

**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 13, 2011**

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. Giordano, Ms. Miller, Mr. Snyder, Mr. Zschack, and Mayor Crowley.

Absent: Gardell, Kulsar. Ms. Gardell joined the Council at 7:14 PM.

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. Mr. Zschack made a motion to approve the Consent Agenda, seconded by Ms. Miller.

Mayor Crowley requested that item #2 Township of Stillwater Resolution Supporting A-3412 sharing the burden of property assessment appeal refunds for discussion.

Mr. Zschack revised his motion to reflect the change, seconded by Ms. Miller.

CORRESPONDENCE (ACCEPTANCE FOR FILING ONLY OF THE FOLLOWING):

1. Borough of Hamburg Resolution supporting the endeavor by the Walkkill Valley Chapter 1002 of the Vietnam Veterans of America to Construct a Veterans Cemetery in Northern NJ.
2. Township of Stillwater Resolution Urging Sussex County's Local Legislators to draft a bill to amend OPRA.
3. NJDEP dated 08/02/11 RE: Request for sewer service area modification.
4. JCPL dated 8/8/11 RE: Public Hearing for Proposed Rate Change.
5. JCPL dated 8/11/11 RE: Public Hearing for Proposed Rate Change.
6. NJLM dated 8/10/11 RE: Conference 11/15-11/17/2011.
7. Kelly and Ward dated 8/15/11 RE: Borough of Franklin v. Transbanc International Investment Corp.
8. Sussex County Board of Freeholders dated 8/18/2011 RE: Resolution Recognizing September 11, 2011 as a Day of Solemn Commemoration.
9. Mike Gunderman dated 8/15/2011 RE: Retirement

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Building Departments report for July 2011.
2. Municipal Court Report for July 2011.
3. Township of Hardyston July 2011 report for Gasoline and Diesel.
4. Tax Department Report for August 2011.
5. Zoning Officers Report for August 2011.
6. COH Report for August 2011.
7. Fire Marshal's Report for August 2011.
8. Police Department Report for July and August 2011.

RESOLUTIONS (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of September 13, 2011.
2. Pre- Payment of bills August 23, 2011.

Upon roll call vote:

Ayes: Giordano, Miller, Snyder, Zschack

Nays: None Absent: Gardell, Kulsar Abstentions: None

COMMITTEE REPORTS

Mr. Zschack reported that there is a Planning Board Meeting scheduled for next Monday, September 19, 2011.

PAGE TWO OF THE MINUTES OF SEPTEMBER 13, 2011

Ms. Miller reported that there were a few matters for the Personnel Committee; however the Administrator will address them in his report.

Mr. Snyder reported that the FOP, Fire Department and the Exempt Association have combined their efforts and they will be hosting Senior's Oktoberfest on October 8th in the Firemen's Lounge 12 Noon to 4 PM. They are working on a DJ and also the Franklin Band will be represented. The Senior of the Year has been selected and the award will be presented at the picnic. Don Kovach is going to be the MC. Mr. Snyder asked Mayor Crowley if he would attend to present the award.

Mr. Snyder thanked the Emergency Management, Fire Department, Police Department, Rescue Squad and the Borough employees for the great job they did in handling Hurricane Irene. He also thanked the citizens for being so patient during the emergency.

Mr. Ursin reported that the hearing for Transbanc and Reelcology case has once again been adjourned. Mr. Ursin will report the matter at the next meeting.

Mr. Ursin also requested a short Executive Session to discuss the letter sent to the Council regarding the Douma matter.

Ms. Gardell joined the Council at 7:14 PM.

Mr. Kilduff gave his Administrators Report which is on file in the Borough Clerk's Office.

Tropical Storm Irene caused significant flooding, water damage and loss of electricity in many parts of the Borough. Cork Hill Road was without power for a week. The DPW, Police, Fire, First Aid and Emergency management personnel all did their part and then some to address issues as they arose during and after the storm. Mr. Kilduff offered his sincere thanks to all those who pitched in during this event.

A FEMA application information meeting is scheduled for tomorrow in Washington Township. This meeting should provide useful information on the application process for flood damage relief for the Borough.

The Borough still has not yet received plan approval from NJDOT for its Master Street improvement project. We will go to bid as soon as DOT approves the plans.

Local aid applications are now being accepted for 2012. It is important the Borough propose areas that are approvable; DOT is looking for "mill and pave" projects. The Borough Engineer is looking at roads that meet the NJDOT's criteria for offering aid. These include sections of Rutherford Ave. North and South, Scott Road and High Street. Recommendations will be forthcoming in late September. The Borough must pass a resolution in October for the 2012 application.

