

**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
July 9, 2013**

Mayor Crowley called the meeting to order and requested the Borough Clerk to call the roll. Upon roll call, the following members of the Governing Body were present: Mr. Babcock, Mrs. Gardell, Mr. Giordano, Mr. Limon, Mr. Snyder, Mr. Zschack, and Mayor Crowley.

Absent: None

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."

PRESENTATIONS

Presentation on Miner's Cove Development.

Saquib Toor, Beacon Capital, which is a private investment firm in Morris County stepped forward. Mr. Toor stated he is also a [member] of Model Town LLC. which is the purchaser of Miner's Cove.

Joe Maggio, partner in several construction companies; he is working with Mr. Toor to help clean up and move the project forward with the builders agreement.

Mr. Toor gave a background of himself, how he started his own company Beacon House. Mr. Toor explained to the Council how he worked with Sussex [Bank] and Mr. Maggio regarding the Miner's Cove project.

Mr. Toor stated he closed on the property on Saturday, June 29. Since then he has had many meeting to figure out how to move forward as quickly as possible.

Mayor Crowley stated they are planning on going forward with the same developers agreement; what was approved by the Council a number of years ago will be the initial developers agreement; same plan and the same building.

Mr. Ursin commented what they are requesting from the Council to consider a developers agreement that the Council approved with the Miner's Cove development. That developers agreement was actually very comprehensive and the fact the development failed and we mounted a successful [bond] claim is the evidence it was a very complete and comprehensive developers agreement. Part of what they are asking for is the Council take a vote tonight to assign the old developers agreement to them with a new time table.

Mr. Ursin stated if the Council considers that it would allow them to be on site, start building permits and work their way through the process starting this month. If the Council waits until a new developers agreement is drafted then they can't be on site at all until after the August 13 meeting.

Mr. Ursin stated in any other circumstance if this was a new developers agreement he would never recommend this because the Council should see the developers agreement from the beginning to the end. This developers agreement was done before me by Laddey and Clark. The developers agreement is 16 pages long and is very complete. At the Council's discretion to assigning them the developers agreement that would require him [Mr. Ursin] to put the new time tables in, the new owner and allow it to get executed and off the ground in the next month.

Mayor Crowley stated what he would like to see the Council do is make a motion to transfer this developers agreement as is; this would include all the previsions, that

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would allow them to start working and cleaning up the site without any risk to the Council or the town because it would still be the same developers agreement as before. If they wanted to change the plan down the road they would have to go back to the Board then the Council.

Mr. Limon stated he would make said motion. Seconded by Mr. Babcock.

Mrs. Gardell asked if the bonding fee was reapplied.

Mr. Ursin said absolutely; they will be stepping in the [feet] of Miner's Cove. Mr. Ursin stated if you vote yes on this, he will take the developers agreement that exists; insert the new names, new time tables, starting now.

Mrs. Gardell asked what is the time table.

Mr. Ursin commented once we sign a developers agreement we give the developers within the developers agreement two years to complete the development then they can apply for extensions. That is what this original agreement was; when we stopped work on Miner's Cove that was one for the triggers, their developers agreement got to be two years old and they hadn't completed construction.

Mr. Ursin stated the town engineer would create a new schedule of values in the same way the old one was and they [the developer] would have to post bonding in the same way that Miner's Cove did. Some of the work is done so some of the values might go down that is up to the engineer.

Upon roll call vote:

Ayes: Babcock, Gardell, Limon, Snyder, Zschack

Nays: Giordano Absent: None Abstentions: None

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. Letter dated June 26, 2013 from Thomas M. Ferry, CPA, RMA acknowledged by James Kilduff, Administrator and Monica Miebach, CFO Re: 2012 Audit.
2. Letter dated June 27, 2013 from James C. Kilduff, Administrator to Martha and Dwight Pleasant Re: Block 2401 Lot 27, Fence in Right-of-Way (ROW).
3. Letter dated June 13, 2013 from Carol A. Novrit, Director, Sussex County Department of Human Services to Robin Hough, Municipal Clerk, Re: Sussex County Skylands Ride Annual Public Hearing.
4. Letter dated June 27, 2013 from Janice S Mironou, Mayor, East Windsor Township, President of League of Municipalities to Mayor and Governing Body Members, Re: 16th Annual Elected Officials Hall of Fame.
5. Borough of Hamburg Resolution expressing support for Continued Tax Exemption for Municipal Bonds.

