

**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  
October 22, 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."

Mayor Crowley stated before we go on he would like to put out a rumor that has been going around; he has been called at home by several people [saying] there is a rumor going around he has a terminal illness, he will be resigning as Mayor and there were several other things. Mayor Crowley stated he wanted everyone to know he doesn't have a terminal illness, I do not have throat cancer that was part of it; my vocal cords are scared which is why his voice is altered. His wife did not have a stroke. He is very healthy after medical treatment that was very expensive he [the Doctor] came to the conclusion that he is old and overweight.

**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 September 26, 2013 from Senator Oroho, Assemblywoman Littell McHose and Assemblyman Space to Commissioner Simpson, NJDOT Re: MA-2014-Franklin Borough-00406 Roadway Reservation Grant Application.
2. Letter dated September 29, 2013 from Senator Oroho, Assemblywoman Littell McHose and Assemblyman Space to Commissioner Simpson, NJDOT Re: MA-2014-Franklin Borough-00458 Pedestrian Safety Grant Application.
3. Letter dated October 2, 2013 from Senator Oroho, Assemblywoman Littell McHose and Assemblyman Space to Commissioner Martin, NJDEP.
4. Letter dated October 9, 2013 from James C. Kilduff, Administrator to Michael Burns, Re: Court Attendant Employment.
5. Letter dated October 10, 2013 from Elaine A. Morgan Clerk of the Board of Chosen Freeholders to Mayor Crowley Re: Resolution Supporting the Borough of Franklin's Application for funding to the New Jersey Department of Transportation for the purpose of installing sidewalks along county Route 631 ( A.K.A. Fowler Street) in the Borough of Franklin.
6. Letter dated October 4, 2013 Proposed FY2014 Rate Schedule Effective December 1, 2013 from Sussex County Municipal Utilities Authority.
7. Memo dated October 7, 2013 from Theresa Schlosser, CTC to James Kilduff, Administrator Re: Annual Tax sale held October 3, 2013.
8. Memo dated October 10, 2013 from Elaine Morgan, Clerk of the Board of Chosen Freeholders to all Sussex County Municipal Clerks Re: Amendments to the Sussex County Resolution Establishing County Roads as Through Streets.
9. Letter dated October 11, 2013 from Sharon Nann, Community Manager, Taylor Management Company, Franklin Meadows Condominium Association to Jim Kilduff, Franklin Borough Administrator.
10. Letter dated October 16, 2013 from James C. Kilduff, Administrator to Sharon Nann, Community Manager, Taylor Management Company Re: Franklin Meadows.

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11. Memo dated October 17, 2013 from Jim Kilduff, Administrator to Chief McInerney and Joe Drossel, Zoning Officer Re: Franklin Meadows.
12. Letter dated October 16, 2013 from James C. Kilduff, Administrator to Wayne Dietz, President, Dieta & Hammer Alternative Risk Solutions.
13. Email dated October 8, 2013 from Reenee Casapulla with Attachment: Payout Schedule from Joe Davis of NJDEP for the 2011 Municipal Recycling Tonnage Grants.

**REPORTS** (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Board of Health report for September, 2013
2. Municipal Court Report for September, 2013.
3. Construction Permit Activity Report for September, 2013.
4. Police Department Report for September, 2013.

**APPLICATIONS** (APPROVAL OF THE FOLLOWING):

1. Application for use of the Senior Center on October 25, 2013 from 6:00 PM to 9:00 PM by Franklin Boys and Girl Scouts for a Halloween Event. (Note: This same application was forwarded to Recreation for approval of Franklin Pond Recreation Area)
2. Application for use of Senior Center by Franklin Boy Scout Troop 90 for their weekly meeting on Mondays from September 2013 to July 2014.

**RESOLUTIONS** (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of October 22, 2013.

Mr. Snyder made a motion to approve the consent agenda of October 22, 2013. Seconded by Mr. Babcock.

Dick Durina, 23 Lozar Road, Franklin, stepped forward. He wanted to make sure the public can make comments on the consent [agenda].

Mayor Crowley stated if you want to make comments tell us what it is and the Council will take it off [the consent agenda] and add it to the agenda.

