

**WORK SESSION OF THE TOWNSHIP COUNCIL
TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, NEW JERSEY
DECEMBER 7, 2004**

The Work Session of the Township Council of the Township of Franklin, County of Somerset, New Jersey, held at 475 DeMott Lane, was called to order by Mayor Levine at 8:06 p.m.

Mayor Levine read the following statement: "In accordance with Section 5 of the Open Public Meetings Act, chapter 231, Public Law 1975, be advised that adequate notice of this Work Session of the Township Council of the Township of Franklin, County of Somerset was made by the posting on the bulletin board at the Municipal Complex and transmitted to the officially designated newspapers, a list of dates, annually, indicating that the work session would take place at the Franklin Township Municipal Complex at 8:00 p.m. on December 7, 2004. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk."

CALL TO ORDER

The Township Clerk called the roll:

Present: Ms. Ashley-Williams, Ms. Danile, Ms. Eberle, Mayor Levine, Deputy Mayor McKenzie, Mr. Regan, Ms. Ritchie, Mr. Sumter

Absent: Mr. Chivukula

Also Present: Louis Rainone, Esq., Township Attorney, Kenneth W. Daly, Township Manager, Ann Marie McCarthy, Township Clerk.

PUBLIC DISCUSSION

Motion was made by Mr. Regan and seconded by Mr. Sumter to open the meeting for public discussion. Said motion carried unanimously upon voice vote.

Jean Cseke, 23 Lake Avenue, stated that her new neighbors are seven (7) college students who are using the home like a frat house. She stated there are weekend parties and increased traffic. She noted she had called the Police Department twice and the Zoning Officer, who told her there was nothing she could do since they were living like a "family". Mayor Levine recommended Ms. Cseke contact the Township Manager to follow up on this matter.

Carol Peterson, 12 Lake Avenue, thanked Mr. Daly and Township officials for their help with Molecuwire and noted the air quality in the neighborhood is excellent. She agreed with Ms. Cseke that there is increased traffic on Lake Avenue.

Shirley Pietrucha, 49 9th Street, stated she attended the Tree Lighting Ceremony last Tuesday and noted its success. She stated she had to leave the ceremony to attend a meeting regarding the redevelopment area. She asked if eminent domain would be used for Block 123 properties if negotiations with property owners fail. She quoted Mr. Sumter's statement made at the November 23rd meeting that there was no cloud of threat of eminent domain over Block 123 residents. She asked Mr. Sumter is he was aware of Path Mark's financial problems when he made that statement or if he had other information. Mr. Sumter replied that at the time of his statement, they were not thinking of using eminent domain.

Courtney Throckmorton, 591 Somerset Street, stated people were told that eminent domain would not be used on properties in Block 123. He stated that the ordinance adopted by Council provides for eminent domain on these properties. Mr. Throckmorton asked if Path Mark pulls out of the project and there is no other tenant, resulting in the project being dead, would Council be willing to reverse the rezoning of Block 123.

Raymond Betterbid, 4 Denby Court, stated that he has heard throughout the months that there were only 1 or 2 people who did not want to sell their homes. He asked for Mr. Throckmorton to provide the names, addresses and telephone numbers of the 6 to 8 people he has previously stated do not want to sell their homes. He asked how Mr. Throckmorton knows this information since he has heard rumors to the contrary that they are willing to see if they are receiving what they think is an acceptable price. Mr. Betterbid expressed his desire that Council work together and support one another.

Carl Wright, 139 Fuller Street, stated he appreciated the comments of Ms. Pietrucha, Mr. Throckmorton and Mr. Betterbid. He noted that he thought someone from Council would have commented on the prior comments regarding the redevelopment area and eminent domain. He reminded everyone that it is 56 homes and businesses that are subject to eminent domain as part of the original project. He stated the homes in Block 123 are part of the amended plan. He stated that those in the original plan were amenable to the plan or feel they do not have any other choice. He stated that when Block 123 was added, it was at that time when they stated they did not want to be included. He noted that the property owners who live next to the area should also be consulted.

John McConville, 5 Stone Leigh Way, asked where the money was coming from to buy these properties. Mr. Rainone replied the funding comes from the developer.

Tom Vislocky, 60 McGruffy, reviewed the fact that the Redevelopment Agency has been short a member for eleven months. He stated he volunteered to serve this position in April, yet there still remains a vacancy. He reported he asked the Redevelopment Agency about the vacancy and was told they do not appoint their members that it is a Council appointment. HE asked Council why the Agency has been short a member for eleven months. Mr. Vislocky

thanked Mr. Daly for his help with a traffic matter and noted that now the Police haven't been around, the traffic matter has returned.

