

**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
NOVEMBER 9, 2010**

Mayor Crowley called the meeting to order at 7:00 PM and requested the Borough Clerk to call the roll. Upon roll call, the following members of the Governing Body were present: Mr. Kulsar, Ms. Miller, Mr. Stoll, Mr. Zschack and Mayor Crowley.

Absent: Mr. Limon, Mr. Snyder.

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."

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. None

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Constructions Department report for October 2010.
2. CFO report for July, August and September 2010.
3. Tax Collector Report for October 2010.

APPLICATIONS (APPROVAL OF THE FOLLOWING):

1. None Filed

RESOLUTIONS (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of November 9, 2010.

Mr. Stoll stated that PO #15131 has been pulled from the bill list because of an error.

Mr. Zschack made a motion to approve the consent agenda of November 9, 2010. Seconded by Ms. Miller.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Zschack

Nays: None Absent: Limon, Snyder Abstentions: None

COMMITTEE REPORTS

Mr. Kulsar reported that the architect is working on the Storage/Concession Building plans for the Recreational Complex and will also prepare an estimate.

Mr. McBriar, Borough Attorney reported that they are close to settling the Miner's Cove. The other matter, TransBanc order to show cause, just recently had an inspection of the premises. The next meeting with the Judge will be at the end of the month on the 30th.

Mr. Wolak's report is on file in the Clerk's office. Mr. Wolak addressed several issues that were brought up at the last meeting. There was quite vocal opposition from the public, which Mr. Wolak respects, relative to passage of the property maintenance code. It was subsequently defeated. The purpose of government is to exchange different views and hopefully reach a solution at the end. Mr. Wolak felt

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some of these issues needed to be addressed such as a gentleman who made the statement that he would protect his family at all cost. Mr. Wolak took this statement as an availed threat and wanted to make it clear to the public that as long as he was the Administrator and receives valid complaints, which do include going through the process legally, he will instruct his people to do the proper inspections. If anyone interferes with that I will take all legal means to make sure that the person is prosecuted. The second issue, a Miss Overstreet made certain allegations to the Council however only one side of the story was told. Since it was brought to the Administrator and the Council as a complaint and the accusations were made in public, the answer should be made public. The reason that the municipality responded to Miss Overstreet's location is because the Borough was notified by the County Health Department that the tenant staying in the Overstreet illegal apartment complained that she was constantly sick because of severe mold in the basement apartment. The County Health Department investigated and it was referred to Ms. Fischer, Borough Zoning Officer, who then followed up on the complaint. It was determined that the zoning was improper, that there was an illegal conversion and the property owner was advised to go before planning board to seek a variance for non-conforming use. Miss Overstreet did go before the planning board and based upon testimony from her own neighbors who did not want this type of structure in the location, her application was denied. Ms. Fischer and Mr. Utter, the Construction Official, went to her location to confirm that she had complied with all Planning Board instructions. Both officials deny that they entered any living space other than the general location to get in with the exception of the basement apartment to make sure no one was occupying it. When Miss Overstreet was denied the variance, she prepared a packet of 10 other illegal apartments for Ms. Fischer. Ms. Fischer investigated each one and found the complaints unfounded with no action taken. What bothers Mr. Wolak is that the public was so quick to form judgment when these facts were not verified. The last thing Mr. Wolak really wanted to talk about which he took personal offense to was when an individual who claims to be a representative of a group of public people as well as a former educator, got up before the Council and rendered a Nazi salute. Mr. Wolak stated he had been a member of law enforcement community and government service for almost 40 years and even being a cop that really struck him to the core. Mr. Wolak stated he had issues there, especially since the situation of improved property maintenance for the Borough that was being discussed was demanded by the same individual who made the salute two years ago. It was he who initiated this. More important and what scares Mr. Wolak, a few days later in the paper the individual stated he represented the taxpayers group, so is this the groups philosophy. Mr. Wolak cautioned that if the allegations he continues to make, impugned the employee's reputations, Mr. Wolak will seek legal action. Mr. Wolak was upset that this legislative body did not take any action to correct him, and felt that that person owed everyone in this room an apology.

Mayor Crowley reiterated what Mr. Wolak said in the fact that people were very quick to believe some of things that were said at the last meeting, and accept them as truth when they were not. People are too quick to jump on that band wagon. He also reported that the Halloween Parade was last week and everything went fine. He gave the official results of the election for Council and announced the two winners were Nick Giordano with 782 votes and Susan Gardell with 542 votes. Mayor Crowley congratulated both of them.

OPEN PUBLIC SESSION

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

Jeff Fletcher from TransBanc stated that the Borough Attorney mentioned the meeting regarding TransBanc and explained the Reelcology outside storage issue. It is in court because of the hazard with dust. An inspection at the building went very well. The problem is last Friday the Borough initiated law suits to every tenant in the building. Five tenants are threatening to sue and cancel their leases. The zoning officer said she needed a site plan to issue a Certificate of Occupancy. CO's had been issued previously without site plans.