Mr. Durina referred to item number 5; he wanted to congratulate Franklin Borough and Council in doing everything they possibly can to get sidewalks along Rte 631. Mr. Durina commented I commend you and the Council for following through on that.

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 reported last night the Planning Board discussed Ordinance 13-2013, which was changes to the commercial and recreational vehicles. The discussion lasted over three hours; approximately eight members of the public speaking. Recommendations from the Planning Board is forthcoming to the Council.

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Mr. Limon had nothing to report.

Mr. Snyder had nothing to report.

Mr. Giordano reported the recreation meeting for tomorrow is rescheduled to Thursday, November 7, 2013. There wouldn't be a quorum for October 23, 2013. Recreation is continuing on with their marathon movies in the park on Friday's in October. Halloween Parade is going to be on Saturday; starts at the Firehouse. Mr. Giordano thanked the Firemen and FOP for their donations. Mr. Giordano commented recreation is still doing the candy sale as a fund raiser.

Mr. Limon stated it [the parade] starts on Main Street and ends at the fire house. Mr. Limon asked when are the kids trick or treating; is it actually on the 31st. He has had a lot of people asking him what day is trick or treating.

Mayor Crowley commented we don't have any ordinance that says otherwise so trick or treating would be on Halloween.

Mrs. Gardell had nothing to report.

Mr. Ursin had nothing to report. Mr. Ursin stated he would comment on one or two agenda items.

Mr. Kilduff reported the following administrator's report:

Borough Sites and Street Issues

Concrete roadway is being poured for the E-07 viaduct bridge project. The schedule remains December 31, 2013 for reopening.

The Borough has begun looking at repairs to the deteriorated retaining wall on Evans Street at Main Street. Since Evans Street is currently the principal detour roadway for the E-06 project, the likely timing for this project would be the Spring of 2014.

An ordinance regulating trucks on Rutherford Avenue South is in draft stage for presentation to the Council.

Financial Control/Legal Issues

The Borough has been advised it will be receiving \$10,941.54 from the NJDEP for the 2011 Tonnage Grant Award. Franklin Borough ranks 6<sup>th</sup> out of 24 Sussex County municipalities in the amount awarded for recycling. This is a great recycling rate for a town with 5,000 people. Two employees, Darlene Tremont and Joe Drossel are to be commended for their efforts in working with the business community to achieve compliance in recycling reporting.

The Sussex County Municipal Utilities Authority (SCMUA) has announced their proposed rates for 2014. SCMUA will hold a rate hearing on Wednesday, November 6<sup>th</sup> at 4PM at the SCMUA Administrative Building on Rt. 94. Solid waste disposal charges are proposed to remain the same at \$96/ton for Type 10 waste. Resident Type 10 disposal charges remain at \$0.13/lb. For Franklin, projected total FY2014 charges for sewage treatment services are \$1,018,051. Of the nine sewage users Franklin's share is over \$190,000 **more** than the next highest paying user (Vernon Township).

The Tax Assessor has prepared and sent an information letter to property owners informing them of the Borough's Reassessment program approved by the County Board of Taxation. This reassessment is intended to "ensure uniform and equitable assessments throughout the municipality." The program, to be implemented in 2014, will utilize the services of Appraisal Systems to review property record cards (PRC's) and to reinspect properties recently sold and/or listed for sale. Property values will be assessed as of October 1, 2014. The inspection phase is expected to be completed in November. Property owners will be notified by mail in December

of their proposed new assessed values and given an opportunity to meet with appraisal representatives to review their assessment.

In accordance with the Borough's commitment to Best Practices, a training program on Government Ethics was conducted on October 16<sup>th</sup>. The program was well received by attendees and included the majority of the governing body. There was no cost to the Borough as the Administrator made arrangements with risk management consultants (D & H) to underwrite the entire cost of the program.

Operational/Personnel Matters

A part time employee, suspended for disciplinary reasons, has been terminated. This is a personnel matter and is not open for further public discussion.

The Division of Local Government Services has confirmed the Borough Engineer's application for Certified Public Works Manager (CPWM) has been approved and assigned Certification No. M-1739. This action confirms Mr. Knutelsky's appointment as CPWM in accordance with the Council's resolution.