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Tax Department Report for June, 2013.
2. Construction Report for June, 2013
3. COH Report for June, 2013.

APPLICATIONS (APPROVAL OF THE FOLLOWING):

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1. Application to operate a Tattoo Parlor in the Borough of Franklin, trade name "Moonlight Tattoo LLC" located at 418 Rt 23 North Franklin, applicant Joseph Moon.

RESOLUTIONS (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of July 9, 2013.

Mr. Limon made a motion to approve the consent agenda of, 2013. Seconded by Mr. Babcock.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

COMMITTEE REPORTS

Mr. Babcock had nothing to report.

Mr. Zschack had nothing to report.

Mr. Limon had nothing to report.

Mr. Snyder had nothing to report.

Mr. Giordano reported Franklin Night was last week; it was probably one of the best Franklin Nights we have had. Recreation worked very hard. Mr. Giordano thanked everyone for helping with Franklin Night. Recreation will be having concerts in the park next weekend.

Ms. Gardell had nothing to report.

Mr. Ursin had nothing to report.

Mr. Kilduff reported some of the items from his administrator's report which is also on file in the clerk's office.

Mayor Crowley reported Franklin Day was successful, the weather was great, the fishing contest to the fireworks, recreation did a tremendous job. Mayor Crowley thanked everyone that was involved with Franklin Night.

Mayor Crowley stated he wanted to appoint an Ad Hoc Committee to look at the pond. The Council has been talking about long range ideas of the pond and recreation area. Mayor Crowley asked Joe Martinez to be chairman of this committee. Mayor Crowley stated he is appointing from recreation Joe Martinez, Keri Marino, from the Council Nick Giordano and Fred Babcock and from the public Dave Passaic and Jeff Korger. Mayor Crowley stated he will be talking to Joe Martinez about this and hopefully they will be able to come up with some long range ideas and improvements to the pond.

Mayor Crowley stated Councilman Zschack has met with Brian Vandebroek and came to a tentative agreement of employment. Mayor Crowley asked Mr. Zschack to get the numbers to the administrator so they can be reviewed and sent out to the Council. If everything is ok it will be put on the agenda shortly; as soon as we can do the paper work.

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OPEN PUBLIC SESSION

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

Dick Durina, 23 Lozar Road, Franklin, NJ stepped forward. Mr. Durina read a quote by Mayor Crowley published in the Alternative Press, Sussex County. Mr. Durina commented on the quote he read.

Sally McGrath, 7 Walsh Road, Franklin, stepped forward. Mrs. McGrath asked permission for the Mayor and Council to have someone from the Road Department come over to look at the road in front of her house. The road is getting lower where the sewer line connects to the main road sewer line. Mrs. McGrath explained what was happening with the road and her property.

Mayor Crowley commented we will have someone take a look at that.

Brenda Gunderman, 36 Nestor Street, Franklin, stepped forward. Mrs. Gunderman asked if a decision was made as far as recreation vehicles.

Mayor Crowley stated nothing has been formalized yet. Hopefully at the August or September meeting we will have something.

Joe Martinez, 39 Woodland Road, Franklin, stepped forward. Mr. Martinez thanked Mr. Zschack, Mayor Crowley and Nick Giordano for helping recreation out on Franklin Night. Mr. Martinez thanked the Council for hopefully coming to a conclusion with Mr. Vandenbroek.

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 Mrs. Gardell. All were in favor.

OLD BUSINESS

There was no old business for tonight's portion of the meeting.

NEW BUSINESS

Approval of the Minutes

Mrs. Gardell made a motion to approve the regular meeting minutes and the executive session meeting minutes for June 25, 2013. (Absent: Gardell) Seconded by Mr. Limon.

