

**REGULAR MEETING OF THE TOWNSHIP COUNCIL
TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, NEW JERSEY
MAY 11, 2004**

The Regular Meeting 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 8:11 p.m.

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

Everyone present participated in the Salute to the Flag and an invocation led by Councilwoman Ashley-Williams.

CALL TO ORDER

The Township Clerk called the roll.

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

Absent: None

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

PROCLAMATION

Bernard T. Schrum

Deputy Mayor McKenzie, with Mayor Levine, Ms. Ashley-Williams, Ms. Eberle and Mr. Regan, presented the following proclamation to Ellen Ritchie on behalf of former Councilman Bernard Schrum:

WHEREAS, the Township of Franklin is benefited by citizens who contribute their time, talent and skills for the betterment of our community; and

WHEREAS, prior to his tenure on the Township Council, **BERNARD T. SCHRUM** served our community in the following capacities: Planning Board Chairman, Vice Chairman & Member; Open Space Advisory Committee Member; Municipal Transportation Improvement Committee Member; Business & Industry Improvement Committee Member; Somerset County I-287 Intermunicipal Access Improvement Study Committee Member; and Somerset County Smart Growth Initiative Member; and

WHEREAS, **BERNARD T. SCHRUM** was elected as Councilman-At-Large at the General Election held in November, 2003; and

WHEREAS, during his tenure as Councilman-At-Large, **BERNARD T. SCHRUM** succeeded in demonstrating excellence in local government service; and

WHEREAS, in addition to his duties on the Township Council, **BERNARD T. SCHRUM** served as Planning Board Class 3 Member; Liaison to the Historic Preservation Committee; Liaison to the Sewerage Authority and Traffic Management Subcommittee Member; and

NOW, THEREFORE, I, BRIAN D. LEVINE, MAYOR of the Township of Franklin in the County of Somerset, State of New Jersey, extend gratitude and appreciation on behalf of the Township Council and citizens to **BERNARD T. SCHRUM** for his dedication and service to our community and for the benefits reaped by the Township of Franklin through his efforts and wish him success and happiness in future endeavors.

Ms. Ritchie accepted the proclamation on behalf of Mr. Schrum and thanked Council for their support and best wishes. Council Members expressed their best wishes to Mr. Schrum.

PROCLAMATION

John P. Grosso

Mayor Levine read the following proclamation honoring John P. Grosso and presented it to Regina Doyle on his behalf:

WHEREAS, the Township of Franklin is benefited by citizens who contribute their time, talent and skills for the betterment of our community; and

WHEREAS, John P. Grosso was an active member in the community by being a member of the Franklin Park Senior Citizen Club; attending monthly Township Council meetings; and by serving on the Senior Affordable Housing Committee, Senior Citizen Advisory Committee; Sewerage Authority and Veterans Memorial Committee;

NOW, THEREFORE, I, BRIAN D. LEVINE, MAYOR of the Township of Franklin, County of Somerset, New Jersey on behalf of the Township Council and the citizens of Franklin Township, express its sincere appreciation for the contributions made by John P. Grosso to our community;

FURTHERMORE on behalf of the Township Council of the Township of Franklin, extend condolences to the family and friends of John P. Grosso on his passing from this life in 2004, knowing that the memory of his deeds and services to the Township of Franklin will always be a source of fond remembrance to the many who benefited from his dedication.

Members of Council expressed their condolences and memories of John Grosso.

APPOINTMENT OF COUNCIL PERSON AT-LARGE

Mayor Levine reviewed the vacancy process that explained the Council At-Large Seat would be on the ballot at the general election. Deputy Mayor McKenzie announced the three (3) candidates to be considered to fill the vacancy: Raymond Betterbid, Teresa Danile and Grave Evans.

Mayor Levine announced that nominations for the position of Council Member At-Large would be accepted.

Ms. Ashley-Williams nominated Teresa Danile to fill the Council Member At-Large vacancy. Said nominated was seconded by Mr. Regan.

Mayor Levine nominated Raymond Betterbid to fill the Council Member At-Large vacancy.

Mayor Levine asked if there were any other nominations. There being none, Deputy Mayor McKenzie moved to close the nominations. Said motion was seconded by Mr. Regan and carried unanimously upon voice vote.