When water levels return to normal the final inspection for the Pond Dam's 10 year inspection can be done.

SCMUA has suggested the Borough contributed substantial gallonage into their system during the Tropical Storm Irene event. Brian VanDenBroek has been active in defending the Borough and advising SCMUA the flows they are suggesting the Borough caused, are impossible as our sanitary pump capacity could not inject that much water into their system. One possibility is that SCMUA's interceptor line from Corkhill Rd to Newton St. is subject to infiltration for which the Borough is being blamed.

We are approaching the September 15th deadline for requests for proposal from 3rd party electrical suppliers. Requests were mailed to all third party providers serving the JCP&L area. The proposal requests contract pricing for supplying electrical energy at reduced cost to the Borough.

Lt. McInerney has been examining ways to save money on police vehicle operations. He has introduced controls to help reduce mileage on fleet vehicles and has been looking at used vehicle purchases that save the Borough thousands over new vehicle purchases.

The tax Assessor has provided a proposal for outside assessment services in connection with litigation. Retention of a professional for litigation matters will provide the Borough with the means of defending and aggressively pursuing resolution of tax appeals.

PAGE THREE OF THE MINUTES OF SEPTEMBER 13, 2011

There are numerous personnel matters pending. Several are on the agenda tonight. The list is as follows: Police Chief hiring and contract; DPW Supervisor hiring and contract; part time secretary hiring; deputy clerk ordinance; police contract; Douma grievance; Clerk's absence and Recycling Coordinator

Interviews for the position of Chief of Police have been completed. This matter is scheduled for executive session.

The Franklin Revolver and Rifle Association has proposed an indemnification agreement in response to Sgt. Garrera's lawsuit against the FR&RA. The proposed agreement, between the Borough and FR&RA would enable the club to lift its ban on Franklin police department's use of its facilities. The Administrator has asked the Borough attorney and the FR&RA attorney to work cooperatively on a revised indemnification agreement that will provide for use of the gun club facilities.

In accordance with the Council's resolution to hire a confidential secretary to the Administrator, advertisements were placed in the local paper and posted on the bulletin board. Over 50 resumes were received. Five interviews were conducted. A Borough employee, Darlene Tremont, is recommended for the position of confidential secretary at a salary of \$15.00 an hour up to 29 hours a week. Mrs. Tremont is currently employed as head crossing guard at a salary of \$14.86 an hour. She will give up her crossing guard duties (10 hours per week) and keep her administrative duties (5 hours per week).

Long-term and Capital Projects

A site plan application has been filed by CM Franklin, LLC, owners of the old Kulsar's garage (B29, L30). The zoning board application is seeking conditional use and site plan approval for a retail center which would also include an unnamed 2,800sf drive thru operation on the same site. No tenant has been identified.

The NJDEP has still not issued a permit for the backup well on Rt. 517. The Borough Engineer has again been asked to follow-up.

The Administrator, Mayor and Officer-In-Charge will be meeting with the County on Friday to discuss the E-07 viaduct bridge replacement project.

An executive session is requested for personnel and litigation; which already been addressed.

The Council needs to schedule a joint meeting to discuss recreation and the Littell Center with Hardyston, Hamburg and Ogdensburg. Marianne Smith suggested several dates: October 6th, 7th & 11th.

Mayor Crowley asked the Administrator to reach out Mr. Kulsar, the representative of the Joint Commission; if he is not available Mayor Crowley asked Mr. Giordano if he would be available. Both Mayor Crowley and Mr. Giordano are available on the suggested dates if the meeting is in the evening.

Mayor Crowley addressed the Township of Stillwater Resolution Supporting A-3412 Sharing the Burden of Property Assessment Appeal Refunds. Mayor Crowley has discussed this bill, which is before the Assembly, with the 24th District. Currently if a person wins an appeal of his taxes they receive 100% of their tax money from the municipality; when the taxes were paid the municipality only received 30% of it. The balance goes to the County, Schools and Library. This Resolution would require all of the entities to refund their share of the collected taxes. Mayor Crowley strongly suggests that Franklin Borough also adopts this Resolution as well as calling some of the Assembly people to push for this.

Mr. Zschack made a motion to accept Stillwater Township's Resolution Supporting A-3412 Sharing the Burden of Property Assessment Appeal Refunds, Seconded by

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

Nays: None Absent: Kulsar Abstentions: None

Mr. Ursin will prepare a Resolution for Franklin to adopt at the next meeting.

