

WORK SESSION OF THE TOWNSHIP COUNCIL
TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, NEW JERSEY
MARCH 4, 2003

The Work Session of the Township Council of the Township of Franklin, County of Somerset, New Jersey, held at 475 DeMott Lane, Somerset, was called to order by the Mayor at 7:07 p.m.

The Mayor read a statement indicating all requirements of P.L. 1975, Chapter 231 (The Open Public Meeting Act) had been met.

1. CALL TO ORDER

The Assistant Manager called the roll.

Present: Mayor Sumter, Deputy Mayor Grippo, Ms. Barrier, Ms. Eberle, Mr. Levine, Mr. McKenzie. Mr. Chivukula and Mr. Mettler were absent at roll call but arrived shortly thereafter

Absent: Mr. Mazzola. Mr. Mazzola has been called up for active duty in the Air Force and has been deployed abroad.

Also Present: Daniel Fitzpatrick, Esq., Acting Township Attorney, Kenneth W. Daly, Township Manager, Jean C. Pellicane, RMC, Township Clerk, Marc D. Dashield, Assistant Township Manager. Louis Rainone, Esq., Township Attorney, was absent at roll call but arrived later in the meeting.

2. DISCUSSION – CHAPTER 218 – TAXI CABS

Kathleen Feeney, Esq., 777 Somerset Street, representing City Taxi, appeared at the meeting and presented to Council “The Economic Impact Upon the Business of Taxicab Services”, and discussed the contents of the report with Council as follows:

Provisions of Existing Township Taxicab Ordinance, Chapter 218 of the Code

Section 218-14, License for Operation, requires persons to obtain taxicab licenses in order to operate a cab and, while not specified in the ordinance, the license is not issued until a background check is completed. The background check in Franklin takes six months to obtain. The City of New Brunswick takes 15 days to issue a taxicab driver’s license.

Section 218-24, Insurance prerequisite, requires taxicab owners to provide \$500,000 in liability insurance, naming the Township as additional insured.

Comparison of Limits of Insurance/costs for March 1, 2003 and June 1, 2002:

LIMITS	TOTAL
35,000	\$8,011.00
50,000	\$8,873.00
100,000	\$10,435.00
300,000	\$13,155.00
500,000	\$14,325.00
LIMITS	TOTAL
35,000	\$6,818.00
50,000	\$7,567.00
100,000	\$8,922.00
300,000	\$11,281.00
500,000	\$12,297.00

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Ms. Feeney noted that the above figures were provided by City Line Insurance, providers of insurance for most taxicabs in the area. Most taxicabs have been carrying \$100,000, in excess of the State Statutory amount, but our \$500,000 requirement is not economically feasible, particularly for young drivers just starting out in the business. If there is a need to increase the insurance amount, it should be done on a statewide basis for all municipalities so there is fair competition among businesses in different municipalities.

Mr. Mettler & Mr. Chivukula arrived at this time.

Taxi Insurance Survey conducted by the FTPD

Middlesex County

East Brunswick	\$1.5 million
Edison	\$1 million
Helmetta	No Licensing Ordinance
Highland Park	\$300,000
Jamesburg	\$50,000
Metuchen	\$100,000
Middlesex	\$50,000
Milltown	No Licensing Ordinance
Monroe	\$1.5 million
New Brunswick	\$300,000 raising to \$500,000
North Brunswick	\$500,000
Old Bridge	\$100,000
Perth Amboy	\$100,000
Piscataway	\$100,000
Plainsboro	\$300,000
Sayreville	\$1.5 million
South Amboy	\$50,000
South Brunswick	\$1.5 million
South River	\$1.5 million
Spotswood	\$50,000
Woodbridge	\$500,000

Results: 6 over \$1 million / 3 at \$500,000 / 2 at \$300,000 / 4 at \$100,000 / 4 at \$50,000 / 2 with no Ordinance

SOMERSET COUNTY

Bedminster	No Licensing Ordinance
Bound Brook	\$50,000 pending revision raising to higher amount
Branchburg	\$300,000
Bridgewater	No Licensing Ordinance - pending adoption upon completion
Franklin	\$500,000
Green Brook	No Licensing Ordinance
Hillsborough	\$50,000
Manville	\$100,000
Montgomery	\$1.5 million
North Plainfield	\$1.5 million
Raritan Borough	\$1 million
Somerville	\$500,000

Results: 3 over \$1 million / 2 at \$500,000 / 1 at \$300,000 / 1 at \$100,000 2 at \$50,000 / 3 with no Ordinance

Ms. Feeney noted that the insurance figures in our ordinance were based on the survey. The \$1.5 million insurance figures cited for East Brunswick, Monroe, Sayreville, South Brunswick and South River are not comparable since these communities do not have \$5.00 fare taxicabs but high priced limousine businesses. The figures cited for Woodbridge and Somerville

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are not verifiable. The taxicab ordinance needs to be studied from a small businessman's approach.