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Mayor Crowley explained that this is in Court and he will not discuss the matter in detail. We have a date to go back to court. Our position is you cannot issue zoning permits without a site plan. Conditions have not been met on the site plan your father submitted. Reelcology triggered the whole thing. The fire inspector found life hazardous problems in the building, in the fact that your water tank was empty.

Mr. Fletcher stated the tank sprung a leak the week before the inspection.

Mayor Crowley stated that everything Mr. Fletcher has brought forward has created more problems. Your Father represented himself at court and was urged to retain a lawyer.

Mr. Fletcher said he had building permits and felt issuing law suits to every tenant was going too far, putting 60-70 people out of work because the Borough cannot find the site plan.

Mayor Crowley stated the site plan was never finalized.

Mr. McBriar informed Mr. Fletcher we will not litigate this here and informed him that the complaint was amended to include the tenants by the Judge's suggestion.

Mr. Fletcher felt it could have been handled differently.

Joanne Tatka of 151 Maple Road stated that Mr. Kruppa did not represent the taxpayers association; he spoke of his own mind. She stated that the property maintenance ordinance was never brought up at the association meeting. Ms. Tatka asked if Ken Nelson was paid for being at the last Council meeting. Mayor Crowley stated yes. Ms. Tatka asked is the Council has set the administrator's starting salary. Mayor Crowley stated not yet, the personnel committee is still interviewing and it will depend on experience and hours. Ms. Tatka suggested having Mr. Nardella contribute to the pond project. The Mayor stated you cannot do that anymore. Ms. Tatka questioned the results of the garbage survey. Mayor Crowley explained that they haven't gone through them yet and they will go to the Board of Public Works for review and hearings. Ms. Tatka asked when the redevelopment survey will be complete. Mayor Crowley stated the first part should be in four months as per the planner. The first part is determining if the properties meet the criteria. There has to be public hearings that will be advertised.

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

OLD BUSINESS

Mr. Kulsar discussed the issue of the Irish Cottage sewer charges. He felt that since no action has been taken, Ordinance 213-20 paragraph G says the Borough has the right to modify the number of EDU's assigned to any user. Mr. Kulsar proposed setting the EDU's back to what it was on the day the Fone Booth closed until the Board of Public Works looks into it. In the meantime this grants the Irish Cottage some relief from the amount he is charged.

Mayor Crowley stated Irish Cottage put out a memo stating that the EDU's were grossly inaccurate. They have been before the Board of Public Works two or three times to ask for a reduction and it was denied because it is up to code according to the ordinance as per seating. The ordinance was referred to the Board to see if it should be modified. Mr. Friend, BPW Chairman; has looked into it but has not made a recommendation yet.

Mr. McBriar stated that since changing EDU's is affecting policy the Council should motion to direct the attorney to draft an ordinance to change the formula. It's not appropriate to change the assignment of EDU's on per customer basis.

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Mr. Kulsar stated that nothing has been done since March of 2008, how long does this business have to be over charged while they wait for us. We have an ordinance that says we can do something and you're telling me we can't do it? What is the ordinance good for?

Mr. McBriar stated it identifies the formula for each type of use. The G section of the ordinance is taking it out of context by pulling out one sentence out of the ordinance as a whole.

Mr. Kulsar stated that the Board of Public Works doesn't even have meetings.

Mr. Wolak suggested that Mr. Kulsar motion to direct the lawyers to amend the ordinance to change the calculations which will be applicable to all the users.

Mr. Kulsar felt the attorney could not come up with a formula without the direction of the Board of Public Works.

Mayor Crowley stated that the formula that is used there is from the NJ State DEP and the ordinance is accurate. When the Irish Cottage came before the BPW the number of seats that were calculated was the number the Irish Cottage gave the Borough on their application. Many of the other businesses are undercharged. If we do give the Irish Cottage a break the amount of money they are paying will be made up by the general population because the bill to SCUMA will not go down.

Mr. Stoll felt the ordinance should go back to the original set up for EDU's and present a formula to get it back to what it was.

Mayor Crowley felt we need to stress to the BPW that we need them to meet and come up with a plan. The Mayor felt the commercial accounts should be metered on use.

Mr. Zschack questioned what needed to be to correct that and correct it quickly.

Mayor Crowley suggested have the town engineer start looking at the EDU's and look at some of the other establishments to see if they are being accurately billed.

Mr. Wolak stated he sent the Board of Public Works a letter earlier this year saying the Council had directed the Board to do an entire review of the calculation system. We did not receive a response; I know the Secretary has been providing the information to the Chairman. I can direct the board to meet immediately.

Mr. Kulsar stated he would like to see meters.

Mr. McBriar will look into amending the ordinance for meter reading.

Ms. Miller questioned the Main Street wall repair status.