Ms. Ashley-Williams thanked Mr. Wright for his comments and stated that at last Tuesday's meeting, Ms. Ferrier reported there are only seven (7) individuals that have committed to selling their homes. She stated that there is no way to know how many will commit since many of the homeowners do not know themselves at this time. She stated that meetings are still being conducted and negotiations are continuing. Ms. Ashley-Williams stated that Council usually waits to make comments after the public comments are finished. She agreed with Mr. Wright that Block 123 is an addition to the original plan. She stated that Council does not know if the project would cease if Path Mark pulls out of the contract. She stated that if the plan became unviable, Council would have to make a decision. She stated that Council does not have all the facts at this time and they are just as concerned as everyone else. She stated Council is making sure that all the people in the area are being taken care of. She stated that Council did vote to use eminent domain; if necessary and noted that it is only an option or possibility.

Mr. Regan agreed it is Council's responsibility to fill appointments and it is usually their commitment to fill them in January and February.

A motion was made by Deputy Mayor McKenzie to close the meeting to public discussion. Said motion was seconded by Mr. Sumter and carried unanimously upon call of the roll.

MAYOR'S REPORT

Mayor Levine thanked the camera volunteers and Joyce Miller, Public Information Officer for all their work with Channel 25.

Mayor Levine stated the Township held their flu vaccination lottery and they would be providing a network for those who are looking to other sources for obtaining a flu vaccination.

Mayor Levine wished all happy holidays during this month. He commented that the Tree Light Ceremony went well. He reported he attended the dedication to the Veterans Memorial on Saturday. He invited all to visit the memorial and stated that the memorial was a result of a great effort made by many volunteers.

Mayor Levine announced that the Council meeting schedule would be different next year. There would be two (2) combination Work Session/Regular meetings starting at 7:00 p.m. He stated information would be provided on the Township's website. He reported that there is a change in dates for the Reorganization Meeting to Tuesday, January 4th at 7:30 p.m. HE asked those interested in serving on any board or commission to submit their names to the Township Clerk. He stated that he looks forward to working together with Council next year.

DEPUTY MAYOR'S REPORT

Deputy Mayor McKenzie reported he attended the grand opening of the Somerset County Action Program Head Start facility at 113 Belmont Avenue. He stated that he is proud to have this facility in the Township and urged residents to visit the facility.

Deputy Mayor McKenzie announced he also attended the dedication to the Veterans Memorial on Saturday. He noted he was proud to attend to honor veterans and that he supports this effort 100%.

REVIEW OF DECEMBER 14, 2004 AGENDA

Mayor Levine led the following discussion on the December 14th Regular Agenda:

8. FY2005 Current, Capital, Open Space and Water Utility Budget – Adoption

Mayor Levine asked those Council members who have amendments to forward them to the Township Auditor as soon as possible.

12. Ordinances – Introduction

Mayor Levine announced that following ordinances have been deleted from the agenda:

- a. Ordinance #3499 - Bond Ordinance Amending Bond Ordinance No. 3364 – Acquisition of Various Utility Vehicles, Equipment and Tools and the Acquisition of GIS Utility Software to Implement GIS Mapping Services for the Water Utility by increasing the appropriation by \$130,000.00. (Reintroduction of Ordinance for technical reasons.)
- c. Ordinance #3515 – Bond Ordinance – Parks/Kingston.

13. Consent Agenda

Mayor Levine stated that the following resolutions are an effort to share services with Somerset County to save taxpayers money:

- d. Resolution #04-520 – Authorize Master Public Works Interlocal Shared Services Agreement for 2005-2006 between Somerset County Municipalities, Somerset County and each other.
- e. Resolution #04-521 – Authorize Interlocal Agreement between the Somerset County and Franklin Township for the design and construction of a water main extension on Cedar Grove Lane.

Mayor Levine stated that the following resolution would provide release of certain executive session minutes:

- l. Resolution #04-528 – Authorize Release of Certain Executive Session Minutes.

Mayor Levine reported that the following resolutions were added to the agenda since its distribution on Friday:

- q. Resolution #04-533 – Authorize Transfer of Funds Unexpended Snow Removal funds from FY2004 to the Reserve for Snow Removal - \$124,824.06.
- r. Resolution #04-534 – Award Professional Services Agreement with Civil Solutions for Stormwater Build out Analysis.

Mayor Levine explained that Resolution #04-533 allows the transfer of unexpended snow removal funds into a trust to help even out snow removal costs over time.

