

**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 26, 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, 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, N.J.S.A. 10:4-6 et sequentes. It has been properly advertised by posting in Borough Hall, and printed in the New Jersey Herald/Sunday New Jersey Herald on January 5, 2017, and posted on the Borough website, which adequate notice has been certified by the Clerk."

Mayor Giordano commented there is a change to the meeting for the people that usually come here; this meeting will end at 10:00PM all items that are not decided will be carried to the next meeting.

**COMMITTEE REPORTS**

Mr. Limon reported on recreation, this week is the Franklin Carnival, it starts Thursday night, fireworks are Thursday and Saturday. Mr. Limon commented we had a personnel committee meeting earlier this evening we discussed a few items regarding employment. We have an updated resolution 2017-66 on [the agenda] this evening.

Ms. Fantasia reported on finance, Monica was not able to join us for our meeting, we discussed the purchase of a fire truck, Mrs. McHose has information she will share regarding the procedures into that. Ms. Fantasia reported on EDC, we did not meet this month, the head of EDC cancelled the meeting, our next meeting is our joint meeting in October with Hardyston. Ms. Fantasia reported on Planning Board, she was not at the last Planning Board meeting nor the one before to prevent and conflict of interest because she is the Council class member on the Planning Board, based on different items on the agenda she recused herself as did the Mayor.

Mr. Dabinett reported on public utilities, they met this past Thursday, we had a group come in before us, who is looking to purchase the catholic charities building, they are not looking to change the footprint of the building but create seven apartments within the existing structure. Mr. Dabinett commented we explained to them they are only a committee and don't make decisions. The committee's feeling was they didn't see any reason for them not to pursue it. They should go ahead and file the necessary permits and applications and so forth. Mr. Dabinett reported DPW have been very busy helping to get ready for the Carnival on top of all their summer time duties. Mr. Dabinett commented Mr. Deacon is making progress on his sewer pumping station.

Mayor Giordano asked where are we at in hiring an additional DPW employee. Mrs. McHose commented we are reviewing the resumes and will be starting the interviews shortly.

Mr. Skellenger had nothing to report.

Mr. Rathbun reported he tried to get a meeting with the Chief regarding the fire truck but sees it is on the agenda.

Mrs. McHose reported on the bat situation in the attic and explained. Mrs. McHose has been working with DPW, recreation commission and the police to ensure that

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we have a safe and happy carnival. Mrs. McHose commented we are working on the DPW hire, we are still working on the tax collector situation, we reached out to some other towns for a shared service agreement and we are still sorting through that. Mrs. McHose commented as Councilman Limon mentioned there is an item on the agenda to appoint and hire a finance clerk which will be tremendously helpful because we will have a person in the office when people come in. Mrs. McHose commented we will be looking for a deputy court administrator for 25 hours a week.

Mr. Prol had nothing to report.

Mayor Giordano commented this week is the Carnival, we are hoping for good weather and we hope this will be the best Carnival we have had and explained. Braen has sponsored the fireworks and we have a new Carnival company which is Campy's.

Mayor Giordano commented we have some issues regarding a couple of water meters, one was a resident. Mrs. McHose commented she did speak to Ms. Monel before the meeting she is bringing in all her paper work and met with her tomorrow; if she can't resolve this with her she will refer her to the Board of Public Works and then it will ultimately come to the Council.

Mayor Giordano commented we have a water meter situation with the Presbyterian Church; that he will refer to the Board of Public Utilities, he would like them to look into this and come back with a recommendation at the next meeting if possible.

**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.

Ian and Theresa Sherwood, 189-193 Corkhill Road, Franklin, stepped forward. Mr. and Mrs. Sherwood are the owner of the horse farm in Franklin. Mr. Sherwood spoke about the article in the NJ Herald regarding the Munsonhurst project. We have a builder who bought a piece of property in town, that was basically zoned to do what he is allowed to do, you did it all the right way it went through the Planning Board, it was voted down. Mr. Sherwood commented don't be bullied into doing something, [the builder] can build his 250 units of age restricted housing right now and explained.