Upon roll call vote:

Ayes: Babcock, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

Summary or Synopsis of Audit Report

At this time Mr. Tom Ferry of Ferraioli, Wielkotz, Cerullo & Cuva Certified Public Accountants presented an overview of the 2012 Franklin Borough Audit Report. Also present was Monica Miebach, CFO

Mr. Ferry explained the Audit Report and reviewed the highlight of the report. Mr. Ferry explained the income statement on page 7, revenues and expenses. Mr. Ferry referred to exhibit D-1 page 22, and explained the income statement on the water and sewer utility.

Mr. Ferry referred page 123-124 to the compliance area which is comments and recommendations. Mr. Ferry commented there were only three this year; nothing

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substantial nothing that would impact the numbers on the financial statements. Mr. Ferry reviewed and explained his recommendations.

Mr. Limon asked if last year corrective actions were handled so the Borough was in line with Best Practices.

Mr. Ferry referred to page 125 findings and recommendations. Mr. Ferry stated if there was a double it would be listed but read corrective action was taken on all. Mr. Ferry stated you don't have a second finding.

Mr. Kilduff asked about the Borough's credit rating which was a concern last year.

Mr. Ferry explained how tax appeals are a problem; doing a reassessment is a good thing, you bring everyone back to a level playing field. Mr. Ferry stated at least the Borough didn't go down that is a good thing.

Resolution 2013-68 Certifying Review of the 2012 Audit

Mrs. Gardell made a motion to adopt resolution 2013-68 certifying the Franklin Borough Council has reviewed the 2012 Audit Comments and Recommendations as required by N.J.A.C.5:30-6.5. Seconded by Mr. Snyder.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

Mayor Crowley stated there is a certification to be signed by the Council certifying the audit.

Adoption of Ordinance #7-2013 Authorizing a Special Emergency Appropriation

Mrs. Gardell made a motion to adopt ordinance #7-2013 "AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION OF \$25,000 FOR THE PREPARATION AND Execution OF A COMPLETE PROGRAM OF REASSESSMENT OF REAL PROPERTY IN THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX, STATE OF NEW JERSEY FOR THE USE OF THE LOCAL ASSESSOR OF THE BOROUGH" Seconded by Mr. Giordano.

Prior to final roll call, Mayor Crowley opened the meeting to the public for any comments regarding ordinance 7-2013.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

Resolution 2013-64 Re: Authorization to provided for the purchase of a Police Vehicle.

Mrs. Gardell made a motion to adopt resolution 2013-64 Re: Authorization to provide for the purchase of a Police Vehicle cost \$27,590.00. Seconded by Mr. Zschack.

Mayor Crowley asked Mrs. Miebach, CFO if this was the same price as before from the coop.

Mrs. Miebach stated this is with the State.

Mayor Crowley commented one of the police cars was towed out of the lot today; another one is in bad shape. Mayor Crowley stated he would strongly urge this to be considered again. This vehicle will take some time to order and get in.

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Mr. Limon stated his concern is the other six vehicles are being auctioned off.

Mayor Crowley commented the administrator has made arrangements for that to be done in August; the sale of all those vehicles. The administrator got in touch with somebody that does these auctions, met the man and took pictures of the vehicles.

Mr. Giordano stated he talked to John Rome regarding car 3102; we don't want to be waiting on buying a new car. That is not a car he wants the patrolman [to use]

Mr. Babcock stated they [police] need to take it easy with these cars; they really beat them up.

Mayor Crowley commented he agrees but generally police cars get a lot of wear and tear.

Upon roll call vote:

Passed: Babcock

Ayes: Giordano, Limon, Zschack, Babcock

Nays: Gardell Absent: None Abstentions: Snyder

Resolution 2013-65 ensure compliance with Federal Tax Law Requirements

Mr. Snyder made a motion to adopt resolution 2013-65 establishing procedures to monitor and ensure compliance with Federal Tax Law Requirements with Respect to Tax-Exempt Debt of the Borough. Seconded by Mr. Zschack.

Mrs. Miebach, CFO explained the resolution to the Council.

Mr. Limon asked who recommended this [resolution]

Mrs. Miebach stated Bond Council.

Mr. Limon stated he feels like this is more red tape.

There was a discussion on the resolution.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Snyder, Zschack

Nays: Limon Absent: None Abstentions: None

Resolution 2013-66 Authorizing the Issuance of not exceeding \$1,131,600 Bond Anticipation Notes.