Township Clerk polls the Council on the nominations as follows:

Teresa Danile

Ms. Ashley-Williams
Mr. Chivukula
Ms. Eberle

Raymond Betterbid

Mayor Levine
Mr. Unger

Teresa Danile

Deputy Mayor McKenzie
Mr. Regan
Mr. Sumter

Raymond Betterbid

Mayor Levine announced that Teresa Danile has been appointed to fill the Council Member At-Large vacancy. Deputy Mayor McKenzie announced Ms. Danile was out of town and she would be sworn into office at the May 25th meeting.

APPROVAL OF MINUTES

Upon motion by Mr. Chivukula and seconded by Mr. Sumter, the April 27, 2004 Regular Meeting minutes were approved, as amended, unanimously upon voice vote:

WARRANTS

Read by Mayor Levine:

1	Current	7,486,139.14
5	Water Operating	122,490.40
4	General Capital	3,350.00
15	General Trust	38,339.76
18	Self Insurance Trust	1,519.17
21	Recreation Trust	13,611.14
12	Open Space Trust	12,192.03
2	Grant	12,853.27
3	Collector Trust	28,155.17
22	Payroll	271,853.78
13	Redevelopment Agency	75.00
23	Agency	240,663.08
	SUB-TOTAL	8,231,241.94
	Escrow Account	57,396.00
	GRAND TOTAL	\$8,288,637.94

Motion was made by Chivukula and seconded by Mr. Sumter to approve the Warrants. Township Clerk McCarthy polled the Mayor and Council, the vote carried as follows:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

ORDINANCES, PUBLIC HEARING**Ordinance No. 3433**

Mayor Levine offered the following ordinance:

AN ORDINANCE AMENDING ORDINANCES AUTHORIZING LEASES WITH THE MEADOWS FOUNDATION, INCORPORATED FOR UTILIZATION AS HISTORIC HOUSES AND PARKS AND AMENDING TERM OF LEASE TO TWENTY-FIVE (25) YEARS.

Mayor Levine stated this ordinance is called up for second reading and final passage. The Township Attorney has approved the Affidavit of Publication and a public hearing is in order.

A motion was made by Mr. Chivukula to open the public hearing on the aforesaid ordinance. Said motion was seconded by Deputy Mayor McKenzie and carried unanimously upon voice vote.

There being no comments from the public, a motion was made by Mr. Chivukula to close the public hearing on the aforesaid ordinance. Said motion was seconded by Deputy Mayor McKenzie and carried unanimously upon voice vote.

A motion was made by Mr. Chivukula to adopt the ordinance on final passage and publication in accordance with law. Said motion was seconded by Mr. Sumter and carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

Ordinance No. 3452

Mayor Levine offered the following ordinance:

BOND ORDINANCE PROVIDING FOR THE RESURFACING OF VARIOUS ROADWAYS AND THE PARKING LOT OF THE DEPARTMENT OF PUBLIC WORKS FACILITY, IN AND BY THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); APPROPRIATING \$1,189,925 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,133,261 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF

Mayor Levine stated this ordinance is called up for second reading and final passage. The Township Attorney has approved the Affidavit of Publication and a public hearing is in order.

A motion was made by Mr. Chivukula to open the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Sumter and carried unanimously upon voice vote.

There being no comments from the public, a motion was made by Mr. Chivukula to close the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Sumter and carried unanimously upon voice vote.

A motion was made by Mr. Chivukula to adopt the ordinance on final passage and publication in accordance with law. Said motion was seconded by Mr. Sumter and carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

Ordinance No. 3453

Mayor Levine offered the following ordinance:

BOND ORDINANCE PROVIDING FOR THE RESURFACING OF BERGER STREET FROM JOHN F. KENNEDY BOULEVARD TO VANDERBILT AVENUE, IN AND BY THE TOWNSHIP OF FRANKLIN, IN THE COUNTY

**OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP");
 APPROPRIATING \$285,033 THEREFOR AND AUTHORIZING THE
 ISSUANCE OF \$128,602 BONDS OR NOTES OF THE TOWNSHIP TO
 FINANCE PART OF THE COSTS THEREOF**

Mayor Levine stated this ordinance is called up for second reading and final passage. The Township Attorney has approved the Affidavit of Publication and a public hearing is in order.

A motion was made by Mr. Chivukula to open the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Sumter and carried unanimously upon voice vote.