Mayor Giordano commented this is being discussed in public as well as executive session, he will allow people to talk about this at that time. Mayor Giordano commented he would like to give you all the opportunity to speak that you feel you would want to have, he wants to give you the ability to feel as though you've been treated fairly, there is no decision that has been made, your input is very important, we can talk about this when we get to item 13.

Elaine Tizzano, 19 Hemlock Drive, Franklin, stepped forward. Mrs. Tizzano thanked the Town of Franklin and the Council for allowing us to have our walks for Change the Face of Addiction in the Borough. Our third annual walk was held on August 5, 2017, Mrs. Tizzano spoke about the walk, the center for prevention and the money that was raised. They are asking permission again of the Borough and police.

Mayor Giordano commented that is item 4 on the agenda tonight and thanked Mrs. Tizzano for all her years she has volunteered on the Rec Board and as a teacher you have touched more people then you will ever know, when we get to item number 4 he would be happy for everyone to approve it [special event permit for a walk]. This is the least we can do for you and your family.

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Dawn Rowe, 140 Munsonhurst, Franklin, stepped forward. Ms. Rowe commented on the number of apartments that could possibly be built in town and asked if the Borough was trying to be Newton. Ms. Rowe commented on people that rent don't have the same vested interest in the people that live here for a long time. Ms. Rowe asked the Council to listen to the people that live here and not the noise that is coming from elsewhere. This will change the landscape of the Borough. Listen to the people that live, work and pay to live here.

Rachel Heath, 7 Hemlock Drive, Franklin, stepped forward. Mrs. Heath commented she is glad everything is coming together for the Carnival. Mrs. Heath commented at the last meeting you voted to use police overtime to pay the police officers for the event do we have any idea how much money you are talking about, dollar amount.

Mayor Giordano commented he doesn't off the top of his head, historically it has been about \$3,000. Mrs. McHose commented the most it would be is between three and five but that would be the most. There was a discussion back and forth regarding this cost.

Cory Henning, 21 Taylor Road, Franklin, stepped forward. Mr. Henning commented the soccer teams are off the fields, he is one of the coaches for the travel team. Mr. Henning commented he wanted to make it known that they were told as a travel organization they could use the fields tonight, he called and verified with the recreation department and was told they could be there Tuesday. Mayor Giordano commented he thinks what happened was the Carnival company came early. Mr. Henning commented he understands there was a miscommunication but there is a financial impact to the travel soccer club, we pay trainers to show up so now we are out, it doesn't sound like a lot of money but it is parent's money and explained.

Floy Estes, 13 Taylor Road, Franklin, stepped forward. Mr. Estes questioned the agenda for tonight; and gave his opinion on the agenda, items one through 13 being open to the public. Mayor Giordano commented he has all of the intentions of opening the meeting to the public for item 13. Mr. Estes commented what about 12, the fire department is just as important, what he is questioning is the way this document is written you are not permitting the public to speak over some of the agenda items. Mayor Giordano commented he can open the meeting to anything the Council wants to open the meeting to, that doesn't mean we will and explained. The discussion went back and forth.

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. Skellenger. All were in favor.

**CONSENT AGENDA**

Mayor Giordano 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. Email dated September 12, 2017, from Tracy Storms, Sussex county Department of Health and Human Services to Franklin Borough Mayor, Clerk and Council Members Re: "Tie a Ribbon" Campaign.
2. Borough of Branchville resolution 25-2017 supporting a Sussex County Consolidated School System.
3. Township of Green resolution 2017-128 supporting the exploration of a Sussex county Consolidated School System.
4. Township of Lafayette resolution 2017-28 supporting the exploration of a Sussex County Consolidated School System.

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5. Borough of Sussex resolution 2017-125R supporting a Sussex County Consolidated School System.
6. Borough of Sussex resolution 2017-126R supporting requirement of disclosure of information by regional school districts to municipalities of student addresses.

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

1. Borough of Franklin 2017 County Tax Appeals.
2. Borough of Franklin 2017 State Tax Appeals.

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

1. Application for use of the Senior Center from Joseph Hendershot for Franklin Boy Scouts Troop 90 for Monday nights from 7:00pm to 8:30pm from September 2017 to June 2018, schedule of dates attached.

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

1. Payment of bills for the meeting of September 26, 2017.

Mr. Dabinett made a motion to approve the consent agenda of September 26, 2017. Seconded by Mr. Rathbun.