A draft employment contract was sent to Mr. VanDenBroek's attorney 2 weeks ago. There has been no response to date. The contract has not been formally reviewed by the Council.

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Land Use Matters

As required under Municipal Land Use Law, Ordinance No. 13-2013, an ordinance to amend regulations governing commercial and recreational vehicles in residential zones was forwarded to the Planning Board for comment. The Planning Board spent over three hours discussing this matter at their October 21<sup>st</sup> meeting. The Board voted to instruct its attorney to send a letter to the Council recommending revisions to the ordinance. The public hearing on this ordinance is scheduled for November 12<sup>th</sup>.

The Superior Court has ruled in favor of the Borough Zoning Board in the matter of Brian Drost and 91 Main Street LLC. The plaintiff sought to overturn the Board's decision to deny a use variance for ground floor apartments at 91 Main Street. The Zoning Board was represented by its attorney, David Brady. The court found no merit to the plaintiff's claims of arbitrary and capricious decision making on the part of the Board. This case has been bifurcated and the plaintiff is free to continue to challenge the Borough's ordinances in Superior court.

Long-term and Capital Projects

A site inspection of the Fire Department's natural gas conversion project was conducted Friday, October 18<sup>th</sup> with resident volunteer, Sean Kidd, Senior Project Manager for energy efficient commercial projects. Bid specifications and a bid package are now being prepared.

The County, in conjunction with the Passaic County Regional Energy Cooperative Pricing System, is offering an opportunity to participate in a Government Energy Aggregation Program. The program uses the purchasing power of the cooperative to offer reduced utility rates to participating businesses and residents once the Borough has passed ordinances related to program participation. The program would offer 100% Price Risk Guarantee to the participating members that their contracted energy supply rate will never be higher than the respective utility's prices. Projected utility savings range from 5% to 20%, depending on the utility and bid structure. Last year Franklin was a demonstrated leader in energy savings through its participation in the Passaic County Energy Cooperative for reduced utility rates for the Borough.

The Engineer has been asked to draft specifications for the Borough's road rehabilitation program commencing with the first phase of Cork Hill Road.

Miscellaneous

On Saturday, November 2<sup>nd</sup> the Sussex County Municipal Utilities Authority will conduct a Household Hazardous Waste Day event. Resident may dispose of up to 100 pounds of oil based paint and solvents at the SCMUA facility on Rt. 94 between the hours of 7AM and 2PM.

The Franklin Education Foundation is hosting a wine tasting & cheese Fundraiser on Saturday, November 2<sup>nd</sup>, 3pm to 5 pm at Cava Winery in Hamburg. The non-profit Foundation provides programs and services to benefit the children of Franklin Elementary School. More information is available on the Borough website and posted on the bulletin board downstairs.

Residents are reminded again of the FREE Rabies Clinic at the Borough Garage on November 2<sup>nd</sup>. The clinic will be from 1PM to 3 PM.

Mayor Crowley commented election day is November 5; he urges everybody to go out and vote. The polls are open from 6:00AM to 8:00PM at the usual places. Any questions regarding voting call the Clerk's office.

Mayor Crowley stated the Sussex County Chamber of Commerce is having an expo at Crystal Springs Country Club on Monday October 28 from 4:00 PM to 8:00 PM. There is free admission and free parking.

Mayor Crowley reminded Council members in December there is a difference in the meeting schedule.

Mayor Crowley stated on November 12 we will have the public meeting on the recreational vehicle; at that time we will have the report back from the Planning Board. It will be the open public meeting for the ordinance that has been proposed; that will be the time people from the public can make their comments to the Council. The Council can take action at that point.

Mayor Crowley commented they are still working on the lighting for the Recreation Sign.

**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. Giordano. All were in favor.

Dick Durina, 23 Lozaw Road, Franklin, stepped forward. Mr. Durina reminded everyone the safe street open house is on December 5 at Vo Tech. Mr. Durina commented at the end of the October 8, Mayor and Council meeting you dropped a bomb shell on the public and Council. That was to look into a plan to sell the water

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and sewer system in Franklin. Mr. Durina asked what happened to the Board of Public Works. Mr. Durina explained the Board of Public Works function and work that was done in 1990 when he was Mayor.