Township Manager Daly noted that the survey was done at the request of Councilman Levine after the ordinance was passed.

Petition

A petition signed by customers of City Taxi requesting the Township Council to lower the insurance coverage requirement was presented to Council.

Township Manager Daly introduced Sergeant Robert Vornlocker and Officer Keith Hermann of the FTPD and noted his own prior experience in another area of the country with strong tourist transportation needs and which virtually proved that it is practically impossible to make a living as taxi driver. The primary purpose of our ordinance is to protect the customer. Most of the customers are people of modest means who may not otherwise have adequate insurance to protect them if injured in an accident and the taxicab company does not have adequate insurance. The background checks are also done to protect the customers, to insure that the people using the taxicabs are safe.

Officer Hermann noted that the review of the Township's taxicab regulations began as a result of three incidents with injuries with taxicabs, in some cases the taxicab drivers did not have a driver's license, much less a taxicab driver's license. Officer Hermann noted:

1. The statutory insurance requirement for taxicabs is \$50,000 and has not been increased since 1951. The survey was conducted by calling bordering towns. Most towns set their insurance requirement at \$500,000 or above.
2. Inquiries resulted in confirming that at least three other agents in New Jersey besides City Line Insurance sell insurance to taxicabs. Officer Herman disputed the figures because only City Line was quoted. The rates paid are based on the driving record of the taxicab owner and taxicab drivers.
3. In 2000, the State Legislature addressed the issue of taxi and limousine insurance but the enacted Legislation only increased the insurance requirement for limousines to \$1.5 million. State Assembly Bill A3034 is currently pending before the State Legislature which would increase the insurance requirement for taxicabs to a minimum of \$300,000.
4. The Township currently requires tow truck drivers to provide a minimum of \$1 million insurance for cars they tow. Taxicabs are responsible for lives.

Sergeant Vornlocker noted that a study has been made of the amount of time taken to issue a taxicab driver's license since March 2002. It was found that the procedure took approximately 8 weeks from the time all information required of the taxicab driver was submitted. In some cases, the taxicab driver failed to provide required data such as a drug screening test for several months, resulting in delays. When the complete application is received, two procedures begin simultaneously:

1. Check on our in-house computer for residents, and if not a resident, check with the police department of the applicant's residence.
2. The applicant is contacted to make an appointment to be fingerprinted. Once the applicant has come in to be fingerprinted, the prints are sent to the State Police. Response from the State Police takes from two to four months. The FTPD is prohibited from using our computer system to check the State Police records.

Application is then made to the Division of Motor Vehicles for a certified Abstract of the applicant's driving records. Applicants are required to submit a copy of their own abstract, but experience has shown that the abstracts submitted by the applicants were not complete.

At one time it was the Township's practice to issue temporary taxicab driver's licenses and to await the official results. Until written verification has been received from the State

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Police that a driver has no criminal history, it is not in the interest of the customer's well being to issue temporary license, particularly since taxicabs are often used by parents to provide transportation for their children.

Ms. Feeney responded that private industry faces this issue and allows people to start work and they react if the employee has been untruthful. Township Attorney Rainone responded that private industry's main goal is profit; the Township's main responsibility is to protect the customers.

In response to a question from Mr. Levine, Joe Mazraani of City Taxi advised that most of the taxi calls covered are from the Somerset area of the Township and the hotels on Davidson Avenue, but there are some calls from other towns.

Mr. Levine concurred that the information presented could result in a loss of business by Township taxicabs if surrounding municipalities have lower insurance requirements, resulting in lower fares. Mr. Levine also noted that the amount of time involved in getting the taxicab driver's license would be frustrating but must be weighed against the risk to public safety.

Upon a motion made, seconded and unanimously agreed, the meeting was opened for a brief public comment period on this issue.

The following persons spoke in agreement with the concerns expressed by the taxicab company representative: Busshan Jack, (taxicab driver), Joe Mazraani, taxicab driver/part owner of City Taxi, Betty Sayles, customer.