Ms. Fantasia commented she would like to discuss under old business numbers 3, 4 and 5 on the consent agenda from Sussex, Green and Lafayette regarding a consolidated school system.

Mayor Giordano asked does anyone from the public have anything for the consent agenda.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

**OLD BUSINESS**

Ms. Fantasia commented she has two pieces of old business, the first is regarding LOSAP, Mr. Lanham from Wallkill First Aid Squad reached out to her for information from the power point that she had shared. Ms. Fantasia asked if it is at all possible that we are able to advertise in either the Advertiser or the NJ Herald and also post on our website to do a brief explanation of what LOSAP is. Ms. Fantasia asked for Public Safety to meet with the fire department and the first aid squad to find out what their plans are for the next 30 days prior to the election in order to get some support for this.

Mayor Giordano commented as far as the website or the Borough paying for any type of advertising like that, he doesn't believe we are able to do that and explained a situation that happened in Hopatcong. Mayor Giordano asked Mr. Prol if we are allowed to do that.

Mr. Prol commented his suggestion would be to post the public question that would be on the ballot that might be a good approach on this, since that will be a public question that is presented to the voters. Ms. Fantasia commented perfect. Mayor Giordano asked if everyone is in favor of posting this on the website. Mayor Giordano asked the Borough Clerk to have this put on the website.

Ms. Fantasia commented items 3, 4 and 5 on the consent agenda involve what we discussed at length last week, it is different municipalities that either support or support an exploration of a consolidated school system. To note as well Andover and Sparta have not lent their support in conjunction with Franklin Borough, and there is something she actually submitted to the NJ Herald and read part of the

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article she submitted regarding the resolution Franklin had discussed preparing at the last meeting. Ms. Fantasia commented she does not have a resolution ready for tonight because she wants to hear from the mouths of every single Board of Education member just like every member of the Governing Body she wants to speak to the superintendents, parents, she thinks we need to hear what our community wants and needs before six people can rubber stamp something that sounds pretty on paper.

Mayor Giordano commented again that was well written and thank you because you probably did catch what the majority of us are thinking.

**NEW BUSINESS**

**Approval of the Minutes**

Mr. Rathbun made a motion to approve the regular meeting minutes and executive session meeting minutes for September 12, 2017. (Absent: Mr. Limon) Seconded by Mr. Dabinett.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: Limon

**Adoption of Ordinance 14-2017**

Mr. Rathbun made a motion to adopt Ordinance 14-2017 "AN ORDINANCE AMENDING CHAPTER 259 "PARKING," Code of the Borough of Franklin 259-5" (Note: Change is parking) Second by Mr. Skellenger

Mr. Rathbun made a motion to open to the public ordinance 14-2017. Seconded by Mr. Skellenger. All were in favor.

No one from the public stepped forward.

Mr. Dabinett made a motion to close to the public ordinance 14-2017. Seconded by Mr. Rathbun. All were in favor.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

**Adoption of Ordinance 15-2017**

Mr. Rathbun made a motion to adopt ordinance 15-2017 "AN ORDINANCE AMENDING CHAPTER 259 "PARKING," CODE OF THE BOROUGH OF FRANKLIN 259-5." (Note: Change in parking time limit.) Seconded by Mr. Dabinett.

Mr. Skellenger made a motion to open ordinance 15-2017 to the public. Seconded by Mr. Rathbun. All were in favor.

No one from the public stepped forward.

Mr. Rathbun made a motion to close ordinance 15-2017 to the public. Seconded by Mr. Skellenger. All were in favor.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

**Special Event permit**

Mr. Rathbun made a motion to approve an application for a special event permit from Elaine Tizzano and Mary Burns, for their fourth annual walk in conjunction with the Center for Prevention and Counseling to be held on August 4, 2018, to bring awareness and treatment for substance use disorder. Seconded by Mr. Skellenger.