Mr. Daly explained that Resolution #04-534 is a result from last night's Stormwater Management Committee meeting. He reported it is a requirement to submit a solid waste plan by a certain deadline. A proposal and full details would be provided in Friday's packet. He explained that the Stormwater buildout analysis would provide how much more development is possible in certain sub areas as required by the NJ Department of Environmental Protection. Mr. Daly explained that these findings would be turned over to the Planning Board for their buildout analysis in connection with amending the Master Plan so that both plans are in sync. Ms. Ritchie expressed concerns and asked what are the differences of the build outs. Mr. Daly replied that Civil Solutions would provide computer software that would grind through GIS files including certain run-off calculations. He stated that the Stormwater build out analysis has to be completed by February, which would be before the completion of the Master Plan's build out analysis. Deputy Mayor McKenzie followed up with questioning if the two (2) build outs are different and are both needed. Ms. Ritchie stated that they are both different. Mr. Daly explained that the stormwater build out analysis needs to be reviewed by the County prior to its submission to the State.

Ms. Danile asked why the two (2) bond ordinances were removed from the agenda. Mr. Daly explained that Bond Counsel opined that bond ordinances cannot be introduced in one year and adopted in another. Mr. Daly further explained that Mr. Rainone has a different opinion and that is why the two (2) non-bond ordinances remain on the agenda.

14. Executive Session – Acquisition of Open Space Property

Mr. Daly reported he would have a briefing memorandum on this matter in Friday's packet.

PROPOSED CHANNEL 25 RULES AND REGULATIONS

Mayor Levine stated that the Channel 25 Rules and Regulations were drafted by the Township Attorney and as a Public Relations Committee member is in support of said rules and regulations.

Mr. Daly added that the volunteers drafted the first version and the Township Attorney edited and tightened them up.

Deputy Mayor McKenzie stated that the Public Relations Committee consisted of himself, Mayor Levine, Ms. Ashley-Williams and Mr. Chivukula. He stated that Committee reviewed said rules and regulations and as a whole recommend adoption.

It was the consensus of Council to adopt a resolution at the December 14th meeting to adopt the Channel 25 Rules and Regulations.

PROPOSED AMENDMENTS TO THE REDEVELOPMENT PLAN

Mr. Daly reported that the Redevelopment Agency has adopted two (2) resolutions making recommendations to amend the Redevelopment Plan. One recommendation involves several parcels in the Residential Infill (R-F) Zone that eminent domain may not be necessary to implement the redevelopment of these properties. The recommendation includes encouragement to residents to fix up their properties and in regards to vacant land to build. The Redevelopment Agency recommends that the Township Council amend the Redevelopment Plan to list all of the following parcels as not subject to taking through eminent domain and to list standards for redevelopment and rehabilitation of residential infill properties:

Block 167	Lots	16-19	Block 180	Lots	37-73, 81-97
Block 121	Lots	1-13	Block 181	Lots	25-28, 36-38
Block 114	Lots	1-27	Block 185	Lots	1-4
Block 177	Lots	27.01, 12-26	Block 172	Lots	10-23

Mr. Daly explained that he made a report to the Redevelopment Agency as Director in September and made recommendations to them. He recommended a business planning effort and as a result a committee was formed and have already provided a brief report. They next meeting would be in January and opened to the public.

Mr. Daly reported the second resolution recommends that the Redevelopment Plan be amended to list lots 12.05 and 12.06 in Block 103 as not subject to taking through eminent domain. Mr. Daly explained that both lots are located in the redevelopment area in the Commercial-Industrial (C-I) zone. He stated that A.D. Sutton is the owner of Block 103, lots 8,

12.03, 12.05 and 12.06 and merged the lots to create Lot 8.01, a 14.7-acre parcel. He stated that the merger of lots created a unique situation with part of a merged lot inside the redevelopment area and part outside. He added that A.D. Sutton has invested more than \$1 million in expanding its facility, substantially developing most of the developable area. He stated that Block 103, Lot 12.03 was deleted from the Redevelopment Plan by Township Ordinance on September 9, 2003.

Deputy Mayor McKenzie asked if the vote on these recommendations by the Redevelopment Agency was unanimous. Mayor Levine replied in the affirmative. Mayor Levine stated if it were the consensus of Council, an ordinance would be prepared for the January meeting.

Ms. Ritchie expressed her concern of small parcels being next to commercial lots and asked if there was consideration of changing the zone designation instead of leaving them as residential infill. Mr. Daly stated that the recommendation is not final but was recommended because eminent domain has become a distraction and the recommendations would put the focus where needed and the use of other tools to redevelop.

Ms. Danile asked anyone recalled that Path Mark having financial concerns in September when the ordinance to rezone Block 123 was being adopted. Mr. Daly replied that they were not aware at that point, but soon thereafter. Mr. Daly stated the legal responsibility to redevelop is on the redeveloper. He stated anyone buying Path Mark would purchase it with the binding lease. He stated that articles in the newspapers indicate that financial institutions, not other supermarkets are looking at Path Mark, which would bring in more financial resources.