There being no comments from the public, a motion was made by Deputy Mayor McKenzie to close the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Sumter and carried unanimously upon voice vote.

A motion was made by Mr. Chivukula to adopt the ordinance on final passage and publication in accordance with law. Said motion was seconded by Mr. Sumter and carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

Ordinance No. 3454

Mayor Levine offered the following ordinance:

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF
 FRANKLIN, COUNTY OF SOMERSET, STATE OF NEW JERSEY, MORE
 PARTICULARLY CHAPTER 39, OPEN SPACE TRUST FUND - SECTION 39-
 6, APPOINTMENT, MEMBERSHIP, TERM (ADD ONE SHADE TREE
 COMMISSION MEMBER)**

Mayor Levine stated this ordinance is called up for second reading and final passage. The Township Attorney has approved the Affidavit of Publication and a public hearing is in order.

A motion was made by Mr. Chivukula to open the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Sumter and carried unanimously upon voice vote.

Charles Seigel, Franklin Greens, asked what is the Shade Tree Commission's responsibility. Mr. Rainone replied the Shade Tree Commission is responsible for the maintenance and planting of trees in public areas. Mr. Seigel asked if they were responsible for the deforesting of developments. Mr. Rainone replied in the negative. Mr. Regan stated the Shade Tree Commission is responsible for the Township's third year designation as a Tree City. Mr. Unger stated they work with the Arbor Society.

There being no further comments from the public, a motion was made by Mr. Sumter to close the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Chivukula and carried unanimously upon voice vote.

A motion was made by Mr. Chivukula to adopt the ordinance on final passage and publication in accordance with law. Said motion was seconded by Mr. Sumter and carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

Ordinance No. 3455

Mayor Levine offered the following ordinance:

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, STATE OF NEW JERSEY MORE PARTICULARLY CHAPTER 226, VEHICLES & TRAFFIC – SECTION 226-4, PENALTIES

Mayor Levine stated this ordinance is called up for second reading and final passage. The Township Attorney has approved the Affidavit of Publication and a public hearing is in order.

A motion was made by Mr. Chivukula to open the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Sumter and carried unanimously upon voice vote.

There being no comments from the public, a motion was made by Mr. Sumter to close the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Chivukula and carried unanimously upon voice vote.

A motion was made by Mr. Chivukula to adopt the ordinance on final passage and publication in accordance with law. Said motion was seconded by Mr. Sumter and carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

Ordinance No.3456

Mayor Levine offered the following ordinance:

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF FRANKLIN, SOMERSET COUNTY, NEW JERSEY, MORE PARTICULARLY CHAPTER 226, VEHICLES & TRAFFIC – SECTION 226-17, VEHICLES OVER DESIGNATED WEIGHT EXCLUDED (MAGNOLIA ROAD)

Mayor Levine stated this ordinance is called up for second reading and final passage. The Township Attorney has approved the Affidavit of Publication and a public hearing is in order.

A motion was made by Mr. Chivukula to open the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Unger and carried unanimously upon voice vote.

There being no comments from the public, a motion was made by Mr. Chivukula to close the public hearing on the aforesaid ordinance. Said motion was seconded by Mr. Sumter and carried unanimously upon voice vote.

A motion was made by Mr. Chivukula to adopt the ordinance on final passage and publication in accordance with law. Said motion was seconded by Mr. Sumter and carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

PUBLIC DISCUSSION

A motion was made by Mr. Chivukula and seconded by Mr. Sumter to open the meeting to the public. Said motion carried unanimously upon voice vote.

Mayor Levine announced that the meeting is opened for public discussion on any item of interest, which does have a public hearing of its own. He asked if anyone was interested to speak through the chair and when recognized to give his or her name and address to the Township Clerk. Mayor Levine instructed that each speaker would be allowed five minutes.

Jean Pellicane, 48 Irvington Avenue, representative of Food Bank, expressed her concerns regarding the amendments to the sign ordinance, specifically the time limit of non-profit organizations' placement of signs prior to an event. She stated that 15 days is not enough notice to get public participation at an event and recommended it be changed to 21 days. She stated there is not a section regarding time limit of removing signs.

Charles Seigel, Franklin Greens, agreed with Ms. Pellicane's comments, especially the removal of election signs, which should be 3-4 days.