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Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Review of 2016 Best Practices Worksheet

Mr. Skellenger made a motion to accept the best practice worksheet prepared by the CFO and Administrator and have the Clerk Certify the worksheet for transmittal to Trenton. Seconded by Mr. Limon.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Resolution 2017-62

Mr. Skellenger made a motion to adopt resolution 2017-62 approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Washington Avenue & School Plaza resurfacing project. Seconded by Mr. Limon.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Resolution 2017-63

Mr. Skellenger made a motion to adopt resolution 2017-63 approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Mitchell Avenue resurfacing project. Seconded by Mr. Rathbun.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Resolution 2017-64

Mr. Skellenger made a motion to adopt resolution 2017-64 authorization for Sulzer-ABS Dry-PIT Wastewater Pump Model from the following vender, Reiner Pump Systems, Inc. total amount not to exceed \$17,123.00. Seconded by Mr. Dabinett.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Resolution 2017-65

Mr. Limon made a motion to adopt resolution 2017-65 to Join (renew) the Statewide Insurance Fund for the period of three years with the effective dates from January 1, 2018 to January 1, 2021. Seconded by Mr. Rathbun.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Statewide Insurance Fund Indemnity & Trust Agreement

Mr. Limon made a motion to approve the Statewide Insurance Fund Indemnity and Trust Agreement for the Borough of Franklin continuing membership until January 1, 2021. Seconded by Mr. Dabinett.

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Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Resolution 2017-66

Mr. Limon made a motion to adopt resolution 2017-66 authorizing the position of full time finance clerk to Karen Osellame at a probationary rate of \$16.00 per hour effective October 1, 2017. Seconded by Mr. Dabinett.

Mayor Giordano commented this resolution changed from what was in the packets. Mrs. McHose commented she worked in conjunction with the new labor attorney and the suggestion of Mr. Prol, there are some minor changes nothing substantive. Mayor Giordano commented nothing with dollars. Mrs. McHose commented no just the verbiage of wording.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Discussion on acquisition of a Fire Department Vehicle

Mayor Giordano commented item 12 is a discussion on the acquisition of a Fire Department Vehicle.

Mayor Giordano explained earlier in the year the finance committee reviewed the possible purchase of a fire vehicle; at that time, they had declined doing that. The Fire Chief and the fire department have done a lot of research and found information that is relevant to that decision. They have given us a packet that was handed out in the beginning of the meeting regarding the purchase of a vehicle. We did research on the Borough side to find out how the other towns are purchasing their vehicle and explained.

Mrs. McHose commented this afternoon she worked with the CFO and Mr. Prol and the Fire Chief, we were able to get some information concerning us going forward. The plan was for us to purchase a fire truck in 2018. Over the years we have set aside money to go towards this purchase, it is a large purchase about six hundred thousand. Mayor Giordano commented it is about \$574,000. Mrs. McHose commented we do have \$125,000, we spoke to Bond Counsel today and we are able to enter into a contract this year. Our constraints are we have to go through an ordinance process, the ordinance is to move the money, it is a procedural thing a budgeting step that must be taken by the CFO so introduction of the ordinance a public hearing and reading of the ordinance and filing. After that there is an Estopal period, this is a long process which puts us beyond the requested November 1 to November 17 to sign a contract. Mrs. McHose commented as far as our CFO and Attorney are concerned we can go forward with the deposit or a portion of the deposit down and bond for the money next August. Mrs. McHose commented her concern with waiting are all the procedural steps that we have to take it will delay it further.

Mayor Giordano commented we will be saving money by approving the purchase now. Mrs. McHose commented the CFO would like to work with the fire department because she has the licenses involved with this CFO and QPA she wants to do a little questioning, but we can go forward and then work out the details.

Mr. Skellenger made a motion to open to the public the discussion on the fire vehicle. Seconded by Mr. Rathbun. All were in favor.

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Steve Knebl, engineer and lieutenant for the Franklin Fire Department stepped forward. Mr. Knebl commented right now the cost is \$575,000 it goes up 3% November 1, to \$592,250 and then you can have two more increases within six months from now. Mr. Knebl is going to try and talk to the guy [sales representative] and see if we can extent this to November 17, he might but we have to ask him first.

Mayor Giordano asked Mr. Knebl to explain what brings about the need for to replace the fire truck. Mr. Knebl commented we took on the responsibility of extraction from the ambulance [squad] and explained the equipment and what had to be added on.

Chief Babcock, stepped forward and explained our bays are smaller so we have to have this truck custom built which costs a little more.