Mr. Wolak informed the Council that the Contractor promised to be here but they never started the work. The money is in place. The machines and material are also here. Mr. Wolak stated he told the contractor to be here by the end of the week or he would terminate their contract.

NEW BUSINESS

Approval of Meeting Minutes

Ms. Miller motioned to approve the meeting minutes of the Regular Meeting and Executive Session held on October 26, 2010. Seconded by Mr. Stoll.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Zschack

Nays: None Absent: Limon, Snyder Abstentions: None

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Adoption Ordinance #16-2010 Replacing Chapter 124

Ms. Miller made a motion to adopt an ordinance entitled "AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX, STATE OF NEW JERSEY REPLACING CHAPER 124 OF THE CODE OF THE BOROUGH OF FRANKLIN PROVIDING FOR LOCAL ENFORCEMENT OF THE NEW JERSEY UNIFORM FIRE CODE." , with minor changes. Seconded by Mr. Zschack.

Prior to final roll call, Mayor Crowley opened the meeting to the public for any comments regarding ordinance #16-2010.

Susan Gardell of 2 LaRue Street stated that the introduction of this ordinance was not on the agenda at the last meeting. The Clerk stated it was on the addendum. Ms. Gardell questioned section 124-8 and corrected the name of the Board of Appeals and on section 124-18 questioned the Fire Chief establishing Fire Lanes and changing them at any time. Mr. Wolak informed her that according to the State the Fire Chief makes the recommendations.

Adoption Ordinance #17-2010 Funding General Capital Purchases

Ms. Miller made a motion to adopt an ordinance entitled "AN ORDINANCE APPROPRIATING THE TOTAL SUM OF \$70,000.00 FROM GENERAL CAPITAL IMPROVEMENT FUND FOR FUNDING VARIOUS GENERAL CAPITAL PURCHASES OR PURPOSES BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY." with a minor correction. Seconded by Mr. Stoll.

Prior to final roll call, Mayor Crowley opened the meeting to the public for any comments regarding ordinance #17-2010.

Karen Folkerts of 113 Main Street pointed out two different figures in the ordinance which the Council corrected to \$70,000.00.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Zschack

Nays: None Absent: Limon, Snyder Abstentions: None

Authorizing CFO to Transfer Funds

Ms. Miller made a motion to authorize the CFO to transfer the amount of \$33,900.00 from the Reserve Fund of Municipal Assets to the General Capital Improvement Fund. Seconded by Mr. Zschack.

Upon roll call vote:

Ayes: Miller, Stoll, Mayor Crowley

Nays: Kulsar, Zschack Absent: Limon, Snyder Abstentions: None

Introduction Ordinance #18-2010 Funding Capital Improvements

Ms. Miller made a motion to introduce an ordinance entitled "AN ORDINANCE APPROPRIATING THE TOTAL SUM OF \$33,900.00 FROM GENERAL CAPITAL IMPROVEMENT FUND FOR FUNDING VARIOUS IMPROVEMENTS AND PURCHASES FOR PURPOSES FOR ECONOMIC DEVELOPMENT BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY". Seconded by Mr. Stoll.

Upon roll call vote:

Ayes: Miller, Stoll, Mayor Crowley

Nays: Kulsar, Zschack Absent: Limon, Snyder Abstentions: None

Final Hearing: NOVEMBER 23, 2010

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Introduction Ordinance #19-2010 Amending OPRA Fees

Ms. Miller made a motion to introduce an ordinance entitled "AN ORDINANCE AMENDING CHAPTER 119, FEES OF THE FRANKLIN BOROUGH CODE; SPECIFICALLY OPRA FEES". Seconded by Mr. Stoll.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Zschack

Nays: None Absent: Limon, Snyder Abstentions: None

Final Hearing: NOVEMBER 23, 2010

Resignation of Administrator

Ms. Miller made a motion to accept the resignation of Richard Wolak as Borough Administrator effective December 31, 2010. Seconded by Mr. Zschack.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Zschack

Nays: None Absent: Limon, Snyder Abstentions: None

Approval of Fire Department Coin Toss

Ms. Miller made a motion to approve the coin toss fundraiser to be held by the Franklin Fire Department on Route 23.

Mayor Crowley felt there should be a date submitted on the application prior to approval and carried the approval to the next meeting.

Mr. Wolak will confirm the date with the Fire Department.

Approval of 2011 Mobile Park Licenses

Ms. Miller made a motion to approve the Mobile Park License Applications submitted by Hillside Estates of Franklin, LLC. for the year of 2011. Seconded by Mr. Stoll.

Upon roll call vote:

Ayes: Kulsar, Miller, Stoll, Zschack

Nays: None Absent: Limon, Snyder Abstentions: None

ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Mr. Zschack made a motion to adjourn the meeting at 8:09 PM, seconded by Mr. Stoll.

All were in favor.

Paul B. Crowley, Mayor

Patricia Leasure, R.M.C.