Mayor Crowley commented the Board of Public Works has not met in a year and a half. The Board of Public Works administration had been taken over by the prior administrator and Council.

Mr. Durina commented bad decision. We don't need to sell off the water and sewer system. We need to all work together. Mr. Durina asked again to please negotiate with our supervisor of Board of Public Works and the employees and stop going to Court and take their rights away from them.

Jacqueline Espinoza, representing Jersey Central Power and Light, stepped forward. Ms. Espinoza commented she was hired as the area manager for Jersey Central Power and Light. Ms. Espinoza commented her job is to be the Borough's contact. Ms. Espinoza left her business card and some additional information for the Borough to have on file.

Pat Rowett 36 Rte 23, Franklin, stepped forward. Ms. Rowett commented she had attended the Planning Board meeting the night before and noticed there seemed to be confusion for the people that had attended the meeting. They thought the ordinance had been deleted and there wouldn't be any further problems with their vehicles. Ms. Rowett asked for some clarification.

Mayor Crowley stated the ordinance is still on the books; there is a moratorium, there will be an open public meeting on November 12, at which time the Council can take action, they can pass the new ordinance that has been proposed, they can change it or they can drop it. The action will be taken on November 12 during the regular meeting and there will be a chance for the public to express their feelings at that time.

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. Babcock. All were in favor.

**OLD BUSINESS**

Mr. Giordano commented if we are going to put up holiday lights this year please make sure we light them up. If we are not going to light them up then don't put them up. It is a tradition in the town to put up the Holiday Lights; he supports doing that, I know it is a cost to the town, a lot of people like to see the light.

Mr. Babcock stated well said, I agree.

Mayor Crowley asked what the cost would be.

Mr. Kilduff explained it was several thousand dollars the last time we did this; the rate structure has been changed; it used to be a flat rate per pole per day. Mr. Kilduff stated he will have to look into this.

There was a discussion on Holiday Lights.

Mr. Limon referred to the administrators report; the section regarding SCMUA. Mr. Limon questioned why Franklin is the highest rate payer even over Vernon.

Mayor Crowley commented the rates are set by SCMUA.

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Mr. Giordano stated the question is are our rates higher than the other towns per gallon.

Mrs. Gardell stated our rates are based on the gallons; there is an infiltration problem that has been studied for years; we haven't seen any results.

There was a discussion on the rates and what can be done.

**NEW BUSINESS**

Approval of the Minutes

Mr. Limon made a motion to approve the regular meeting minutes for October 8, 2013. Mr. Limon pointed out two spelling errors; stories and where. (Absent: None)  
Seconded by Mrs. Gardell.

Upon roll call vote:

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

Nays: None Absent: None Abstentions: None

Discussion Amendment of Chapter 196 Parks and Recreation

At this time there will be a discussion regarding amendment of chapter 196 Parks and Recreation Attachment One, Exhibit, A, L. "*No smoking on recreation property except in designated areas*"

The Council had received a memo in their packets dated October 9, 2013 from Rachel Heath, secretary to the Board of Health regarding this matter.

Mayor Crowley commented the County has pushed for no smoking in the recreational areas which he agrees with but our pond area encompasses the police station and Senior Citizen Building. The Senior's come out and smoke on the bench outside the building. It also encompasses the whole pond area that is also used for fishing and boating. If we designate the whole recreation area as no smoking it would encompass those areas also which he thinks is a little too much.

Mayor Crowley continued the County would like the Borough to go into their program; at that time the County would give free no smoking signs but the Borough would have to designate the whole area as no smoking. That is why he wanted to bring this to the Council to see what their feelings are.

Mr. Limon stated he thinks this is overkill; we should just leave it as it is.

Mrs. Gardell commented she would agree.

There was a brief discussion.

Discussion on Senior of the Year Award

At this time there was a discussion regarding the Senior of the Year Award.

