

**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
September 10, 2013**

Council President Snyder 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 and Mr. Zschack.

Absent: Mayor Crowley

Council President Snyder led the assembly in the flag salute.

Council President Snyder 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

Council President Snyder 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 July 22, 2013 from Sussex County Integrated Municipal Advisory Council to Mayor Paul B. Crowley and Council Re: 100% smoke free outdoor parks and recreational areas for Franklin Borough, NJ.
2. Letter dated August 13, 2013 from Monica Miebach, CFO to Jim Kilduff, Administrator, Mayor and Council Re: Bond Anticipation Notes.
3. Letter dated August 21, 2013 from Sussex County Department of Environmental and Public Health Services to Franklin Borough Mayor and Town Council Re: Tie a ribbon campaign in October Breast Cancer Awareness Month.
4. Borough of Ogdensburg Resolution Expressing Support for the Continued Tax Exemption for Municipal Bonds.
5. Township of Vernon Resolution #13-145 supporting Senate Bill 2340.
6. Letter dated August 29, 2013 from Mayor Paul Crowley to Wes Suckey Re: Planning Board Resignation.
7. Township of Sparta Resolution #13-123 Expressing Support for the Continued Tax Exemption for Municipal Bonds.
8. Township of Sparta Resolution #13-124 Opposition to Senate bill 2528 and Proposed Exemption from Source Separation Requirements.
9. Borough of Franklin Planning Board Resolution recommending certain amendments to the Land Use Ordinance 161-3 (Definitions); 161-34 B (6) (Drive-through uses).
10. Memo from Jim Kilduff, Administrator to Mayor and Council Re: E-Mail, OPRA & OPMA.

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Municipal Court Report for August, 2013
2. Police Department Report for July, 2013
3. Construction Permit Activity Report for July, 2013
4. Board of Health Report for July, 2013
5. Construction Report for August, 2013
6. COH Report for August, 2013
7. Tax Department Report for August, 2013
8. Police Mileage Report for August, 2013

APPLICATIONS (APPROVAL OF THE FOLLOWING):

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1. None Filed

RESOLUTIONS (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of September 10, 2013.

Mr. Limon made a motion to approve the consent agenda of September 10, 2013.
Seconded by Mrs. Gardell.

Mr. Giordano stated he would like to have item #9 removed from the consent agenda and discuss with the agenda item #2 that pertains to this.

Mr. Limon and Mrs. Gardell amended their motions.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

COMMITTEE REPORTS

Mrs. Gardell reported the ordinance committee had finalized the wording for the land development code regarding Commercial/RV vehicle. Mrs. Gardell passed out a handout with the typed changes being recommended by the ordinance committee and suggested to have the attorney prepare an ordinance for the next meeting with these changes. Mrs. Gardell then read these changes into the record.

Mr. Zschack stated he was on the committee and agrees with the changes.

Mr. Babcock commented he was also [on the committee]

Mr. Snyder gave the handout to the Attorney and asked him to [prepare an ordinance] for the next meeting.

Mr. Giordano reported the pond revitalization meeting met last night; we discussed several things and have some suggestions we are working on. Recreation cancelled concerts in the park and we have requested the Administrator to please come to the next meeting.

Mr. Snyder asked why the concerts in the park were cancelled.

Mr. Giordano explained why the concerts were cancelled.

Mr. Limon reported the personnel committee had a meeting on a Sunday since the last meeting; there were some requests from supervisors in getting additional staff [increasing] their hours. The personnel committee decided unanimously to leave everything as is until the end of the year.

Mr. Limon reported he was suppose to have a meeting with Chief McInerney regarding his contract on Saturday. Chief McInerney cancelled this meeting. That will be rescheduled soon.

Mr. Limon stated on the Administrator report; [there is a request] to make a staff worker that is a student; increase his hours. He works on the Road Department and it is funded through a grant the Borough has. Mr. Limon recommend the Council take action on this; increase his hours covered through the Grant.

Mr. Limon made a motion to increase Robert Stecher [who] now is temporary part time; we would extend his hours up to 12 hours a week through the remainder of the

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year. This is all through the Grant the Borough has and funding was verified by the Borough's CFO. Seconded by Mr. Giordano.

