

**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
JULY 10, 2018**

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. Crabb, Ms. Fantasia (*via phone*), Mr. Postas, Mr. Skellenger, Mr. Snyder, and Mayor Giordano.

Absent: Mr. Limon

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, 2018, and posted on the Borough website, which adequate notice has been certified by the Clerk."

Mayor Giordano informed the public Council President, Ms. Fantasia, is not physically here, however she is on the phone and therefor is considered as present for this meeting.

PRESENTATIONS

None

COMMITTEE REPORTS

Mr. Skellenger commented the Public Utilities Committee will be meeting tomorrow and will report on it at the next meeting.

Mayor Giordano commented the committee (Public Utilities) will be discussing the need for new hires and the purchasing of trucks.

Mr. Crabb thanked everyone in connection with the opening of the Franklin Pond; he was happy to see the great community participation during the 5K run. Mr. Crabb commented he spoke with Chief McInerney and Lt. Cugliari regarding setting up a meeting to discuss the planning of a 3 or 5-year police capital purchase schedule. He was given a very comprehensive report prepared by Ptl. Grissom on different aspects of vehicle and capital assets within the police department. Mr. Crabb also commented on preliminary discussions on the steps needed for the newly formed neighborhood house committee.

Mayor Giordano reported Mr. Crabb is chairing the neighborhood house committee along with Mr. Postas and himself.

Mr. Snyder questioned the type of detail contained within the report and if the report can be made available prior to voting on the police vehicle purchase tonight.

Ms. Fantasia commented she will forward the report electronically to the council for review prior to the vote tonight.

Mr. Snyder commented he wants to schedule a finance committee meeting soon.

Mr. Postas expressed his pleasure with the turn out for Franklin Day and the 5K run. Mr. Postas thanked Donna Vreeland, Jennifer Giordano and Alison McHose who helped to keep him calm through out the day. Mr. Postas also thanked the volunteers as well as the residents who came out to support the 5K runners. Mr. Postas commented building community involvement is one of the main reasons he ran for council. Mr. Postas also commented on possible avenues to hire staff for the concession stand. Mr. Postas informed the public the Arts and Crafts program is scheduled for July 23rd – 27th and July 30th – August 3rd from 10:00AM – 2:00PM at the pavilion, also swim lessons will be offered at the pond on July 23rd – 27th at the cost of \$50.00. Forms will be available on the website. Mr. Postas requested

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discussing the possibility of opening the pond access to the joint recreation members.

Mayor Giordano explained the members of the joint recreation which includes Hardyston and Hamburg residents. Mayor Giordano recommended if the council agrees; to temporarily waive the beach badge ordinance for the balance of the 2018 season and open the purchasing of beach badges to joint recreation members.

Mr. Crabb commented this could help with the costs associated with the pond opening, helping it to be self-sustaining.

Mr. Postas explained his vision for future projects year-round through the help from the recreation commission and Franklin Borough.

Ms. Fantasia expressed her concerns with potential over-crowding at the pond.

Administrator McHose confirmed the following fees for the joint recreation members. \$150.00 per family of 5, \$35.00 per person, \$10.00 for a day badge.

A discussion continued on the beach badges.

Mr. Snyder commented on insurance liability information.

Mr. Crabb made a motion to adopt a resolution to temporarily waive Ordinance 06-2018 amending chapter 119 of the borough code entitled "Fees" for beach access and adding fees for the joint recreation residents as confirmed by Administrator McHose. Seconded by Mr. Postas.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

Ms. Fantasia commented she spoke with Monica Miebach, CFO regarding the capital budget and the difference between the Borough's BANS (Bond Anticipation Notes) and Bonding. Ms. Fantasia stated she sent the report from Ptl. Grissom and will have additional comments later in the meeting.

Administrator McHose had nothing to report.

Mr. Ursin had nothing to report.

Mayor Giordano commented there will be a brief executive session. Mayor Giordano thanked everyone who was involved with the opening of the pond. Mayor Giordano stated this is a life changing event for many who go there. Mayor Giordano stated the dock has been moved in a little closer and volunteers are still needed for the concession stand. Mayor Giordano also thanked Wal Mart for donating an air conditioner for concession stand and Concetto Formica for the building of the lifeguard stands, they are wonderful. Mayor Giordano commented it was very nice to have the Franklin Fire Department involved, it really shows a good sense of community. Mayor Giordano commented on complaints he has received regarding dump trucks, he has spoken with Chief McInerney on enforcing laws in conjunction with the State police and explained there is no relationship between the dump trucks and Braen Quarry.