Hal Frankel, Amethyst Way, asked if Council would reconsider reopening the water tower issue. He stated that the Beacon Hill Board voted against the placement of wireless antennas on the water tower and they thought it was a closed matter. He opposed the ordinance providing for eminent domain and asked Council to reconsider their vote.

Brian Francis, 252 Amethyst Way, opposed the placement of the wireless antennas on the water tower and expressed his understanding that an alternative would be the placement of a tower behind the Stop & Shop on Route 27.

Mayor Levine clarified that federal law permits a company to locate a cellular tower in a needed area and if the municipality opposes it, a court will impose it.

Arthur Davis III, 189 Sapphire Lane, stated he was unaware of the continuing discussion of this issue. He expressed his opposition of the placement of wireless antennas on the water tower.

Barry Frankel, 70 Balboa Lane, asked if due diligence was conducted in considering alternate sites. He stated that there are no long term studies that have been conducted regarding radiation affects. He asked Council to delay further action.

Scott Finder, 4 Diaz Court, stated alternate sites should be researched without risk to neighborhoods. He opposed the placement of wireless antennas on the water tower and behind the Stop and Shop. He asked Council to take a second look at eminent domain.

Clark Hwang, 234 Amethyst Way, read definition of "eminent domain" and expressed his opinion that it does not apply to this matter.

Charles Seigel, Franklin Greens, agreed with the previous comments made by the public regarding the placement of wireless antennas on the water tower.

Chris Talke, Beacon Hill, felt that the Association was misled by the Township Manager. He asked that Council not seek eminent domain and find an alternate location.

Mr. Daly stated Council would prefer to negotiate a settlement rather than start eminent domain proceedings. He stated he told the truth at Association meetings. He explained that Omnipoint has an application before the Zoning Board of Adjustment to locate a 122 foot cellular tower behind Stop and Shop. The water tower is an acceptable site as per Township Ordinance and an alternative to the building of a cellular tower behind Stop and shop. If there is not an alternative and the variance is granted, the tower will be built. Mr. Rainone agreed with Mr. Daly's comments. Ms. Eberle expressed her opposition to choosing between two neighborhoods. Mr. Rainone stated there have been hearings with health and radio frequency experts by the Board of Health.

Susan Meaney, 7 Ruby Court, opposed the placement of wireless antennas on the water tower.

Pam Fleming, 4 Topaz Drive, asked for clarification regarding Omnipoint's application. Mr. Daly replied their application involves the location of a new cellular tower behind Stop and Shop. Ms. Fleming asked if there were alternative sites. Mr. Daly replied Township Ordinance provides for prioritized sites, such as the water tower, steeples, high tension wires, township-owned buildings. Ms. Fleming opined that eminent domain does not apply to this matter because it is not a public benefit and she opposed placement of wireless antennas on the water tower.

Mark Fleming, 4 Topaz Drive, submitted a petition with 87 signatures on it collected over the last five days opposing placement of wireless antennas on the water tower.

Chip Hoever, 9 Stallion Court, supported the comments made by the residents of Beacon Hill.

Courtney Throckmorton, 591 Somerset Street, supported the comments made by the residents of Beacon Hill.

Anna Farma-Cimiluca, 185 Columbus Drive, supported the comments made by the residents of Beacon Hill.

Walter Howard, 148 Codington Avenue, read from his letter dated April 23, 2004 to the Township Council stating he is willing to donate his property located at Block 97, Lot 42 to the Franklin Township Food Bank which would remove the deed restriction at the time of the donation. The Food Bank would then sell the property to Habitat for Humanity for \$40,000.00, which would allow them to stock their pantry for a number of years. This would address two public needs – public housing and food bank.

Mr. Sumter recommended that the Township Manager and Township Attorney meet with Mr. Howard and resolve this matter.

Courtney Throckmorton, 591 Somerset Street, expressed his concerns regarding the amendments to the sign ordinance, specifically signs in the Redevelopment Area, campaign signs and garage sale signs.

Mr. Throckmorton thanked Mr. Regan for his suggestion of simple ordinance language.

Mr. Throckmorton expressed his opposition to tax abatement to new businesses in the Gateway Project area, noting it is unfair to the present business owners.