Council President Snyder stated we have a motion to extend the hours of the community co worker from 12 hours until the end of the year at \$9.50 per hour.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

Mr. Limon reported he has been receiving correspondence from the Administrator and the police Chief regarding hiring of a police officer. Looking at the overtime numbers the Council should act on this quick. Mr. Limon stated he feels if there is a procedure in place we should follow that; he received a policy from the Administrator and one from the Chief. Mr. Limon stated we have to act on this soon.

Mr. Kilduff commented a revised policy regarding hiring a police officer was presented to the Council at the last meeting. That would provide modification to the resolution which this Council passed in March of this year which set an implementation process for hiring a new police officer. We have that in place if it is the Council's pleasure we can move ahead based on that resolution which was passed in March and follow the guidelines that are in the resolution.

Mr. Limon stated the one from March.

Mr. Giordano stated the procedure that was presented at the last Council meeting was the Administrator's procedure which was pretty different than the Police Chief's procedure. Mr. Giordano stated he thinks there has to be a happy medium because there have been some issues on hiring practices and continued to explain. Mr. Giordano suggested to hammer out a hybrid of the two policies that exists then we should be able to come up with something for all parties involved and the best candidate.

Mr. Zschack stated he sat on the processes this year; something does have to change from the way we tried to hire a police officer last time. We need to make some changes to the process we had.

Mr. Kilduff stated that process was prior to the process [adopted] in March by this Council.

Mr. Snyder stated we need to really look at what we need to do. His concerns were getting the right personnel to find the right candidate.

There was a brief discussion on a policy of hiring a police officer.

Mr. Zschack had nothing to report.

Mr. Babcock had nothing to report.

Mr. Ursin reported there are two pieces of litigation going on in the town. Both are being handled by the land use Board Attorney. One is the Drost appeal of a denial; that is moving towards a trial in two parts. The denial of the approval first; then there is a challenge to the Borough's ordinances. Eden Properties application has filed for an appeal; a portion of their application was denied. The appeal was filed; the Borough just received it and that will go to the Land Use Board Attorney to handle.

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Mr. Kilduff reported items from his administrator's report. Mr. Kilduff's full administrator's report is on file in the clerk's office.

Mr. Kilduff stated an executive session is requested for a PERC litigation.

Council President Snyder thanked Debbie Intveld for the work she had done for the Borough and wish her good luck in her future endeavors. Council President Snyder commented Mayor Crowley didn't give him a Mayor's report to read.

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. Babcock. All were in favor.

Jim Marino, 4 Hilltop Lane, Franklin, stepped forward. Mr. Marino stated didn't we just hire a police officer and questioned needing another one.

Council President Snyder stated we were down several [police officers] from years ago that we hadn't replaced; and explained.

Mr. Marino question why a police officer from Hamburg would take a \$10,000 cut to come to [work for] Franklin and gave reasons he thought why. Mr. Marino asked about combining Franklin's Police Department with Hardyston's Police Department. This would save money for the Borough.

Mr. Marino asked about Elizabethtown Gas putting lines through Franklin and not wanting to hock up residents in Franklin. Mr. Marino explained to the Council what had happened when he called Elizabethtown Gas and tried to get gas hooked up on Hilltop Lane.

Mr. Kilduff explained conversations he has had with Elizabethtown Gas regarding residents being hooked up to their gas lines.

Mr. Marino stated he thought of starting a petition.

Mr. Kilduff commented that is a good point they [Elizabethtown Gas] want commitments ahead of time. If you can get your neighbors to sign up; unfortunately there is an expense to tie in and the conversion process. A lot of people would like to have gas but when it comes down to the numbers.

Mr. Marino requested sending a note out to everyone in the Borough to see if they are interested in having natural gas. Then present that to Elizabethtown Gas.

Mr. Marino asked what the Borough's bond rating is, what roads would be repaired with the bond ordinance, the RV ordinance and getting a copy.

