Continued Open Space Pilot Funding.
2. Sussex County Department of Environmental and Public Health Services Dated 11/08/2010 RE: Tie a Ribbon Campaign.

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Franklin Borough Police Department Report of October 2010

APPLICATIONS (APPROVAL OF THE FOLLOWING):

1. None Filed

RESOLUTIONS (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of November 23, 2010.

Mr. Limon made a motion to approve the consent agenda of November 23, 2010. Seconded by Ms. Miller.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: None

COMMITTEE REPORTS

Mr. Stoll reported that there is progress on the wall on Main Street when it is finished it will get dressed up.

Mr. Wolak's report is on file in the Clerk's office. He discussed the energy repairs which will be done with \$110,000.00 of grant money. These repairs will be made through out the Borough. The Borough should be energy compliant for the next 5-10 years. Recreation was purchasing \$500.00 worth of gifts for toys for tots with Walmart matching funds. The Recreation Commission is seeking \$2000.00 for the fireworks display. Mr. Wolak denied the request because the funds are for 2010 and the funds cannot be carried over to 2011. He spoke of the contract for Appraisal Systems to reassess and to reevaluate the homes by neighborhood. The Attorney said that they look at each neighborhood which shows the assessor what areas need to be looked at. He asked for executive session for personnel.

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Mayor Crowley corrected his statement given at the last meeting regarding the election result counts. He reported Jared Hintzen will be receiving his Eagle Scout award on December 5, 2010.

Mayor Crowley stated he attended the NJSLM Conference and learned that there will be less money, less support and less taxes. It was a very grim picture. He explained that over the last 5 years expenses grew 28%; delinquent taxes grew to 26% for municipalities statewide. The 2% CAP has no waivers built in. He said that we still have to pay the county and schools 100% so our 2% is even smaller. He spoke to Senator Oroho who stressed that relief from the tool kit will not help for a year or two. The Borough will have to reevaluate all services and may cut some services because we just do not have the money. The Highlands is being revamped with the Governors appointments for a conservative outlook.

Mayor Crowley added that he met with the personnel committee who met with several applicants for Administrator. He informed the Council that the Administrators appointment is a Mayoral appointment. He will meet with the CFO to determine the money available. The appointment may be made at the Re-org meeting. He attended a class on council meetings at the conference and learned that we do not have to give a platform for personal issues and views. All questions and comments should be limited to the good of the Borough, not personal.

OPEN PUBLIC SESSION

Mr. Limon made a motion to open the meeting to the public for anyone wishing to address the Governing Body. Seconded by Mr. Stoll. All were in favor.

Joanne Tatka of 151 Maple Road stated that an article in the paper discussed towns offering money if employees opt out of medical benefits she asked how much do the employees get if they opt out. Mayor Crowley responded \$3000.00 but they might not be offering that anymore. She also questioned Solar Farms. The Mayor said that a couple of developers will discuss this with the Mayor, Council and Boards. The Borough would get very little taxes from a Solar Farm. He felt that they should not rush into this. They are looking into solar panels. She asked about the trash survey. Mayor Crowley said the BPW will be holding a meeting on December 21, 2010. She asked about the rescue building moving money from the previous year. Mr. Wolak explained that it had longevity. Franklin Day is run by a majority of donations.

Mike Krupa of 134 Main Street apologized for his outburst and questioned the Mayor's statement on personal comments from the audience and asked if that included Mr. Wolak's personal comments. The Mayor answered that whatever comments were made are in the past. Mr. Kruppa asked why a rock wall was installed instead of a concrete wall on Main Street. Mr. Wolak explained the rock wall was cheaper.

There being no one else present who wished to address the Governing Body, Mr. Limon made a motion to close the meeting to the public, seconded by Mr. Stoll. All were in favor.

OLD BUSINESS

There was no old business for this portion of the meeting.

NEW BUSINESS

Approval of Meeting Minutes

Mr. Zschack motioned to approve the meeting minutes of the Regular Meeting held November 9, 2010. Seconded by Mr. Stoll.

Upon roll call vote:

Ayes: Kulsar, Miller, Snyder, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: Limon

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Adoption Ordinance #18-2010 Funding Capital Improvements

Mr. Zschack motioned to adopt an ordinance entitled "AN ORDINANCE APPROPRIATING THE TOTAL SUM OF \$33,900.00 FROM GENERAL CAPITAL IMPROVEMENT FUND FOR FUNDING VARIOUS IMPROVEMENTS AND PURCHASES FOR PURPOSES FOR ECONOMIC DEVELOPMENT BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY". Seconded by Mr. Limon.

Prior to final roll call, Mayor Crowley opened the meeting to the public for any comments regarding ordinance #18-2010. There were no comments from the public.

Upon roll call vote:

Ayes: Limon, Miller, Stoll Nays: Kulsar, Zschack

Absent: Snyder Abstentions: None

Adoption Ordinance #19-2010 Amending OPRA Fees

Mr. Zschack motioned to adopt an ordinance entitled "AN ORDINANCE AMENDING CHAPTER 119, FEES OF THE FRANKLIN BOROUGH CODE; SPECIFICALLY OPRA FEES". Seconded by Mr. Stoll.