Mr. Knebl explained what work had been done by the fire department to this point. Chief Babcock commented for the record rumors have it we are looking for a wet down truck, that is totally bogus we're looking out for the residents all of you guys when you are out at three in the morning and a drunk driver comes to our town and we have to rescue some poor family that is what we are doing with this truck. The discussion went back and forth with Mr. Knebl, Chief Babcock and the Mayor and Council. They discussed auctioning off an old truck and value,

Jim Williams, President of the Fire Department stepped forward. Mr. Williams commented the price of this truck is \$574,000 and basically what it comes down to is numbers. Hopefully the sales person will agree to November 17, this would go up somewhere between ten and fifteen percent because of the price of steel etc. Ten percent would be fifty-seven thousand dollars, fifteen percent would be eighty-six thousand dollars so if you wait until next year this truck is going to cost somewhere between \$625,000 to \$650,000 for the same truck. So, it is in our best interest and the best interest of the tax payers to do this now. The discussion continued.

Mr. Prol commented Monica is the CFO and QPA so she will be the one to talk to about the specs, she has to go with the State contract but she also has to look at another vendor that is the law but we will be guided by her [CFO/QPA] which is her license on that.

Ms. Fantasia comments she is going to take Monica's lead but she wants to clarify one thing we pride ourselves on the Council to separate needs vs wants and she wants the public to understand that this is a clear need. Our fire department took on the jaws of life, majority of their calls are auto accidents and this is not for a fancy bells and whistle toy this is for a rescue vehicle and that is how the Council approached it when looking at ways to finance it. As you say we have the rumor mill that goes gossiping around so we are all on the same page our Council is committed to not making frivolous purchases as the fire department has not requested something frivolous. We are committed to work with our QPA to move forward and to make this happen.

Mr. Rathbun asked if this is something we can direct to start the motion. Mayor Giordano commented we can have Monica meet with them and create the ordinance as she needs. Mr. Rathbun if we say we are in favor of this but there is a process. Mrs. McHose commented it would be helpful to have guidance from the Council to move forward with this. Then Monica can work directly with you [Fire Department]. Mr. Prol commented we need an ordinance. Mr. Prol commented until we have an ordinance in front of us he would recommend no votes.

Mayor Giordano commented the meeting is still open to the public for discussion on the fire truck.

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Ms. Fantasia made a motion to close to the public the discussion on the fire vehicle. Seconded by Mr. Skellenger. All were in favor.

Discussion on Potential Litigation

At this time, there was a discussion regarding JCM Investors/Silk City property matter, potential litigation by property owner and objectors and settlement.

Mr. Prol commented there was an application presented to the Zoning [Planning] Board at 110 Munsonhurst Road, owned by an entity JCM Investors apparent company Silk City is the actual owner. There is a long history with respect to this property over a number of years. Mr. Prol explained the history of this property; Board approvals and settlement agreement.

Mr. Prol commented last year the Planning Board did a Master Plan reexamination which is required every 10 years to revisit their Master Plan. The Master Plan is a guiding document it creates a vision or landscape for a Municipality to have their zoning. Last year the Municipal Planning Board recommended to this governing Body that you do away with the age restriction and that you increase the density of this property. In the meantime, the applicant brought in an application that was more consistent with what was said in the Master Plan but was inconsistent with the Law. So, when the applicant came forward to the Planning Board they came forward to the Planning Board with an application that might seem to be pleasing to the Master Plan guiding documents it was not compliant with the law and so the Planning Board was probably right to object that and they did. But what they did was they said essentially that the Governing Body has not changed the zone here. The applicants counsel wrote a letter on September 20, after the denial came through from the Planning Board pointing out these several inconsistencies as well as a number of cases from the NJ Common Law, which Mr. Prol explained.

Mr. Prol commented we know there is a development approval if the developer went in and brought an application consistent with the current existing ordinance and that was rejected they get something called a builder's remedy and explained. Mr. Prol commented they have looked at the Master Plan and they see that the Borough Planning Board has told this governing Body that they recommend that there be a different zone plan ordinance at this property. That is the situation we are in. This is how the process works and explained the process.

Mr. Skellenger made a motion to open to the public the discussion on potential litigation. Seconded by Mr. Rathbun. All were in favor.