Council President Snyder explained to Mr. Marino the ordinance change was due to one person complaining about another. Once the Zoning Officer gets a complaint he has to check into the complaint.

Mr. Marino commented on Walgreen; we could of used a Walgreens in Franklin, but because of a specific group. There was a gas station there with leaky tanks and now a pharmacy is no good.

Council President Snyder stated the leaky gas tanks were taken care of.

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Pat Rowett, 36 Rte 23, Franklin, stepped forward. Ms. Rowett commented on two issues; one issue is Mr. Nelson's plan for the town that extends to 2030. Ms. Rowett commented it is a waste of tax payers' dollars to continue bringing these plans up. Ms. Rowett explained reasons why she feels it is a waste of tax payer's dollars. The second issue was regarding Mr. Kilduff getting an additional degree that was discussed last month. Ms. Rowett commented she doesn't think the tax payers should pick up this if it isn't a requirement in the first place. Ms. Rowett explained reasons why the tax payers shouldn't pay for this.

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

Mr. Limon made a motion to approve the regular meeting minutes for August 13, 2013. (Absent: Snyder, Zschack) Seconded by Mr. Babcock.

Upon roll call vote:

Ayes: Babcock, Gardell, Giordano, Limon

Nays: None Absent: Crowley Abstentions: None

Adoption of Ordinance #9-2013 Amending Chapter 161 Land Development

Mr. Zschack made a motion to adopt Ordinance #9-2013 "AN ORDINANCE AMENDING CHAPTER 161 OF THE FRANKLIN BOROUGH CODE THE BOROUGH'S LAND DEVELOPMENT ORDINANCE". Seconded by Mr. Limon.

Prior to final roll call, Council President Snyder opened the meeting to the public for any comments regarding ordinance #9-2013.

Jim Marino, Franklin resident asked from the audience what the ordinance was about.

Mr. Giordano stated drive thru's and drive thru uses; it changes the existing language in the code.

Mr. Marino asked if this [the ordinance] was because of the Walgreens situation.

Mr. Kilduff stated it is not about Walgreens; it came about after the Walgreens application was discussed by the Planning Board and they realized there were deficiencies with respect to this section of the ordinance that dealt with drive thru's. This ordinance change would be for drive thru's throughout the highway commercial zone. The ordinance also has a definition for buffering because it is not in the ordinance.

Mr. Marino asked if it would allow a drive thru.

Mr. Kilduff explained drive thru's are allowed now in the highway commercial zone they are conditionally permitted so there were some issues with the conditions that allow drive thru's. This ordinance proposes to correct those conditions.

Mr. Marino asked if it was in favor of Walgreens.

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Mr. Kilduff commented it isn't about Walgreens it is about drive thru's. Mr. Kilduff stated the Boards attention was called to it as a result of that 6 month application for Walgreens.

Phyllis Marino, 4 Hilltop Lane, Franklin, stepped forward. Mrs. Marino commented what Walgreens wanted to do was have the drive thru. Will this benefit them if it is passed.

Mr. Kilduff commented that question was asked to the Board attorney; his answer was that it would be up to Walgreens to evaluate the new ordinance and decide whether or not they would want to come back to the Board. If that was the case and see if they could meet the new requirements. The problem with the ordinance was the conditions in the ordinance for drive thru's were vague, they were not measurable, they were not specific. This ordinance attempts to make corrections to that.

Mrs. Marino commented the people that were against Walgreens coming; is this part of it are they going to benefit, in other words if you pass this, will it make Walgreens able to come into Franklin or maybe change their mind or is it going to shut the door because they can't have a drive thru due to the changes that you are making.

Mr. Kilduff replied that would be up to Walgreens to determine whether or not it benefits them or if it doesn't benefit them. Mr. Kilduff stated it doesn't preclude it clarifies things you have to look at the specific conditions and how they pertain. It is relatively a simple ordinance.

Mr. Limon made a motion to close to the public. Seconded by Mr. Babcock.