Prior to final roll call, Mayor Crowley opened the meeting to the public for any comments regarding ordinance #19-2010. There were no comments from the public.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: None

Resolution Releasing BEBP Development Restoration Bond

Mr. Zschack motioned adopt a resolution releasing the \$150,000 Restoration Bond posted by BEBP Development. Seconded by Mr. Limon.

The releasing of the bond was approved by the engineer.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: None

Resolution Authorizing 2010-2011 Liquor License Renewal

Mr. Zschack motioned to adopt a resolution authorizing the Borough Clerk to renew liquor license for Sullivan's Gas Light Inn for the 2010-2011 licensing term. Seconded by Mr. Limon.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: None

Resolution Awarding Professional Contract to Nelson Consulting Group

Ms. Miller motioned to adopt a resolution authorizing the award of non-fair and open contracts for professional services to The Nelson Consulting Group for redevelopment surveys to be undertaken during the years of 2010 and 2011 at a total contract cost not to exceed \$18,900.00. Seconded by Mr. Limon.

Upon roll call vote:

Ayes: Limon, Miller, Stoll

Nays: Kulsar, Zschack Absent: Snyder Abstentions: None

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Resolution Authorizing Release of MD-3, LLC Letter of Credit

Ms. Miller motioned to adopt a resolution authorizing the release of MD-3, LLC letter of credit in the amount of \$88,200.00. Seconded by Mr. Limon.

This was approved by the engineer to release.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: None

Resolution Awarding Contract to Appraisal System, Inc.

Ms. Miller motioned to adopt a resolution awarding a professional service contract to Appraisal System, inc. for a fee of \$4,000.00 for additional valuation analysis services. Seconded by Mr. Stoll.

Mr. Zschack asked if we will see more money from this. Mayor Crowley stated there will be a decrease in tax appeals which cost money. The attorney said that the refunds cost because you do not get the money back from the school or county.

Ms. Miller asked how long will it take. Mr. Wolak said it should be about eight weeks and it will only impact 2011.

Mr. Limon asked if appeals are up in Franklin. The Attorney said that Franklin is low. County wide they are increased.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Zschack

Nays: Limon Absent: Snyder Abstentions: None

Resolution Authorizing Additional Engineering Costs for Back Up Well

Ms. Miller motioned to adopt a resolution authorizing additional engineering costs of \$7,500.00 to Clough Harbor & Associates to complete the back-up well. Seconded by Mr. Limon.

Mr. Wolak explained that they had to go down another 100 feet plus which increased the output. These funds will close out the account.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Nays: Limon, Zschack

Absent: Snyder Abstentions: None

2010 Budget Appropriation Transfer Resolution

Ms. Miller motioned to adopt a resolution authorizing the transfer for 2010 Budget Appropriations totaling \$68,500.00. Seconded by Mr. Limon.

Mayor Crowley stated that most of the money is going to the police for overtime and salaries.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Snyder, Stoll, Zschack

Nays: None Absent: Snyder Abstentions:

Resolution Releasing Miner's Cove Surety Bond Upon Payment

Ms. Miller motioned to adopt a resolution authorizing the release of International Fidelity Insurance Company performance surety bond No. 0423289 for Miner's Cove subdivision upon receipt of \$205,726.87 settlement. Seconded by Mr. Stoll.

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Mr. Ursin discussed the history of Miner's Cove. The developer was unable to do the common area infrastructure of the project. The Borough has been in litigation with the bond company about six months and has agreed on this settlement for the amount of the work to be completed onsite. Doing some of the projects will make it more attractive for a new developer to come in.

Upon roll call vote:

Ayes: Kulsar, Miller, Snyder, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: Limon

Discussion Reduction of Irish Cottage Inn Sewer Charges

The Mayor and Council held discussion regarding a reduction to the Irish Cottage Inn sewer charges. The Mayor compared other accounts in the borough. According to the ordinance this is an accurate amount of EDU's as per their original application. The Irish Cottage has been to the BPW and the Mayor feels that the EDU's are high compared to other accounts. It does make an appearance of special consideration for an individual account. SCUMA costs to us will not go down, if the finance relief is reduced, the difference will be picked up by the ratepayers or taxpayers. If the Borough does give a break to the Irish Cottage unless they are put on a meter system (paying on water in/sewerage out) others in town will come in and ask for same type of relief. It will not decrease the amount paid to SCUMA. The Mayor added that SCUMA is increasing their sewerage rates for 2011 by 2.5% besides whatever we do for the Irish Cottage. The Borough hoped to absorb that rate to the ratepayers without increasing the sewerage rate, but if there are other appeals and revenues do not match, then the Borough will have to increase the rate of the sewer ratepayers. The Mayor recommended that if the Council does give a reduction to the Irish Cottage they can introduce and carry to the next meeting for vote so that other people in town have a chance to find out and make comments if necessary.