Mr. Ursin commented for the public's interest he would like to report on Ordinance 08-2018 prior to the public session. Mr. Ursin stated the Council is aware Silk City Rentals, LLC filed a lawsuit against the Borough raising a variety of issues concerning, directly and indirectly, Ordinance 08-2018 and has been distributed to the Council. Mr. Ursin also stated the developer went to court today and sought an injunction to try and stop the council from considering and voting on Ordinance 08-2018. The hearing was held by telephone today and the judge decided not to grant the injunction. There are 4 elements to get an injunction the judge found the developer had not met any of the 4. Mr. Ursin reported he wanted to make the Council aware publicly about the existence of the lawsuit; we are already defending

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the lawsuit including today and will continue to do so, therefor Ordinance 08-2018 can be voted on when we get to item 8 of the agenda.

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. Crabb. All were in favor.

Joann Tatka, 151 Maple Road, Franklin stepped forward. Ms. Tatka questioned if Mr. Ursin had investigated the 2 positions that were filled in the Borough. Mr. Ursin responded the positions were filled correctly. Ms. Tatka complimented the Borough on the opening of the pond. Ms. Tatka commented we (Borough) should thank Braen Quarry for all they have done for us. Ms. Tatka asked if the Borough gets a commission on the rentals of the paddle boards and kayaks. Ms. Tatka also questioned the cost to the Borough to open the pond and the possible aid by the County for residents that can't afford to purchase badges on their own.

Mr. Postas commented we have had many generous families that donated badges and he is working with the school to get names of the families in need.

Ms. Fantasia commented Council members and the chief of police have donated and purchased badges for those families as well.

Ms. Tatka commented on the FOP contract, potential work on Wildcat Road and sinking sewer covers. Ms. Tatka questioned if outside companies are used for transcribing the various meeting minutes of the Borough.

Mayor Giordano commented the borough employees do all the transcribing of the minutes.

Sheryl Krause, 160 Munsonhurst Road, Franklin stepped forward. Ms. Krause complimented the Council and the Recreation Commission on Franklin Day, the pond re-opening and the neighborhood house. This is wonderful for the community, our children and for future generations.

Patty Carnes, 280 Rutherford Avenue, Franklin stepped forward. Ms. Carnes complimented the Mayor and Council and the Recreation Commission on Franklin Day and all that is going on at the pond.

Mike Gunderman, 22 Jenkins Road, Franklin stepped forward. Mr. Gunderman complimented the Recreation Commission. Mr. Gunderman commented on the proposed project on Munsonhurst Road and his concerns with it coming into Franklin Borough. Mr. Gunderman stated the Borough doesn't need it and he doesn't want it.

Mayor Giordano thanked Mr. Gunderman for his help with the opening of the pond.

Dawn Rowe, 140 Munsonhurst Road, Franklin stepped forward. Ms. Rowe commented on Franklin Day and the beautiful fireworks, which were spectacular and much better than other towns.

Emily Bazelewich, 1 Mill Street, Franklin stepped forward. Ms. Bazelewich commented on near accidents at the intersection of Mill Street and Main Street and the painting of the curbs that still need to be done there.

Administrator McHose commented the painting of that intersection is going to be done when the Buckwheat Road paving and striping is done.

Mayor Giordano requested Administrator McHose to speak with Brian VanDenBroek regarding the curb painting at the intersection of Mill Street and Main Street.

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

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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. Letter dated June 20, 2018 from Arthur R. Thibault Jr to Alison McHose in reference to the Borough of Franklin ad United Public Service Employee Union
2. Email dated July 2, 2018 from the NJ State League of Municipalities in regards to SFY 2019 Budget Adopted.
3. Letter dated July 6, 2018 from David Brady to Mayor Giordano and Council Members regarding Ordinance #08-2018.

REPORTS (ACCEPTANCE FOR FILING OF THE FOLLOWING):

1. Zoning Department Monthly Report - June 2018.
2. Construction permit activity report for June, 2018.
3. Construction report for June, 2018.
4. COH report for June, 2018.