Dick Durina, 23 Lozaw Road, Franklin, stepped forward. Mr. Durina commented his concern is the pending drive thru application that is in the courts now and how this pending ordinance effects the pending court case. Mr. Durina commented this should be a none discussion issue since it is in an appeal court case and let the courts decide on the Walgreens application and the drive thru. Mr. Durina questioned Mr. Kilduff's statement of it being up to Walgreens whether or not to come back in. Mr. Durina stated the Zoning Board already voted on this it is up to the Judge.

Mr. Ursin stated anybody that is ever denied can choose to appeal it to the courts or to change their application and come back [to the land use board].

Mr. Durina asked if this ordinance opens the ball for Walgreens to come back; he thinks that case has to be ruled on. If they want to reapply for a new application that is one thing but he thinks the application that sits now with their appeal in the courts has to be ruled on.

Mr. Marino commented first of all Mr. Durina is not a Judge or an attorney. Mr. Marino commented his point of view is we [the Borough] should have opened our arms for Walgreens to come in. To supply a valuable service to this town; especially with an all night pharmacy for emergency's. Right now if you have an emergency you have to go somewhere in Sparta.

Dave Fanale, 396 Rutherford Ave., Franklin, stepped forward. Mr. Fanale commented what he is hearing is not so much controversy but confusion regarding what the Planning Board was proposing clarifies the permissions of a drive thru. Any further applications wouldn't have to go to the Zoning Board for a decision.

Mr. Fanale asked does this have anything to do with Walgreens at all.

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Mr. Ursin commented on paper no, whether or not this change if approved helps or hurts Walgreens he has no idea. Mr. Ursin stated you are making a change at a time when this issue is just recently subject to controversy; you can't say they are completely unrelated but this is recommended by the Planning Board.

Mr. Limon made a motion to close the meeting to the public. Seconded by Mr. Babcock. All were in favor.

Mr. Giordano stated he has problems with the ordinance. This type of ordinance should not be in effect until the litigation that is going on with the property involving Walgreens is resolved. We can't do spot zoning and spot changes. If we don't get the right answer or what we agree with we don't go and create an ordinance or create policies that take certain powers from Boards that have the right to regulate usages and design problems of this nature.

Mr. Giordano asked to table this ordinance for an indefinite period of time, for which time it takes for the conclusion of the litigation with Walgreens. Mr. Giordano explained reasons he was asking for this to be tabled.

Mr. Kilduff stated you mention spot zoning, the discussion is all about one piece of property, whereas this ordinance is about the entire Highway Commercial Zone and drive thru uses within that zone.

There was a discussion on the Master Plan being done right the first time, decimal limits, equipment to enforce the decimal limit, decimal levels being the State standards and this making the existing ordinance better,

Council President Snyder stated this is change, going forward if it is the right thing to do; to bring everyone to the town it needs to be done in a correct fashion.

Mr. Giordano made a motion to amend the original motion to table ordinance 9-2013 until the conclusion of Eden Properties. Seconded by Mr. Zschack.

Upon roll call vote on amendment:

Ayes: Giordano, Zschack

Nays: Babcock, Gardell, Limon, Snyder Absent: Crowley Abstentions: None

Mr. Ursin stated with that motion failing it keeps the other motion to adopt this ordinance on the table.

Mrs. Gardell stated she doesn't see any reason to post pone the ordinance at this time. This ordinance helps by clarifying the definition for buffering and screening which doesn't just apply to this commercial Land Use Application; clarifying the ordinance is helpful and this does that. Mrs. Gardell stated she doesn't support this ordinance; there are conflicts with other parts of our code where we have noise restrictions, she thinks the decibel level of 65 next to a residential zone high; she saw 50 on the internet for a quiet residential zone that should happen at a residential zone property line any time of day. Mrs. Gardell recommends this ordinance back to the Planning Board and have them consider making this a little more stringent on the decibel reading 24 hours a day in a residential zone next to a drive thru. Look at the consistency in any of our noise ordinances for all uses.

Council President Snyder stated the Planning Board made this recommendation; he would think they already looked into doing that for a reason. Council President Snyder commented he didn't have a problem with this.