Dawn Rowe, 140 Munsonhurst, Franklin, stepped forward. Ms. Rowe commented on this property and it once being a farm. Ms. Rowe commented she doesn't know why you got away from single family housing to these monstrosities that you want to build now. Ms. Rowe spoke about the EPA and Walkkill River. Mayor Giordano explained the Borough having no authority over the EPA [DEP]. Ms. Rowe spoke about not having a site plan, single family homes and a commute.

Joann Tatka, 151 Maple Road, Franklin, stepped forward. Mrs. Tatka commented your goal is you want to bring more ratables into town but the Land Use Board made a decision and if the Board had any authority or power you should honor it, if not don't even have a Land Use Board, they gave you a vote and if you vote against them she wouldn't be surprised if everybody resigned. Mrs. Tatka spoke about the DEP. Mayor Giordano explained we are not talking about a site plan we are talking about zoning.

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Patty Kearns, 289 Rutherford, Franklin, stepped forward. Ms. Kearns spoke about her concerns as a tax payer; she moved to Franklin, nine years ago, when we decided to buy a home they chose Franklin because of the small-town aspect, the Country living this is what they wanted. They wanted to get away from all the Chaos of all these units and yes, she deals with the traffic and her commute. She is worried about what this [project] will do and explained.

Cory Henning, 21 Taylor Road, Franklin, stepped forward. Mr. Henning spoke about the Planning Board meeting he attended regarding this project. Mr. Henning commented the one thing he is against is the removal of the age restriction and explained why. There was a discussion back in forth regarding the school population.

Floy Estes, 13 Taylor Road, Franklin, stepped forward. Mr. Estes asked about the 45-day period. Mr. Prol explained when there is a denial or approval at the Planning Board then there is a notice of publication, once that publication occurs that 45-day clock starts that is the period on which somebody can litigate over that action of that Body. There was a discussion back and forth. Mr. Estes commented there is a lot of emotion with the project he has been sitting on the Planning Board listening to some of these comments, professionals from both sides and explained. Is he in favor of this project, he has his reservations, he also has respect for current land owner who bought that property thinking what their losses are and continued to explain.

Mr. Prol explained the process the governing Body writes the law they do not hear an application, there is no application being discussed right now this is just a general zone and potential litigation. If the governing body deems to change the zoning law that applies to this property this starts an organic process in the Municipal Land Use Law and explained the ordinance process and the Master Plan. There was a discussion back and forth.

Ian and Theresa Sherwood, Corkhill Road, stepped forward. Mr. Sherwood commented we invested in our town, we invested our family our business is here, we stand to lose a lot. We pay a ton of taxes a year to be here to run their farm and their business and we hope that is taken into consideration. Ours isn't a normal residential amount of money that we pay to live here we are here and we hope that is taken into consideration. Mr. Sherwood spoke about how this will hurt his business and explained and he also spoke about the application. Mr. Sherwood asked for the Council to do the right thing.

Mrs. Sherwood spoke about farm assessment and taxes they pay on the buildings. Mr. Sherwood spoke about DEP. Mrs. Sherwood explained the history of their property and spoke about their property located next to this project.

Dick Durina, 23 Lozar Road, Franklin, stepped forward. Mr. Durina commented he was sitting here thinking of 1987 when he was sitting on the Planning Board, he may have been Mayor at the time. Tough situation and back then you thought in his mind they were single family homes and spoke about the history of this project. Mr. Durina commented on the promise of Ed McMann to put in the wells, he went to the bank borrowed \$10,000 to put those wells in, he was a man of honor. Mr. Durina commented on how this application is going to affect Franklin, a very tough decision for you sitting there to overrule your Planning Board; those scares from that decision tonight or whenever that decision will take place is going to take years to heal. Mr. Durina commented it is not just about an application it is about a procedure and explained.

Mr. Prol commented this Governing Board does not have the authority to overrule the Planning Board that is not what is going on here, the Planning Board ruled, he

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wants to be clear with you and the public there is no overruling of the Planning Board that is occurring here. There was a discussion back and forth.

Mr. Skellenger made a motion to close to the public the discussion on potential litigation. Seconded by Mr. Dabinett. All were in favor.