Township Attorney Rainone advised that the Council will take the information provided under advisement and come back with a recommendation from the Police Department for the March 25th meeting.

3. ADJOURN TO PUBLIC SAFETY BUILDING/MUNICIPAL COURT ROOM FOR VIDEO CONFERENCING DEMONSTRATION

Council moved to the Municipal Court for a demonstration on video arraignment methods and equipment recently purchased.

What is Video Conferencing

Video Conferencing is the electronic connection via telephone lines from one point to the other eliminating the need of physically bringing back prisoners from the various county jails.

Uses of Video in Municipal Court

- Arraignments of incarcerated inmates on criminal, traffic or ordinance charges
- Guilty pleas of incarcerated inmates
- Probable cause hearings of incarcerated inmates
- Filing of any new charges by incarcerated inmates
- Contempt charges
- Partial payment (time order) hearings

***Please note that these hearings can be conducted in both county and state correctional facilities.**

Potential Savings/Advantages of Using Video

- Reduction of inmate transportation
- Reduction in the number of meals provided to inmates outside of the facility
- Reduction in transportation overhead cost and officer overtime cost

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4. PUBLIC DISCUSSION

Upon a motion made, seconded and unanimously agreed, the meeting was opened for public discussion.

No one from the public spoke.

Upon a motion made, seconded and unanimously agreed, the meeting was closed for public discussion.

5. REVIEW PREPARED AGENDA FOR MARCH 11TH

11. ORDINANCE INTRODUCTION – AMEND CODE – CHAPTER 127 – FEES – COMMUNITY RESOURCES SUMMER CHILDCARE PROGRAM

In response to a question from Mr. Levine, Township Manager Daly advised that it has been discovered that an ordinance authorizing the fees currently charged for the Department of Community Resources summer child-care program was never adopted. This ordinance, therefore, memorializes existing practices.

16E. PURCHASE – ATLANTIC SALT INC. – ROCK SALT FOR ICE CONTROL – AMEND RESOLUTION TO INCREASE AMOUNT CERTIFIED BY \$37,000.00

In response to a question from Deputy Mayor Grippo, Township Manager Daly advised that budgetary appropriations and purchases for items such as rock salt are always a gamble. If there is more severe weather in FY2003, the Council may need to do an emergency appropriation as suggested by the State which will have an impact on FY2004 budget. It is desired to always have a supply of rock salt on hand since it is used for icy roads even if there is no snowstorm.

16K. EXTRAORDINARY UNSPECIFIABLE SERVICES AGREEMENT – DONNA VIEIRO – MANAGEMENT/PERSONNEL CONSULTANT SERVICES – NOT TO EXCEED \$42,000.00

In response to questions from Mr. Levine, Township Manager Daly advised that the Extraordinary Unspecifiable Service Agreement with Donna Vieiro provides for her services as Management/Personnel Consultant at a rate of \$50.00 per hour, not to exceed \$42,000 for the period March 1st to August 31st. With Marc Dashield, Assistant Township Manager, being named Acting Township Clerk and the Township Manager's need for surgery which will result in an absence of several weeks, there is need for someone to assist Marc. After that, it will not be physically possible for Marc to handle both the Assistant Township Manager and Acting Township Clerk positions. Therefore, this consultant will help us get things done. The salary to be paid to Marc and fee to be paid to Donna will not exceed budgetary allotments.

6. COMMITTEE REPORTS:

Advisory Board of Health – In the absence of Councilman Mazzola, no liaison report was given.

Fire Prevention Board - Councilman Grippo advised that the board will be meeting next week.

Library Board – Councilman Grippo reported that the Library Board's fundraising activities are continuing. A Corporate Fundraising is being hosted by Togar Properties. The report from the Estimator on the anticipated cost of the expansion/renovation of the Library. The Library Board will review the estimate and come back to Council in April.

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Emergency Life Support Delivery Committee - Councilwoman Eberle reported that this committee will be meeting in April.

Recreation Facility Study Committee – Councilman Grippo reported that the activities in pursuit of installation of a skateboard park are continuing. A committee of business owners and residents will be making a presentation on March 12th at McAteers to the Rotary Club which may co-sponsor the project.

7. USE OF SOMERSET NATIONAL GUARD ARMORY AS POLLING PLACE

Council reviewed February 27th memo from Township Clerk Pellicane:

“As you are all aware, efforts to find polling place schools has been ongoing and will hopefully be successfully concluded very shortly.