APPLICATIONS (APPROVAL OF THE FOLLOWING):

None

RESOLUTIONS (APPROVAL OF THE FOLLOWING):

1. Payment of bills for the meeting of July 10, 2018.

Mr. Snyder made a motion to approve the consent agenda of July 10, 2018. Seconded by Mr. Skellenger.

Dick Durina, 23 Lozaw Road, Franklin stepped forward. Mr. Durina questioned the subject of item 3 under correspondence, letter dated July 6, 2018 from David Brady to Mayor Giordano and Council Members regarding Ordinance #08-2018.

Mr. Ursin provided a copy of the letter dated July 6, 2018 from David Brady to Mr. Durina.

Mayor Giordano commented he will read the letter for the publics knowledge prior to item 8 of the agenda.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

OLD BUSINESS

Ms. Fantasia requested the ordinance committee to review the sign ordinance prior to the next Mayor and Council meeting.

NEW BUSINESS

Approval of Meeting Minutes

Mr. Skellenger made a motion to approve the regular meeting minutes for June 26, 2018. (Absent: None) Seconded by Ms. Fantasia.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

Adoption of Ordinance 09-2018

Mr. Skellenger made a motion to adopt ordinance 09-2018 "AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX AND STATE OF NEW JERSEY CANCELING THE SAFE ROUTES TO SCHOOL GRANT". Seconded by Mr. Snyder.

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Prior to final roll call Mayor Giordano will open the meeting to the public for any comments regarding Ordinance 09-2018.

Ms. Fantasia commented she had some discussions about this while Robin was still our clerk and would like to clarify that this grant is a Federal Grant. Ms. Fantasia stated an enormous amount of time and work went into getting this grant by both our former Administrator, Mr. Kilduff and Robin (Hough) and it is heartbreaking that we must walk away from this. Ms. Fantasia explained the financial reasons why this grant was cancelled.

Mr. Crabb commented this doesn't mean these items won't be addressed at a later date.

Mr. Skellenger made a motion to open to the public ordinance 09-2018. Seconded by Mr. Crabb. All were in favor.

No one from the public stepped forward.

Mr. Crabb made a motion to close to the public ordinance 09-2018. Seconded by Mr. Postas. All were in favor.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

Adoption of Ordinance 10-2018

Mr. Snyder made a motion to adopt ordinance 10-2018 entitled, "BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT OF VARIOUS ROADS IN AND BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$493,140 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$336,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING SUCH APPROPRIATION." Seconded by Mr. Skellenger.

Mr. Skellenger made a motion to open to the public ordinance 10-2018. Seconded by Mr. Postas. All were in favor.

No one from the public stepped forward.

Mr. Postas made a motion to close to the public ordinance 10-2018. Seconded by Mr. Skellenger. All were in favor.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

Resolution 2018-72

Mr. Snyder made a motion to adopt resolution 2018-72 authorizing the issuance of not exceeding \$2,640,199 Bond Anticipation Notes of the Borough of Franklin, in the County of Sussex, New Jersey. Seconded by Mr. Skellenger.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

Introduction of Ordinance 11-2018

Mr. Snyder made a motion to introduce ordinance 11-2018 entitled, "ORDINANCE PROVIDING FOR THE ACQUISITION OF NEW VEHICULAR EQUIPMENT BY THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, NEW JERSEY, AND APPROPRIATING \$116,000 THEREFOR FROM THE WATER/SEWER CAPITAL FUND OF THE BOROUGH." Seconded by Mr. Skellenger.

Mayor Giordano explained ordinance 11-2018.

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Mr. Crabb commented the DPW Supervisor was very involved in providing information for this ordinance.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

Resolution 2018-73

Mr. Postas made a motion to adopt resolution 2018-73 resolution of the Governing Body of the Borough of Franklin to accept project as complete for proposed improvements to Main Street. (Thomas Knutelsky, Borough Engineer letter of recommendation dated June 14, 2018, provided in the Council packets.) Seconded by Mr. Skellenger.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger, Snyder

Nays: None Absent: Limon Abstentions: None

Resolution 2018-51

Mr. Postas made a motion to adopt resolution 2018-51 authorization to purchase police vehicle; one 2018 Ford Police Interceptor SUV, all-wheel drive in the amount of \$35,345.25. (tabled from June 12, 2018) Seconded by Mr. Skellenger.