Mayor Crowley thanked the entities who have stepped forward, the Firemen's Exempt, Fire Department and the FOP, to host the senior's picnic scheduled for October 8th.

PAGE FOUR OF THE MINUTES OF SEPTEMBER 13, 2011

Mayor Crowley wanted to publicly thank the Firemen, First Aid Squad and all of the other volunteers who did an exemplary job during the floods and rains the last two weeks. The Firemen were out pumping basements for several days after the flood. The First Aid people were out all night though the hurricane to be available. The Police and DPW also did a great job; however most of the burden was on the volunteers.

Mayor Crowley requested an Executive Session for personnel matters.

OPEN PUBLIC SESSION

Mr. Snyder 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.

Rick Rockle 28 Nestor Street stated that Cummins Street is not a wide street; he feels that Cummins Street should be made a one-way. Mr. Rockle stated that when you go down Cummins Street towards Route 23 you take your life in your hands, because of the site distance.

Robert Allen 24 Jenkins Road complained about the geese droppings at the Senior Citizen building. Mr. Allen stated that there are about 250 – 300 geese by the pond and asked if anyone was shooting the geese.

Mr. Allen also stated that both bridges at the pond are solid rust and something should be done with them.

Mr. Allen disagreed that it is the design of the bridge.

Karen Folkerts 113 Main Street stated that she agrees that Cummins Street has a site distance problem even when you are walking. Ms. Folkerts feels that a one-way going down would be a good solution.

Mayor Crowley informed Ms. Folkerts that the leases for the Fire Department and the Firemen's Park land are going to be discussed later in the meeting.

Ms. Folkerts stated that she feels that the park should be open to the public; she is concerned that the kids on Main Street have no place to go.

Ms. Folkerts also stated that there have been concerns about the noise from the Firemen's Park when they are having parties late into the night as well as the noise when the people are leaving the building. Ms. Folkerts stated that she feel the Firemen are not good neighbors.

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

OLD BUSINESS

Adoption of Ordinance #9-2011 Eliminating Deputy Clerk Position

Mr. Snyder made a motion to Adopt Ordinance #9-2011, entitled "AN ORDINANCE DELETING SECTION 5-18 AND 5-19 OF THE CODE OF THE BOROUGH OF FRANKLIN ELIMINATING THE POSITION OF DEPUTY CLERK ", seconded by Mr. Giordano.

Prior to final roll call, Mayor Crowley opened the meeting to the public for any comments regarding Ordinance #9-2011.

There being no one present who wished to address the Governing Body, regarding Ordinance #9-2011 Mayor Crowley closed the meeting to the public.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

Nays: None Absent: Kulsar Abstentions: None

NEW BUSINESS

Approval of Meeting Minutes

Mr. Snyder made a motion to approve the meeting minutes of the Regular Meeting of July 12, 2011, seconded by Mr. Zschack.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

PAGE FIVE OF THE MINUTES OF SEPTEMBER 13, 2011

Mr. Snyder made a motion to approve the meeting minutes of the Regular Meeting of August 2, 2011, seconded by Mr. Zschack. (Absent: Snyder)

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Zschack

Nays: None Absent: Kulsar Abstentions: Snyder

Renewal of Agreement for Uniform Fire Code Official

Mr. Snyder made a motion to approve the renewal of the agreement between the County of Sussex and the Borough of Franklin for enforcement agency services for a four-year period as set forth in the NJ State Uniform Fire Code regulations in accordance with the provisions of NJSA 40A:65-1 et. Seq., seconded by Mr. Zschack.

Mayor Crowley explained that the County Fire Inspectors have done a lot more inspections on the Hazard and the Non-Life Hazard than in previous years. Also, when it has been necessary to call the County on an emergency basis their response has been very good.

Mr. Kilduff informed the Council that the old agreement had a revenue sharing provision that gave the Borough 10% of the fees and the County received 90%; the new contract has the County keeping 100%. Mr. Kilduff spoke with Mr. Eskilson today; the County is no longer sharing the fees with the municipalities. The County has already signed the same standardized agreements with Newton, Fredon and Andover.

Mayor Crowley informed Ms. Gardell that all of the records will be kept at the County and if requested they will be available to the Borough.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

Nays: None Absent: Kulsar Abstentions: None

Fire Department Leases

Mayor Crowley informed the Council that the Fire Department has contacted him a few times about the Franklin Fire Department and the Firemen's park property leases. One of the members Mr. Kovach, who is an attorney, has contacted Mr. Ursin regarding the matter. Mr. Ursin needs some direction from the Council's point of view what we are looking for.

