

**MINUTES OF THE SPECIAL MEETING OF THE
MAYOR AND COUNCIL
OF THE BOROUGH OF FRANKLIN
HELD AT THE FRANKLIN MUNICIPAL BUILDING
46 MAIN STREET, FRANKLIN, NJ
July 20, 2017**

Mayor Giordano 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. Dabinett, Ms. Fantasia (*via phone*), Mr. Limon, Mr. Rathbun, Mr. Skellenger and Mayor Giordano.

Absent: Mr. Snyder

Mayor Giordano led the assembly in the flag salute.

Mayor Giordano 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."

OPEN PUBLIC SESSION

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

Dick Durina, 23 Lozaw Road, Franklin, stepped forward. Mr. Durina asked what are we here for?

Mayor Giordano explained it will be covered under item E. in public session.

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

Discussion on outside labor counsel

Mr. Rathbun explained a meeting at Laddey Clerk & Ryan.

Mayor Giordano commented what you are saying is that there is a feeling amongst the Council that it is common that other towns have outside labor attorneys to handle various matters involving potential litigation and personnel matters. It has been brought to our attention that it might be a good idea for Franklin to do, the Council has discussed on various levels whether or not they would be interested in doing this; it has been an ongoing discussion. We don't know whether we want to do this or we don't want to do this. We want to bring a public discussion to discuss whether or not the Council is willing to hire an outside labor counsel for special matters including personnel litigation or any type of disciplinary action rather than having the normal town attorney handle it. Which is similar to what other towns do, but not necessarily what we have done in the past.

Mrs. McHose commented since she has been here two and a half years, we did have a situation when we were with Schenck, Price that we used a different labor counsel than our main Borough attorney, during contract negotiation.

Mayor Giordano commented we do have an executive session.

Mr. Limon commented he is fine, as of right now the way he looks at it and he will be transparent as to the way he feels is that we haven't lost anything yet, so he doesn't really think that at this point we should move on. Maybe for future issues that arise absolutely, but as of now we are financially into this let's roll with what we have.

Mr. Dabinett commented he concurs with Mr. Limon, he can't say too much he is not sure what the legalities are, he is in agreement with the statement that Mr. Limon said.

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Mr. Skellenger commented after speaking with various police officers in the Borough and after speaking with Mrs. McHose about it and reading what they had to say about the entire situation he is totally in agreement with Mr. Rathbun that we need to switch going forward from here on in.

Mayor Giordano commented we have had some recent events also happen.

Mr. Limon commented to clarify when you say here on in, here on in from immediately right now. Mr. Skellenger commented yes.

Mr. Prol stated he will comment on legal issues which he will do. Mr. Prol commented in New Jersey we have the Pay to Play law which requires the award of a professional service agreement for a value greater than \$17,500, must have on file 10 days prior to the award a political contribution disclosure and pay to play forms. That is the one issue legally that would be required in place 10 days before any contract award. Also, there has to be a resolution that is detailed and if you are not going out for RFP or other matters of bid which is a competitive process it is called the non-fair and open process you have to adopt a special resolution that the State has on their website for that purpose. Mr. Prol explained the non-fair and open process. Mr. Prol also passed out to the Council the past nine months of billing from his office on the Borough's personnel file to have as a reference and explained the billing and read the amounts charged per month.

There was a discussion back on forth on the pay to play documents and the non-fair and open process.

Mayor Giordano requested that the Council adjourn into executive session under the onus that we will be making a decision either way when we come out and it will be a public decision. We encourage people to stay; he doesn't know what the time frame will be.

Mr. Durina asked the Mayor if he could step forward. Mr. Durina commented you invited us here to discuss an issue, we discussed it and you are not going to let us have comment on it.

Mayor Giordano commented when we come back from executive session we will have a second public session prior to any vote.

Mr. Durina commented on how long he knew Laddey & Clark and gave an example from when he was Mayor. Mr. Durina commented with that being said he does have a problem, ethically he doesn't know why a gentleman that we want to basically take one position away from is sitting up there in judgement of it. Mr. Durina commented on what makes our military great, it is run by Generals, not by Politian's and not lawyers that is what makes our military great, our police department is a semi military organization. The Chief and other police officers have other reasons he does not know, but they want other counsel.

Mr. Durina commented you are not talking about dollar and cents you are talking about people's reputation, it should go to trial have a fair hearing and that is the end of it. Not who is going to pay for who, we are dealing with a Chief that has 38 years in his department, who was once known as "Eugene the ticket machine". On the other hand, you have an officer that served the town well Patrolman Snyder, let the hearing go on, give both sides the best they can have. Mr. Durina commented the wounds that were opened over this incident all the rumors going around town will never be healed.

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Mr. Prol commented he wants to make a comment on his ethic issues here, he was hired as the town attorney, he has to come to meetings when they are called, he has to comment on the law, when he says the law, he answers the question truthfully and that is it. Mr. Prol commented he has no other objective here, if the Board [Council] decides to go with someone else then so be it. There is no hard feelings and he respects you for the work you have done in this Municipality.

Mr. Durina commented it is nothing personal, he can talk through his heart, you have to talk through your legal [paper].

EXECUTIVE SESSION

In accordance with the provisions of the Open Public Meetings Act, Mr. Rathbun made a motion to adjourn into closed executive session to discuss personnel matter matters. Motion seconded by Mr. Skellenger. All were in favor.

After meeting in closed session, the Governing Body returned to their seats at 8:16p.m. and Mayor Giordano declared the meeting to be reconvened into open public session.

Mr. Skellenger made a motion to return from executive session. Seconded by Mr. Rathbun. All were in favor.

OPEN PUBLIC SESSION

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

Dick Durina, 23 Lozaw Road, Franklin, stepped forward. Mr. Durina commented what happened, yes or no.

Mayor Giordano commented he can't discuss executive session matters other than to say we will not be taking any action after executive session.

Mr. Durina commented politics has no place in the police department, it really doesn't, if you have confidence in your police department you would give them the tools to do their job simple as that. The wounds that were open over this incident and the rumors that were spread around there is going to be scars forever.

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

MISCELLANOUS COMMENTS

Mr. Dabinett commented we as a Council do want to see this resolved and protect everybody's rights.

ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Mr. Limon made a motion to adjourn the meeting at 8:35p.m., seconded by Mr. Skellenger. All were in favor.

Nicholas Giordano, Mayor

Robin Hough, Borough Clerk