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Upon roll call vote on original motion:

Ayes: Babcock, Limon, Snyder,

Nays: Gardell, Giordano, Zschack Absent: Crowley Abstentions: None

[Tie vote; Ordinance did not pass]

Adoption of Ordinance #10-2013 Purchases for Computer Upgrades and Police Equipment.

Mr. Zschack made a motion to adopt Ordinance #10-2013 "AN ORDINANCE APPROPRIATING THE TOTAL SUM OF \$15,184.92 FROM RESERVES FOR PURCHASES FOR COMPUTER UPGRADES AND POLICE EQUIPMENT BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY. Seconded by Mr. Limon.

Prior to final roll call, Council President Snyder opened the meeting to the public for any comments regarding ordinance #10-2013.

No one from the public stepped forward.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

Introduction Ordinance #11-2013 Bond Ordinance

Mr. Zschack made a motion to introduce an ordinance entitled "BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT OF VARIOUS ROADS IN AND BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$255,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$242,500 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION" Seconded by Mr. Limon.

Upon roll call vote:

Ayes: Babcock, Gardell, Limon, Snyder, Zschack

Nays: Giordano Absent: Crowley Abstentions: None

Public hearing will be held September 24, 2013

Introduction Ordinance #12-2013 Bond Ordinance

Mr. Zschack made a motion to introduce an ordinance entitled "BOND ORDINANCE PROVIDING FOR IMPROVEMENT OF THE FIRE HOUSE IN AND BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$20,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$19,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION. Seconded by Mr. Giordano.

Monica Miebach, CFO was present.

Mrs. Gardell asked if this was alright with Bond Council since we didn't own the firehouse.

Mr. Ursin stated we do.

Council President Snyder stated it is his understanding the Fire Department [building] is owned by the Fire Department the land is on Borough property. Because it is an improvement it can be separated the way we did it.

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Mr. Ursin commented the municipality owns the land, the municipality owns the building on the land and the property is leased to the Fire Department. If there is some other historical document out there he hasn't seen it; there is no way he can comment but the public records are accurate and reflect that this, is municipal owned improvement. If it is a municipal owned improvement you pay bond money, make the repair. It does not invoke the issue of the fireman on the Council having a conflict, you are repairing a capital structure that is owned by the Borough. If it was not we would have an issue because you need four votes to pass a bond ordinance.

Council President Snyder stated he believes there is a deed that exists showing we are the owners of that building.

Mr. Ursin stated he can't comment on what he hasn't seen.

There was a discussion regarding who owns the fire house.

Jim Williams, Franklin, member of the Fire department stepped forward with a copy of a deed.

Council President Snyder commented let it be noted Mr. Ursin is looking the deed over. Mr. Kovach was the Attorney that wrote the document.

Mr. Ursin stated he is sorry to say this; it doesn't appear to be popular, from the documents I have seen the Borough owns the Fire Department. That may not have been the intent there may have been a lot of discussions over time. Mr. Ursin stated the answer is because it is his opinion that the Borough owns the Fire Department, the firemen don't have a conflict in voting for this; it is a capital improvement on an existing municipally owned structure. If this was owned by the Fire Department you would have an issue with the Bond because we have a number of people on the council who are associated with the Fire Department.

Monicia Miebach stated this is for a furnace conversion. Mrs. Miebach stated there are a number of ways to fund it up for next year capital budget for capital projects.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

Public hearing will be held September 24, 2013

Resolution #2013-77 Authorizing a refund by the Tax Collector

Mr. Giordano made a motion to adopt resolution #2013-77 authorizing the tax collector to refund the Homestead Benefit amount from the State which needs to be refunded to the owners in the amount of \$255.91 to Donald & Nanette Devore Block 907 Lot 11. Seconded by Mrs. Gardell.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

Resolution #2013-78 Authorizing a refund by the Tax Collector

Mr. Giordano made a motion to adopt resolution #2013-78 authorizing the tax collector to refund the Homestead Benefit amount from the State which needs to be refunded to the owners in the amount of \$470.75 to Leonard and Kathleen Weakland, Block 1004 Lot 31. Seconded by Mr. Zschack.

There was a discussion on the resolution.