One of the desired changes is to use the National Guard Armory on Hamilton Street instead of MacAfee and Conerly Schools. The armory is the only suitable location that Polling Place Committee could find in the area but, being a State/Military facility, it comes with a certain amount of red tape which the Township must deal with. The situations are outlined below and Council’s ageement to the below-suggested solutions is requested:

1. The Armory’s charge for use of the facility for the April 15th school election and the June 3rd Primary Election is \$553.00. The standard fee for the use paid by the County is \$480.00
 - a. An amount in excess of the differential between the \$553.00 and the \$480.00 represents cost of overtime for Armory employees to open the building. As a means of compensating for legislating opening polls at 6:00 a.m., the State reimburses polling places for overtime costs. It takes a year for the State to pay the reimbursement, therefore, it is suggested that the Township cover the fee at the time of the election and seek reimbursement from the State. I have been advised, however, that there are plans in the works to return election hours back to 7:00 a.m. which will eliminate this reimbursement. Therefore, we must assume a worse case scenario that the Township will fund the \$73.00 differential.
 - b. The Armory requires a formal, signed agreement with the Township and that the fee be paid up front. This will require the Township to pay the Armory the \$553.00 now and have the County reimburse the Township the \$480.00 in December, 2003.
 - c. I have not yet viewed the facility personally or discussed set up with the person in charge of the Armory, but it is possible that the Township will need to have out Public Works personnel actually set up and locate the tables and chairs the day before the election.
 - d. The State contacted me today, along with all other municipalities which use armories as polling places, with a special request during this time of Nation Emergency when the nation is on orange alert. That is to have our police department work with the Military and supplement the security they will be providing at the facility on the election day(s) by assigning two or three officers for the door and the voting room through the course of the day.

I will place this item on the work Session agenda for March 4th so Council can ask any questions and, hopefully, concur with the suggestions.”

Township Clerk Pellicane also noted that the Franklin Park Fire Company has refused to serve as the polling place for the Franklin Park area for school elections only. Another attempt will be made to obtain the Consolata facilities, but if not successful, the County Board of Elections will be requested to make a decision and, if necessary, advise the fire company of the County’s statutory rights to use the fire house.

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8. MEADOWS FOUNDATION LEASES

Ms. Barrier noted that Councilman Mazzola had questions on the leases but he is not here to ask them.

In response to a question from Mr. Chivukula, Township Manager Daly and Township Attorney Rainone advised that the Township has leases with the Meadows Foundation, and the Foundation has sub-leases with its tenants/caretakers and administers the sub-leases with no involvement by the Township, including efforts by the Foundation to remove tenants/caretakers.

Mr. Levine noted that a member of the Meadows Foundation Board of Directors advised him that questions from the Council should be addressed through the Township Manager. Township Manager Daly responded that, as the Township's executive officer, he is supposed to implement agreements and leases and that it is good practice to have one person accountable, and that person should be the Township Manager. If Council sees a problem relating to the Foundation Leases, the problem should be brought to the Township Manager's attention.

Mr. Mettler questioned this re-interpretation of the relationship between Council and the Meadows Foundation. Members of Council have always been free to ask questions of the Foundation. While in some technical instances regarding the performance of the lease it would be more appropriate to go to the Township Manager, generally the Meadows Foundation and the Township Council have maintained a dialogue. This procedure sets a precedent with which he is not entirely comfortable.

9. REQUEST FOR TEMPORARY EASEMENT – WEST POINT ESTATES

Council reviewed the January 27th request from Peter Lanfrit, Esq. on behalf of West Point Estates, LLC, applicant for major subdivision of Block 348/Lots 1-13 located on West Point Avenue:

Council also reviewed February 3rd report from Township Engineer Joe Russo noting that:

“...While it is not practical to build the cul-de-sac entirely on the last building lot, it appears that it is not necessary to build it entirely on Township-owned property where additional trees would have to be removed. It is suggested that the applicant modify the location to include the majority of the cul-de-sac on the last building lot with only some encroachment onto Lot 14. A suggested location is attached, and is shown shaded to distinguish it from the applicant's proposal. This would reduce the impervious coverage and limit the area of disturbance.

Mr. Lanfrit responded that, while he has not seen the memo from the Township Engineer, he is sure the developer can work out an acceptable solution with him. The entire proposal may be moot because the developer has learned that lots behind the two Township lots in question may be developed in the near future which may result in the road being extended and the cul de sac proposal eliminated.