Mayor Crowley stated we have had Senior of the Year Award a number of years; it has been brought to his attention when it would be decided upon this year and when it would be announced. The Award is now being announced in March or even later at one of the Senior functions. It should be earlier, the question is do you want to continue to have a senior of the year. The Borough would have to get a committee up; also when would you want to announce it.

There was a discussion on Senior of the Year; Council members agreed it was a tradition, it was suggested to be the last decision made at the end of the year of the Council for the next year or announce the award at the reorganization meeting.

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Mr. Limon commented when he was on recreation as the liaison he selected the senior of the year along with the Mayor and one other Council person. Mr. Limon stated he would rather have the decision up to the whole Council.

Mrs. Gardell commented it doesn't have to be a calendar year cycle, the senior of the year is announced at the Spring Fling that is a special senior event and not have it at reorganization.

Mayor Crowley stated Mr. Giordano is the Council Liaison for Recreation. Mayor Crowley asked Mr. Giordano to think about this; talk about it with some of the people and get back to us [the Council]. Then we will put this on the agenda again.

Discussion on Miner's Cove Development

At this time there was a discussion regarding the bonding of Miner's Cove Development.

Mayor Crowley stated they have been doing a lot of work; the developer has made great strides. The Borough's Engineer made up a checklist which the Borough only received from Mr. Knutelsky, Engineer yesterday. We haven't had a chance to really look it over and put it out to the Council. We can't make a decision tonight; we do need to make a decision.

Mr. Babcock asked if there was a walk through this Friday.

Saquib Toor, owner of Miner's Cove Development, stepped forward. Mr. Toor commented we have offered time on Friday for a walk through for the Council to get to know the project. We have spent a lot of time and effort overcoming a lot of obstacles, JCP & L included. To have a walk through would show the progress and some of the issues that we saw and how we rectified them. Mr. Toor commented hopefully next week we will do the curbing and paving. With winter months coming he wanted to bring this issue up to the Council now.

Mr. Ursin stated between now and the next Council meeting we will look at what Mr. Knutelsky did; circulate it among everybody and the Council can formulate the background to have this discussion at the next meeting and possibly be in the position to approve something.

Mayor Crowley asked how many Council members would be available for the walk through on Friday. Mayor Crowley reminded everyone that we can't have a quorum during a walk through.

There was a discussion between Council members on different times they would be there so there wouldn't be a quorum. Mayor Crowley commented to call the Administrator to set things up.

Discussion on Employee Chain of Command

At this time there was a discussion regarding employee chain of command.

Mayor Crowley stated he wanted to mention to the Council the chain of command for personnel matters especially for employees. The employees should be taking their personnel matters or complaints if they have them to their supervisor, their supervisor to the department head, from department head to the Administrator, from the Administrator to himself [Mayor] and from himself the chain of command would be to the Council. Mayor Crowley commented previous Administrator's went so far as to tell the employees not to even talk to Council people. Mayor Crowley stated he wouldn't go along with that but he would ask the Council not get involved in

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employee matters; that should generally be sent to the Administrator. If you do get involved with that it makes problems.

Mayor Crowley stated employee's overtime and comp hours unless it is an absolute emergency have to be approved by the next higher up. Usually that is the department head or for the department head that is the Administrator. Employees have to get prior approval for comp time and overtime unless it is an emergency.

Mayor Crowley commented he would like the Administrator to make that clear to the employees.

Mayor Crowley stated he would recommend Council members to go see what the employees do in the different departments but don't get involved if you have a question bring it to himself or the Administrator.

**ADDENDUM:**

Resolution 2013-95 Accepting the Completion of Repairs

Mr. Snyder made a motion to adopt resolution 2013-95 accepting the completion of the repairs to the Route 23 South Wastewater Pumping Station and releasing the bond. Seconded by Mr. Limon.

Upon roll call vote:

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

Nays: None Absent: None Abstentions: None

**EXECUTIVE SESSION**

There was no executive session.

**MISCELLANEOUS COMMENTS**

**ADJOURNMENT**

There being no further items for discussion by the Mayor and Council, Mr. Limon made a motion to adjourn the meeting at 7:50p.m., seconded by Mr. Giordano. All were in favor.

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Paul B. Crowley, Mayor

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Robin Hough,  
Borough Clerk