REQUEST OF WAIVER – INTEREST/PENALTIES – 4TH QTR. TAX BILL
Cozzoli Enterprises (Schoolhouse Road)

Mr. Daly deferred this matter to Mr. Rainone, Township Attorney. Mr. Rainone reported he had discussed this matter with the Chief Finance Officer and they are both with the understanding that there is very little flexibility in collecting taxes. He explained that the reason municipalities do not have the ability to waive taxes or interest is because everyone's interpretation of mitigating circumstances differs. He stated that the interest rate could not be reduced for one property owner, it would have to be reduced for everyone. This would result in a severe impact to the Township's revenues. Mr. Rainone stated that this matter is on hold.

Deputy Mayor McKenzie asked for clarification regarding the interest reduction. Mr. Rainone stated that the statute allows municipalities to set interest rates between 8%-18%. He stated that the previous thought was to charge to lowest interest rate, but it has been found that a reduction of interest would have to be applicable to all taxpayers.

Mr. Rainone gave a brief explanation of the matter. Mr. Daly explained that Cozzoli Enterprises assumed that its second half taxes would be the same as the first half. They were not the same. Mr. Daly stated that many taxpayers make the same assumption, just not on such a large scale.

REVIEW REORGANIZATION MEETING AGENDA – JANUARY 4, 2005

Mr. Rainone made the following comments on the appointments listed on the Reorganization Agenda:

6. The Deputy Mayor appointment is not a two-year term and technically a change is not needed.

The following appointments need to be clarified with his 2004 appointment opinion:

15. Mayor's Appointment – One (1) Class II (Township Official) Planning Board Member – 1-year term ending 12/31/05
22. Mayor's Appointment – Environmental Commission Chair – 1-year term ending 12/31/05

The following appointments are not technically an agenda item and do not require a meeting, a letter from the Mayor can be sent to the appointees since they are his appointments:

24. Mayor's Appointment - One (1) Member of the Library Board – 5-year term ending 12/31/09
25. Mayor – Acknowledge service as Member of the Library Board or appoint a designee – 1-year term ending 12/31/05

Mayor Levine suggested that 2-3 Council members meet before Reorganization to discuss the appointments. He recommended himself, Deputy Mayor McKenzie and one other Council member. Mr. Regan supported the Mayor's suggestion and recommended that the Township Attorney also be included.

FY 2005 MUNICIPAL BUDGET

Mayor Levine stated that if Council had any amendments they should be submitted to the Auditor as soon as possible. Mr. Daly explained the amendments need to be sent to the Department of Community Affairs. He stated that depending on the size of the amendment, re-advertisement of the budget may or may not be required. Mr. Daly asked that in order not to cause another delay in adopting the budget, he would like Council to raise any amendments tonight.

Mayor Levine stated he may or may not have an amendment to the budget. He stated his amendments have already been discussed at previous meetings.

Ms. Danile stated that this budget is not her dream budget since she preferred to make more reductions. She stated it was very hard to make cuts and retain the level services currently provided. She stated that the Financial Oversight Committee's recommendations are valid. She stated that the impact of the budget increase would be minimal. She suggested that a more efficient fiscal approach be looked into next year. She agreed that they need to move forward and adopt the budget.

Ms. Ashley-Williams stated the budget is very disappointing and noted that she may or may not submit an amendment to the budget.

Mr. Regan stated that they worked hard in cutting the budget. The department heads submitted their budgets and the Township Manager made cuts to it. Then it was presented to the Township Council for further cuts. He noted he wished there could have been more cuts, but they are aware of what services are needed. He thanked the Township Manager for his work on the budget. He stated that it is not perfect, but is the best budget for next year and it needs to be adopted.

Ms. Danile suggested that the Council look into adopting a resolution supporting property tax reform since the State Legislature has proposed a property tax convention. Mayor Levine stated that could be looked into for a January agenda.

Mr. Daly suggested Council read the budget transmittal letter where it explains the property tax impact and the cuts that were made to former budgets.

Mr. Daly stated that one of his goals for next year is to engage in a business planning process. She stated that there are many new lines of business that the Township is involved in, such as open space, cable TV, redevelopment and there is no real business plan. He recommended that this be discussed at the Council Retreat.

Ms. Ashley-Williams stated that a time had not been set for the Council Retreat. After a brief discussion, it was the consensus of Council to hold the Retreat on Sunday, January 30, 2005 from 3:30 p.m. to 6:30 p.m. in the Community Center.

ADJOURNMENT

Upon motion made by Mr. Regan, seconded by Ms. Ritchie and unanimously agreed, the Work Session was adjourned at 9:30 p.m.

Respectfully submitted,

Ann Marie McCarthy, RMC, CMC
Township Clerk

Approved: *As Submitted.*

Date: *December 14, 2004.*