Mr. Zschack questioned that at the last meeting the Council was informed that they could not change the rate of one establishment and that the whole formula had to be changed. The Attorney said that it is better to make changes to the formula for consistency purposes then making an individual adjustment, but there is a specific provision in the ordinance schedule that gives the Council the authority to modify the number of EDU's. Mr. Ursin's opinion is that the Council does have the authority to adjust the EDU's on an individual basis but added it better to change formulas if possible. The Mayor said that it would be fairer using water meters town wide and if the Borough goes into this program the cost will be shifted to the homeowners or residences more than it is now. Right now the commercial accounts pay a higher bulk of the SCUMA bill.

Mr. Zschack asked if the same philosophy could be used with meters for residential units also, so what you used is what you pay for. The Mayor said yes, there are other towns that do that, they have a minimum 10,000 gallons per EDU. The real cost comes from SCUMA.

Mr. Wolak added that the Irish Cottage EDU's were determined as per the DEP projected schedule, Board of Public Works and what the municipality has accepted in the past. The EDU's the Irish Cottage are paying now and based on their application to the Planning Board and what he projected for his amount of seating, this is actually what he should be paying. Mr. Wolak believes its 1 EDU per 8 seats. The Irish Cottage application asked for 208-212 seats which would give them the current 26 EDU's. Whether they can fill the seats is the issue here, based upon economy and less volume of customers and if he could fill the seats, it would be a different position. Mr. Wolak said they need to be careful, if they do it for one it needs to be done unilaterally and each and every large account needs to be looked at. The ratepayers would be paying an increase.

Mayor Crowley said that he did some research but not on all, the figures are wacko. He said the DEP formula is suppose to take in effect that the restaurant is not

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always filled. He believes the DEP formula should lower the seating capacity for banquet halls. He added that the Borough has been easy on the non-profits such as churches, fire department and etc. If the Borough changes to metering these may also go up as they will be billed on what they actually use. The question now is should the Council intervene now or wait for the BPW to look at it.

Mr. Kulsar stated we've been looking at this since March; the owner has a meter and has given Mr. Kulsar the reading which is equal to 9 EDU's. The owner has asked the Council and BPW for nine months but it keeps getting pushed off. No one else is complaining about their sewer and if they do the Council can opt to address it. There is definitely something wrong when one customer is paying this kind of money, it has to be fixed. However long it's going to take this Mayor and Council to do it is another question, in the mean time the poor guy is going to be out of business. Mr. Kulsar wants to move forward and make a motion to adjustment the Irish Cottage EDU's down and deal with it accordingly and make adjustments in the ordinance.

The Attorney recommended including in the motion that it would align with the beginning of the quarter.

Mr. Kulsar said the town has not read the meter in three years. He wants to adjust it to 9 EDU's.

Mr. Limon said Hooters pays 16 EDU's they'll be here next.

Mr. Stoll would like to adjust everyone.

Mr. Zschack wants to meter all business.

Mr. Wolak asked for direction to give to the BPW Chairman, is every business going to be metered and who is paying for the cost to pay for the meters?

Mr. Kulsar said he wants to reduce the Irish Cottage EDU's tonight then meet with the BPW and come up with a plan, but that can't happen tonight.

Mr. Ursin informed that Council that this is a resolution; it's a direction to deviate from the ordinance. It's not a change in the ordinance, it's not an amended ordinance, it won't go in the codebook, it's a single resolution directing a department in the town to take specific action. It's not required to have public comment.

Adjustment of Irish Cottage Sewer EDU's

Mr. Kulsar motioned to adjust the EDU's of the Irish Cottage to 9 EDU's, based on their meter, this will remain in effect until such time as the ordinance states differently, starting at the beginning of the next measuring quarter. Seconded by Mr. Stoll.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: None

Mr. Kulsar asked the Attorney about the earlier statement by Mayor Crowley regarding the appointment of the Administrator. He questioned the section of the ordinance that states the appointment is with the advice and consent of the Council. Mr. Kulsar questioned what part the Council plays in the appointment.

Mr. Ursin explained that the Mayor's nomination does not take effect until the Council votes to approve it. Mr. Ursin will look at the ordinance and statute to make sure he is 100% clear on the procedure.

Mr. Kulsar asked why this was not done with the appointment of the current Administrator. The Mayor answered that is not known as this Council was not here for that appointment.

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Mr. Kulsar questioned if the ordinance can be adjusted or changed. Mr. Ursin stated it depends on the source statute which he will provide to the Council.

EXECUTIVE SESSION

In accordance with the provisions of the Open Public Meetings Act, Mr. Stoll made a motion to adjourn into closed executive session at 8:18 pm to discuss personnel grievances of Furlough Days. Motion seconded by Mr. Zschack.

Upon roll call vote:

Ayes: Kulsar, Limon, Miller, Stoll, Zschack

Nays: None Absent: Snyder Abstentions: None

After meeting in closed session, the Governing Body returned to their seats at 8:44 pm and Mayor Crowley declared the meeting to be reconvened into open public session.

MISCELLANEOUS COMMENTS

There were no miscellaneous comments.

ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Ms. Miller made a motion to adjourn the meeting at 8:45 PM, seconded by Mr. Zschack. All were in favor.

Paul B. Crowley, Mayor

Patricia Leasure, R.M.C.