Ms. Fantasia explained the information contained in the inventory report provided by Ptl. Grissom as it relates to the resolution.

Mr. Crabb commented Ptl. Grissom together with Sgt. Cugliari and Chief McInerney compiled the information within this very comprehensive report. Mr. Crabb also commented purchasing the vehicle at this time could save the Borough up to \$3,000.

Ms. Fantasia commented we need not forget to determine if any vehicle might be able to be utilized for the vehicle request from the WVFAS.

A discussion on vehicles for the WVFAS continued.

Mr. Snyder commented on the service and maintenance records for current police vehicles and the timing of purchasing a new vehicle now.

A discussion on maintenance of the police department vehicles continued.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger

Nays: Snyder Absent: Limon Abstentions: None

Adoption of Ordinance 08-2018

Mr. Crabb made a motion to adopt Ordinance 08-2018 "AN ORDINANCE TO AMEND CHAPTER 161, THE LAND DEVELOPMENT ORDINANCES OF THE BOROUGH OF FRANKLIN REGARDING THE MIXED ACTIVE ADULT (MAAH) HOUSING DISTRICT." (Tabled from June 26, 2018) Seconded by Mr. Skellenger.

Mayor Giordano read a letter of recommendation from the Franklin Planning Board, dated July 6, 2018, to the Mayor and Council regarding Ordinance 08-2018.

Mr. Crabb made a motion to open to the public ordinance 08-2018. Seconded by Mr. Skellenger.

Kevin Kelly, Attorney for Silk City Rentals in the pending application for approval that is pending before the planning board stepped forward. Mr. Kelly informed the Council that he is not the attorney for the litigation. Mr. Kelly stated he is here tonight with Autumn McCourt, Frances Stella and his client Nick Daurio. Mr. Kelly commented this ordinance is imposing a standard that cannot be met, replacing a standard that was already met. Mr. Kelly also commented on the application that was deemed complete under the 30, 20, 20 standards at the June 6, 2018, Planning Board meeting in which the board's Engineer, Planner and Attorney were also

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present. Mr. Kelly commented on the history of this application, the project, the wells and 3 consent court orders. Mr. Kelly also commented on ordinance changes and mistakes.

Mr. Ursin commented because of the pending litigation he has informed the Council to limit their comments. Mr. Ursin also commented the slope restrictions Mr. Kelly referred to as suddenly changing are the slope restrictions imposed by the town council on November 28, 2017, and your client was in the audience and well on notice of the slopes being imposed at that time. Mr. Ursin stated for the record "there is no element of suddenly changing the slopes restrictions here".

Mr. Kelly commented on the ordinance that was sent to the website and filed.

Mr. Giordano made an analogy and stated don't take advantage of a mistake.

Autumn McCourt, Esq., with Brach Eichler, L.L.C., retained by the property owners (Silk City Rentals, LLC, Silk City Development, LLC and JCM Investors 1012, LLC) to object to the proposed pending ordinance (08-2018) stepped forward. Ms. McCourt thanked the council for considering their objection. Ms. McCourt commented on the history of the property, the construction of wells installed on the property as it relates to the development of the then proposed project. Ms. McCourt stated the Borough entered into a consent order with the current property owners in October, 2017. Ordinance 20-2017 was passed in November 2017 to satisfy the Borough's obligation under the consent order. Ms. McCourt spoke about the application process currently in front of the Planning Board. Ms. McCourt commented on the slope restrictions in ordinance 08-2018 while trying to work with the Borough to meet all necessary requirements and the environmental issues. Ms. McCourt stated the slope restrictions are causing the project not to be able to be built, causing damages to the developer which could be in the multimillions, a judgement that they don't think the Borough can afford to pay.

Mr. Ursin interrupted Ms. McCourt, stating he will "note that threat".

Ms. McCourt also commented on contact with the Borough, reasons for filing of the complaint, spot zoning and asked the council not to pass the ordinance (08-2018).

Frances Stella, Esq., Environmental Attorney with Brach Eichler L.L.C. stepped forward. Ms. Stella commented her office has tried to get answers from the Borough regarding the possible passage of ordinance 08-2018, however no one has responded yet.