Mr. Dabinett commented there seems to be a miss conception that we are going to overrule the Planning Board and this is not the case as he understands. He understands that Planning Board made a decision and passed this [Master Plan] last year and all we are doing is affirming or denying their decision. Mr. Prol commented you consider their recommendation of the Master Plan and explained.

**EXECUTIVE SESSION**

In accordance with the provisions of the Open Public Meetings Act, Mr. Skellenger made a motion to adjourn into closed executive session to discuss personnel and litigation regarding JCM Investors Silk City properties. Motion seconded by Mr. Rathbun. All were in favor.

Mayor Giordano commented we may or may not take action when we return. Mr. Prol commented we should be about 30 minutes. Mayor Giordano commented there will be a public session after.

After meeting in closed session, the Governing Body returned to their seats at 9:54p.m. and Mayor Giordano declared the meeting to be reconvened into open public session.

Mr. Skellenger made a motion to return to open session. Seconded by Ms. Fantasia. All were in favor.

Mr. Prol commented as he noted earlier in the time line [regarding the property on Munsonhurst] there was a settlement agreement that remains in place and that was entered by an Assignment Judge on July 11, 2007. Then it was revised as well later on, with respect to that; the owner of the property at 110 Munsonhurst Road which is Silk City Rentals LLC. its parent company JCM Investors their Counsel Mr. Kelly in Newton has proposed a consent order approving a modification to that settlement and this would be a modification to a prior document respecting this property. Mr. Kelly has proposed with some significant changes he thinks are appropriate if the Borough deems to enter into this. What this would do is modify and amend the consent order and settlement agreement by a second consent order, or say a third consent order the second being entered in November 30, 2009. This agreement goes through several recitals in which it talks about the history of the property and it talks about the two production wells, one test well, well treatment building and water main deeded July 12, 1991 as well as the well head protection easement provided to the Borough, 300 feet in access Maintenance agreement with a dedication easement in 2009 that was recorded. The Silk City Rentals, LLC., being the present owner and he has gone through an historical research to ascertain the fact the proposal is from the appropriate party here and they are in fact the only owner of record with respect to this particular property and proposed zone change. There would be a proposed revision that would be adopted under a zone change that would be worked out separately from this document. This is just a general document to lay out the frame work of the settlement and resolution for a potential litigation here. Mr. Prol read and explained parts of the amendment to the settlement. Mr. Prol commented he reviewed this document in executive session.

Mayor Giordano asked do we have a motion to accept the agreement.

Mr. Skellenger asked if we were going to open to the public first. Mayor Giordano commented we will do the second open session now.

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**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 Ms. Fantasia. All were in favor.

Dawn Rowe, Munsonhurst Road, Franklin, stepped forward. Ms. Rowe commented what does all that mean. Mr. Prol explained the process he previously spoke about.

Dick Durina, 23 Lozar Road, Franklin, stepped forward. Mr. Durina commented it is passed 10:00 so he guesses we will have to carry this over to the next meeting. Thank you.

Mayor Giordano commented if that is the Council pleasure we can do that. It was on the agenda.

Mr. Prol commented you can take a vote 10:00 is not binding.

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. Rathbun. All were in favor.

Mr. Dabinett asked Mr. Prol if we can take action. Mr. Prol commented it is public meeting there is no time limit.

Mr. Rathbun commented he says we voted and get it over and done with tonight.

Mr. Dabinett made a motion. Seconded by Mr. Rathbun. Mayor Giordano commented all those who wish to continue to vote even those it is passed 10:00. Let's have a roll call on this.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

Mayor Giordano commented we need a motion to approve or deny.

Mr. Dabinett made a motion to approve. Seconded by Mr. Rathbun.

Mr. Prol commented to be clear this is a motion to approve/authorizing the Mayor to execute the proposed consent order approving modification to the settlement agreement has he recited generally on the record.

Upon roll call vote:

Ayes: Dabinett, Fantasia, Limon, Rathbun, Skellenger

Nays: None Absent: Snyder Abstentions: None

**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 10:12p.m., seconded by Mr. Dabinett. All were in favor.

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Nicholas Giordano, Mayor

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Robin Hough, Borough Clerk