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Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

Resolution #2013-79 Authorizing a refund by the Tax Collector

Mr. Giordano made a motion to adopt resolution #2013-79 authorizing the tax collector to refund the Homestead Benefit amount from the State which needs to be refunded to the owners in the amount of \$648.37 to Susan Fillgrove, widow of Karl Fillgrove, Block 2201 Lot 61. Seconded by Mr. Babcock.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

Resolution #2013-80

Mr. Giordano made a motion to cancel \$55,002.66 from the Reserve for Capital Outlay and \$21,787.38 from the Reserve for Water Improvements in the Water/Sewer Operating Fund and transferred to the above titled accounts in the Water/Sewer Capital Fund. Seconded by Mr. Limon.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

Discussion on cell phone use for the Police Detective

At this time there was a discussion regarding a cell phone with unlimited text message, email and internet capability for the Police Detective.

Mr. Kilduff stated he received an email from Chief McInerney requesting the detective phone be upgraded and explained what the upgrade would include and cost.

The Council discussed the cell phone upgrade for the Police Detective.

Chief McInerney, stepped forward for the discussion.

Chief McInerney explained the issue with the phone has been going on for two years. The phone is something that is desperately needed right now. We have one phone issued we used to have three all he is asking for is one. Right now with all due respect he is being handcuffed from having his man do his job.

Council President Snyder state you are saying there is only one cell phone issued.

Chief McInerney stated one cell phone issued there used to be three.

Council President Snyder asked if that was beyond your cell phone.

Chief McInerney stated he does not have an issued cell phone; he uses his own. There used to be three issued cell phones in the police department we are down to one. It is not a contractual issue.

There was a discussion regarding whether this was a contractual issue and the detective cell phone, this being in the budget or an operational expense and why the need for internet service.

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Mr. Giordano made a motion to authorize the Chief of Police to use his operational know how to obtain the phone at his discretion for the detective.

Mr. Giordano stated again he made a motion to authorize the Police Chief to make the decision to purchase the phone with a plan of his discretion and to monitor it by the standards and operating policy of his department. Seconded by Mr. Zschack.

Mr. Ursin stated the motion as he understood and interpreted it is respect to the cell phone issue, you vote yes the chief is authorized to do it, CFO is authorized to enter the contract.

Upon roll call vote:

Passed: Babcock

Ayes: Gardell, Giordano, Limon, Zschack, Babcock

Nays: None Absent: Crowley Abstentions: Snyder

EXECUTIVE SESSION

In accordance with the provisions of the Open Public Meetings Act, Mr. Zschack made a motion to adjourn into closed executive session to discuss personnel and attorney client privilege matters. Motion seconded by Mr. Limon.

Upon roll call vote:

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

Nays: None Absent: Crowley Abstentions: None

After meeting in closed session, the Governing Body returned to their seats at 9:20 p.m. and Council President Snyder declared the meeting to be reconvened into open public session.

MISCELLANEOUS COMMENTS

Mrs. Gardell asked about a previous discussion regarding public works manager and CPWM.

Mr. Kilduff stated he did the research, he called the State Dan Kaminski, he suggested the Borough could name the Borough Engineer as CPWM. Mr. Kilduff stated he followed up by inquiring with the engineer if he would be interested in that title and if he would want additional money for it. He responded back he would be willing to take on the title and he wouldn't be asking for more money because it really doesn't require any more work it can be in conjunction with his other duties as Borough Engineer.

Mrs. Gardell asked if we need to take action.

Mr. Kilduff recommended if the Council wants to move forward we do a resolution. Mr. Kilduff commented the Borough needs to do something we have been without a CPWM for a period of time now.

Council President Snyder asked what the Council wanted to do with regards to what Mrs. Gardell brought up regarding the CPWM.

Mr. Ursin stated it cannot be voted on tonight it was not on the agenda.

Council President Snyder stated we will move forward with a resolution.

Mr. Giordano asked about the manhole cover by Mabie.

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ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Mr. Limon made a motion to adjourn the meeting at 9:24p.m., seconded by Mr. Giordano. All were in favor.

Paul B. Crowley, Mayor

Robin Hough, Borough Clerk