Council concurred with the Township Engineer's recommendation.

10. KINGSTON REZONING

Council reviewed February 14th memo from Planning consultant Ellen Ritchie recommending the rezoning of the southern ROL and the Kingston Environs to CP, NB & NBH and A zones as part of the Master Plan and for the protection of the Kingston Village. If no objections are forthcoming, the ordinance will be placed on agenda for introduction in the near future.

Mr. Mettler moved to accept the recommendation and proceed with ordinance introduction. Ms. Barrier seconded the motion; Council concurred.

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11. HOUSES OF WORSHIP

Council reviewed an excerpt from the memo of February 15th from Planning Consultant Ellen Ritchie.

Mr. McKenzie moved to accept Ms. Richie's recommendations and proceed with ordinance introduction. Deputy Mayor Grippo seconded the motion; Council concurred.

Mr. Chivukula questioned if the proposal requires fencing and if so, if the fencing will provide a sound barrier between the place of worship and the adjacent residential use. Township Attorney Rainone responded that the buffer requirements for the proposed regulations requires a 6' board-on-board fence and that while putting a house of worship in a residential zone will alter the character of residential areas, court cases require that they be permitted in residential zones. Zoning Ordinances usually require fences when two different uses come together to protect the adjoining residential. If the adjoining residential property owner does not want a fence, the Board can waive that requirement.

12. REQUEST FOR VACATION OF BLAIR AVENUE

Council reviewed January 28th request from Semmion N. Horne for the vacation of a portion of Blair Avenue from Ellen Street southeasterly to Berry Street to allow him to demolish an existing single-family dwelling and construct a new two family dwelling. Reports from staff indicate no objection to the vacation.

Township Manager Daly noted that a variance would be needed from the Board of Adjustment for the proposal, and in response to a question from Mr. Levine, that the Board usually tries to accommodate a variance application unless there is significant neighborhood opposition.

Ms. Barrier and Mr. Levine noted that, since prior similar requests have been denied, they are not in favor of vacating the street.

Mr. Mettler noted that the property is within or directly adjacent to the Renaissance 2000 Redevelopment Area and part of the Redevelopment process was to create some additional housing, especially to replace structures that might be taken down. The applicant is a long time resident and active member of the community and constructed many of the houses in that area. Mr. Mettler suggested that the request should be referred to the Redevelopment Agency for review and recommendation. Council concurred.

13. REQUEST FOR RELEASE OF DEED RESTRICTION – BLOCK 428/LOTS 14-19, 14TH STREET

Council reviewed the January 17th letter from Bret Kaplan, attorney for Robert & Susen Edwards, requesting release of the deed restriction on Lots 14-19 in Block 428 purchased from the Township in 1987 by Larry and Barbara Szymonowicz. The deed restriction prohibits a dwelling or similar structure unless combined with adjoining premises to form a parcel conforming in all respects to the zoning ordinance.

Council denied the request to release the deed restriction.

14. RESOLUTION - MEETING NOT OPEN TO PUBLIC - NEW JERSEY OPEN PUBLIC MEETINGS ACT, NJSA 10:4-12

Read by Assistant Township Manager Dashield

WHEREAS, the Township Council of the Township of Franklin in the County of Somerset, State of New Jersey is subject to certain requirements of the **Open Public Meetings Act, NJSA 10:4-6, et seq.**; and

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WHEREAS, **Open Public Meetings Act, NJSA 10:12**, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by resolution; and

WHEREAS, it is necessary for the Township Council of the Township of Franklin to discuss in a session not open to the public certain matters relating to the item or items authorized by **NJSA 10:4-12b** and designated below:

Labor Negotiations:

White Collar Union

White Collar Supervisors Union

Matters Relating to the Employment Relationship: Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, assembled in public session on this 11th day of March, 2003, that an Executive Session closed to the public shall be held on March 11, 2003, at 11:25 pm in the Franklin Township Municipal Complex, 475 DeMott Lane Somerset New Jersey for the discussion of matters relating to the specific items designated above.

It is anticipated at this time that the above-stated subject matter will be made public with respect to litigation, negotiation, collective bargaining and Attorney-Client Privilege at the conclusion of said litigation or negotiations;

This Resolution shall take effect immediately.

Upon a motion made, seconded and unanimously agreed, Council adjourned to Executive Session at 11:30 p.m. Meeting resumed and was immediately adjourned at 11:51 p.m.

Respectfully submitted,

Jean C. Pellicane, RMC,
Township Clerk