Mayor Giordano stated "for the record no body from your firm has reached out to me, I've received no letter from you."

Ms. Stella responded her office reached out to Mr. Ursin last week asking the intent of the council on this ordinance.

Mr. Ursin commented the slope ordinance applies to this application because it was passed on November 28, 2017. Mr. Ursin stated the ordinance that was passed on November 28, 2017, is the same ordinance that is on tonight. What was posted on the website might be different but what was passed with the council votes is what's binding.

Ms. Stella commented with this ordinance (08-2018) being passed it prohibits the project from being built. Ms. Stella explained the amount of development of the property, slope restrictions, COAH, age restrictions and implementing protection for the land and environment to meet the needs of the town and the interest of the environment.

Autumn McCourt, Esq., Brach Eichler L.L.C. stepped forward. Ms. McCourt apologized to the Mayor for not sending correspondence to his attention. Ms. McCourt requested an opportunity to meet with the Mayor and Mr. Ursin to discuss working with the Borough on the matter.

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Elliot Ruga, Policies and Communications Director, NJ Highlands Coalition stepped forward. Mr. Ruga explained the necessity of robust steep slope standards and regulations and the benefits they have on the prevention of various environmental issues. Mr. Ruga commented on the objectors of the ordinance who were in attendance at the time the ordinance was unanimously passed back on November 28, 2017.

Dawn Rowe, 140 Munsonhurst Road, Franklin stepped forward. Ms. Rowe stated her concerns with the development of the proposed project. Ms. Rowe commented this (slopes) is not a surprise to anyone that was in attendance at the November 28, 2017, meeting.

Gregory Gorman, 13 Jennings Road, Hamburg, Conservation Chair, State of NJ Sierra Club Chapter, stepped forward. Mr. Gorman stated he represents the Skylands Group, affiliated with the NJ Sierra Club Chapter. Mr. Gorman commented on the ordinance passed on November 28, 2017. Mr. Gorman also commented on the Highlands Council recommendations regarding the water quality management plan, bedrock, geotechnical study, design of the project, safety issues with the development of the project and open space requirements implementation.

Ian Sherwood, 189-193 Corkhill Road, Franklin stepped forward. Mr. Sherwood commented on comparisons of his business restrictions and the proposed project restrictions. Mr. Sherwood stated the project doesn't work here.

Dick Durina, 23 Lozaw Road, Franklin stepped forward. Mr. Durina commented on the application approval results. Mr. Durina also commented on the history of water problems in Franklin. Mr. Durina stated he wants to ensure Franklin continues to drink clean, safe water.

Connie Cholminski, 25 Fox Hill Drive, Franklin stepped forward. Ms. Cholminski commented on concerns she has with the added 300 units and its residents causing potential contaminants from excess vehicle oil, snow removal salt and fertilizer being washed into Franklins water supply.

Toni Erb, 26 Edison Road, Ogdensburg stepped forward. Ms. Erb commented on the importance of water.

Mr. Ursin informed the public the Borough isn't paying for the court stenographer that is here tonight.

Mr. Postas made a motion to close to the public ordinance 08-2018. Seconded by Mr. Skellenger. All were in favor.

Upon roll call vote:

Ayes: Crabb, Fantasia, Postas, Skellenger

Nays: Snyder Absent: Limon Abstentions: None

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 pending litigation Motion seconded by Mr. Postas. All were in favor.

After meeting in closed session, the Governing Body returned to their seats at 9:09p.m. and Mayor Giordano declared the meeting to be reconvened into open public session.

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

OPEN PUBLIC SESSION II

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

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Dick Durina, 23 Lozaw Road, Franklin stepped forward. Mr. Durina asked if it is an attorney conflict with the applicants attorney also being the county attorney when this application continues for approvals by the Planning Board.

Mr. Ursin commented he can't give an opinion.

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

MISCELLANEOUS COMMENTS

None

ADJOURNMENT

There being no further items for discussion by the Mayor and Council, Mr. Skellenger made a motion to adjourn the meeting at 9:11p.m., seconded by Mr. Postas. All were in favor.

Nicholas Giordano, Mayor

Darlene J. Tremont, Acting Municipal Clerk