Mr. Snyder made a motion to adopt resolution 2013-66 authorizing the issuance of not exceeding \$1,131,600 Bond Anticipation Notes of the Borough of Franklin, in the County of Sussex, New Jersey. Seconded by Mr. Zschack.

Mrs. Miebach, CFO explained the resolution to the Council.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

Resolution 2013-67 Amend the Capital Budget

Mr. Snyder made a motion to adopt resolution 2013-67 to amend the Capital Budget. Seconded by Mr. Zschack.

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Mrs. Miebach explained the resolution to the Council. This is a resolution to amended the Capital Budget any time you spend capital money you have to do a resolution to amend the capital budget if it is not included in the original.

Mrs. Gardell asked if this amendment should take place after ordinance 8-2013.

Mrs. Miebach commented she didn't think so.

Mr. Ferry stated yes, if the ordinance doesn't pass then the capital budget amendment doesn't need to be done. Mr. Ferry stated you could have flip flopped them.

Mrs. Gardell commented we are introducing the ordinance, this amendment would really be in August.

Mr. Ferry said that is correct it really gets done after the adoption; because you can have a first reading and it not be adopted so you don't need to amend the capital budget. This is not a big thing.

Upon roll call vote:

Ayes: Babcock, Giordano, Limon, Snyder, Zschack

Nays: Gardell Absent: None Abstentions: None

Introduction Ordinance #8-2013 Bond Ordinance Appropriating \$275,000, and Authorizing the Issuance of \$261,500 Bond or Note of the Borough.

Mr. Snyder made a motion to introduce an Ordinance entitled "BOND ORDINANCE APPROPRIATING \$275,000, AND AUTHORIZING THE ISSUANCE OF \$261,500 BOND OR NOTES OF THE BOROUGH, FOR VARIOUS IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY" Seconded by Mr. Zschack.

Final Reading: August 13, 2013

Mayor Crowley stated Mrs. Gardell's question is if the Fire House itself is owned by the Fire Department. Mayor Crowley commented we will look into this.

Mr. Ferry stated the statues allow the Borough to give equipment up to \$90,000 for one or give additional equipment as long as it is in the Borough's name.

Mr. Ursin said this is capital; it is an issue now. Mr. Ursin stated it has to be asked to bond council.

Mayor Crowley recommended to pass the introduction tonight and answer this question at the final hearing.

Mr. Kilduff asked Mr. Ursin if we have to amend this [ordinance] would we reintroduce at the August meeting.

Mr. Ursin said it depends on what the amendment is. If it is an amendment to take something out you can still have a second reading. If it is something clerical it can still have a second reading. If it changes substantially you have to look at the amount of the bond ordinance, the purpose; if you are adding something substantial you would have to go back to a first reading.

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Mr. Ursin stated he would speak with Mrs. Miebach and talk to bond council regarding this.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

Irish Cottage Inn Road Closure Request

Mr. Snyder referred to a Road Closure Request from Irish Cottage. They are asking for the road to be closed on Saturday August 10th, same as St. Patrick's Day Celebration. Seconded by Mr. Limon.

Mr. Kilduff commented his conversation with them is the cottage will close the road by 10:00AM on Saturday and reopen by 10:00 AM on Sunday. There will also be a tent and asked to include that in the motion.

Mr. Snyder and Mr. Limon agreed to add that in the motion.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

Addendum to the Bills List

Mr. Snyder made a motion to approve an addition to the bills list, check number 38281 to 1490 Hayden's Auto & Truck Repair for PO 19592 diesel engine replacement in the amount of \$13,171.11. Seconded by Mr. Giordano.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon, Snyder, Zschack

Nays: None Absent: None Abstentions: None

Mr. Kilduff asked the Finance Committee to make sure they sign off on the bill after the meeting.

EXECUTIVE SESSION

There was no executive session.

MISCELLANEOUS COMMENTS

ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Mr. Zschack made a motion to adjourn the meeting at 8:02 p.m., seconded by Mr. Giordano. All were in favor.

Paul B. Crowley, Mayor

Robin Hough, Municipal Clerk