Mayor Crowley stated that there are two leases; one is for the land of the Fire Department, the Fire Department owns the building and the Borough owns the land. The other lease is for Firemen's Park that used to be Schuster Park owned by the Zinc Company. Both of these parcels were given to the Borough by the Zinc Company dedicated to the public. There is no capability, as far as Mayor Crowley can see, of ever selling or developing the property.

Schuster Park was in complete disrepair and was sinking in. The Firemen took the park over in 1976 and over the years, along with the Exempt Firemen, made it a project and made the park to what it is today.

Mayor Crowley does not feel that there is any way to deed the property to the Fire Department, he does not recommend that. However if the Council agrees combining the leases, he has no objections.

Mayor Crowley stated regarding the length of the lease agreement, that it is unknown what fire protection will be like in New Jersey 10 – 20 years from now; it may go to paid companies or regional fire districts. The Borough would want to be able to control the land on a Council level.

Mr. Giordano stated he does not have a problem with combining the leases. However the leases need to be written in such a way that they are only applicable to the Franklin Volunteer Fire Department.

Mr. Zschack stated that since there are buildings on the properties that are owned by the Fire Department and the fact that a public road separates the properties, he feels the leases should be kept separate. Mr. Zschack does not have a problem with having both leases expire at the same time.

For the reasons stated by Mr. Zschack, Mr. Ursin feels that there should be two separate leases. The request by the Fire Department can be accomplished by having both leases running parallel. Also, Mr. Ursin does not believe that the ownership situation is as clear as indicated; it is all municipal property.

Although the expiration date of the Firemen's Park lease is 2026, Mr. Ursin stated that both leases should be revisited to have them reworded to replace existing leases with provisions that address issues that have come up and also have renewal provisions to accomplish both things. To give the Council a check as to how things are going at a certain point in time and have a renewal provision that gives the Fire Department the assurances that, provided that everything is going fine, that there will be renewals in the future.

Borough Roads

Mayor Crowley stated that people have contacted him regarding making Cummins Street a one-way. However, he has also heard from residents opposed to have Cummins Street one-way. The Police and Borough Engineer have to address the matter before the Council can take any action. In addition, the residents on Cummins and surrounding areas would have to be notified before any decisions were made.

Mr. Zschack agrees that it is a very dangerous street especially with parking on both sides of the street. Also, he is concerned how a one-way street impact emergency vehicles.

Following a Council discussion, Mayor Crowley stated the engineer and the police will have to investigate the matter.

Mayor Crowley informed the Council that he received a phone call from a resident of Main Street who was objecting to the Borough Ordinance that does not allow overnight parking during the winter months on Main Street. He felt that it was an outdated ordinance and he would like it to be removed.

Mayor Crowley, although he does not personally feel the ordinance should be changed, wanted to bring the matter to the Council's attention.

A discussion followed; it was the general consensus of the Council was to keep the existing Ordinance in place,

Wallkill Valley First Aid Squad

Mayor Crowley stated that the implementation of new State standards requiring two EMT's in an ambulance; and the training involved is causing many squads having problems getting day crews. Also, one of the other problems is the State is taking away the funding that was used to train the EMT's; in essence it almost comes back to the town to be responsible to fund EMT's training.

Mayor Crowley stated that one of the discussions was for the first aid squads to start billing third party insurance companies for the services rendered. Some squads are currently doing this and are being monitored to see how it works out.

Another solution would be to contract with the local hospitals (Newton and St. Clare's) to provide a certain amount of ambulance service, especially during the day when it is difficult to have a crew.

The third option would be to try to get the squads to have regional crews. In essences this is being done now, other crews are giving support.

Mr. Kilduff stated that the matter first came to his attention through Lt. McInerney who advised him of instances where the First Aid Squad was unable to answer calls during the day. Mr. Kilduff and Lt. McInerney met with the First Aid Squad President, Bill Lanham and Captain Ryan Stickle and had a lengthy discussion on the problems with difficulty in day time coverage.

At this time, Mayor Crowley recognized the President of the First Aid Squad Bill Lahan and Don Stoll.

Mr. Stoll addressed the Council and stated that approximately two-thirds of the calls for assistance are for transports, not necessarily emergencies.

Mr. Stoll stated that the First Aid Squad worked out an agreement with Sparta and Ogdensburg to do a coop response during the day; unfortunately, that is not working now. There are paid units from St. Clare's and Atlantic Ambulance that will respond to calls; they will cost the residents a lot of money for transportation. If the resident does not have insurance they will have to pay approximately \$650 bill just to be transported.

Mr. Stoll reported on several other municipalities; Hopatcong is doing third party billing and the squad is paying people during the day for coverage.

PAGE SEVEN OF THE MINUTES OF SEPTEMBER 13, 2011

Mr. Stoll plans on having a meeting with the past president who instituted this procedure in Bud Lake.

Mr. Stoll informed Mr. Snyder that of the 25 current squad members 20 are EMT Certified; only a few are not certified because of age or they are signed up as driver status only.

Mr. Stoll is concerned that, with all of the State regulations being imposed on the Rescue Squads, the days of volunteers are going to be over. The cost for training each EMT is now \$2,500 every three years not to mention the 200 hours it takes to become an EMT.

Mr. Stoll discussed the other options to contract with the local hospitals to provide services or get the squads to have regional crews.

Mr. Snyder stated he has been a volunteer all of his life and he knows there are times when an individual has the opportunity to answer a call; they do not go because it is just a transport which involves lift and carry. When you volunteer you have to be involved in the whole concept of doing everything.

Mr. Giordano stated both the firemen and first aid squad members should be given an option to get both fire and EMT certifications. A discussion was held regarding cross-training the fireman to become EMT's as well as EMT's taking courses to become firemen. At a minimum, the total hours for certification for both would be approximately 360 hours.

Mr. Ursin suggested someone should have the responsibility to take the next step and narrow the alternatives down to specific choices for the Council.

Mr. Kilduff thanked Mr. Lahan and Mr. Stoll for their service to the Borough and asked them to convey the message to the rest of the squad and the Fire Department; the Borough is very much indebted for all of the volunteer work you do.

Mike Gunderman Severance Pay

Mr. Snyder made a motion to approve the Severance Pay Package for Mike Gunderman in the amount of \$10,528.38 subject to the signing a release to the Borough, seconded by Mr. Zschack.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

Nays: None Absent: Kulsar Abstentions: None

Part-Time Court Attendants

Mr. Snyder made a motion to adopt a Resolution to authorize the Administrator to hire Part-Time Court Attendants to Provide Security to the Municipal Court at a rate of \$20 to \$25 per hour, seconded by Mr. Zschack.

Mr. Kilduff agreed with Mr. Snyder that they will need at least two court attendants at the court to maintain security; we need to hire between two and four people.

Ms. Gardell voiced her concerns regarding the resolution being in conflict with the current FOP contract.

Mayor Crowley stated that this Resolution has been discussed with Lt. McInerney; he did not see any conflicts.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

Nays: None Absent: Kulsar Abstentions: None

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 litigation matters. Motion seconded by Mr. Snyder.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

Nays: None Absent: Kulsar Abstentions: None

PAGE EIGHT OF THE MINUTES OF SEPTEMBER 13, 2011

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

MISCELLANEOUS COMMENTS

Acting Chief of Police Appointment

Mr. Zschack made a motion to appoint Lt. Eugene McInerney as Acting Chief pending contract approval which will be approved by the next meeting, seconded by Ms. Miller.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Zschack

Nays: None Absent: Kulsar Abstentions: Snyder

Part-Time Confidential Secretary Appointment

Mr. Giordano made a motion to hire Darlene Tremont as Confidential Secretary at the rate of \$15 per hour, 29 hours per week of which 5 of those hours will be devoted to continuing her administrative duties as Head Crossing Guard, seconded by Ms. Miller.

Upon roll call vote:

Ayes: Gardell, Giordano, Miller, Snyder, Zschack

Nays: None Absent: Kulsar Abstentions: None

Recycling Coordinator

Ms. Gardell stated that since Mike Gunderman is retiring, the Borough will need to appoint a Recycling Coordinator. It is a State mandated position and here are different options for people who can take over, however training will be required.

Mayor Crowley stated that the option the Borough would have is to have Mr. Kilduff get his credentials back up to certification. If he was appointed Recycling Coordinator next month, Mayor Crowley is under the impression that he would have one to two years to complete the classes.

A discussion was held regarding other possible options.

Mayor Crowley asked if Ms. Gardell, being a resident of Cummins Street, would have a conflict of interest in discussing Cummins Street.

Mr. Ursin stated that Ms. Gardell can make her own determination with respect to conflict of interest. Mr. Ursin stated the Ms. Gardell can consult with him outside of a meeting and his advice to her would stay confidential to the extent that it is allowed.

ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Ms. Miller made a motion to adjourn the meeting at 9:26 p.m., seconded by Mr. Zschack. All were in favor.

Paul B. Crowley, Mayor

Rachel Heath, Acting Borough Clerk