John McConville, 5 Stone Leigh Way, opposed use of open space funds for maintenance of the lands. Mr. Daly replied that the money bonded for open space is used for purchase only and the open space tax is used for the maintenance of the lands.

Fred Calderone, 1000 Hamilton Street, stated it is important that all businesses pay property taxes and it is not fair for redevelopment properties to receive tax breaks.

Harold Leventhal, 360 DeMott Lane, thanked Council of the proclamation honoring his friend, John Grosso and wished Mayor Levine a happy birthday.

Philip Kramer, 429 Canal Road, TUF, expressed his opinion of the freedom of speech and his opposition to the sign ordinance amendments.

Shirley Pietrucha, 40 9th Street, expressed her concerns and opposition to the sign ordinance amendments. She asked what the budget transfer was for and Mr. Daly replied it was \$500 for Senior Transportation. Ms. Pietrucha what the change was in the Redevelopment Plan. Mr. Daly replied that it rezones Block 123 from Residential Infill to Gateway Commercial.

Michael Orsini, 24 Nepote Place, supported the amendments to the sign ordinance.

Chip Hoever, 9 Stallion Court, opposed the amendments to the sign ordinance, noting they restrict freedom of speech rights and asked for an improved ordinance.

MOTION – Hold public hearing on cellular towers

A motion was made by Ms. Eberle to retain health and radio frequency experts in connection with cellular towers and hold a special public meeting before the Omnipoint application is heard in June. Said motion was seconded by Ms. Ashley-Williams and carried unanimously upon call of the roll.

At 10:30 p.m., the meeting recessed. At 10:45 p.m., the meeting reconvened.

COUNCIL COMMENTS

Ms. Ashley-Williams wished the Mayor a happy birthday.

INTRODUCTION OF ORDINANCES

Ordinance No. 3464

Mayor Levine presented the following ordinance:

AN ORDINANCE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET AND STATE OF NEW JERSEY AUTHORIZING ACCEPTANCE FROM THE RENAISSANCE AT FRANKLIN (RENAISSANCE AT RARITAN VALLEY) OF TWO (2) WATER LINE EASEMENTS; ELEVEN (11) UTILITY EASEMENTS; NINE (9) SIGHT EASEMENTS; TWO (2) BICYCLE PATH EASEMENTS; EIGHT (8) DRAINAGE EASEMENTS; ONE (1) RIGHT-OF-WAY AND TWO (2) CONSERVATION EASEMENTS.

which is presented to the Township Council for adoption on first reading, posting, publication in accordance with law and public hearing and final adoption on June 10, 1004.

The aforesaid ordinance was moved by Mr. Chivukula and seconded by Deputy Mayor McKenzie. Said motion carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			

Eberle	Levine
McKenzie	Regan
Sumter	Unger

Ordinance No.3465

Mayor Levine presented the following ordinance:

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF FRANKLIN IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY, MORE PARTICULARLY CHAPTER 112, DEVELOPMENT - SECTION 32.04, RENAISSANCE 2000 REDEVELOPMENT PLAN.

which is presented to the Township Council for adoption on first reading, posting, publication in accordance with law and public hearing and final adoption on June 10, 1004.

The aforesaid ordinance was moved by Mr. Chivukula and seconded by Ms. Ashley-Williams. Said motion carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

Ordinance No. 3467

Mayor Levine presented the following ordinance:

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF FRANKLIN, SOMERSET COUNTY, NEW JERSEY, MORE PARTICULARLY CHAPTER 112, DEVELOPMENT - SECTION 112-9G, SIGN REGULATIONS

which is presented to the Township Council for adoption on first reading, posting, publication in accordance with law and public hearing and final adoption on June 10, 1004.

The aforesaid ordinance was moved by Mr. Chivukula and seconded by Mr. Sumter.

Mayor Levine expressed his concerns with the amendments to the sign ordinance, which resulted in a lengthy discussion by Council. As a result, Mayor Levine moved to table the ordinance and schedule it for further discussion at the June 1st work session. Said motion was seconded by Mr. Sumter and carried as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

Council will submit this concerns and recommendations to the Township Manager prior to the June 1st work session.

CONSENT AGENDA

Items n-p were removed from the Consent Agenda and tabled.

Mr. Chivukula nominated himself, Mr. Regan and Mr. Unger to the Integrated Communications Committee. Said motion was seconded by Mr. Regan and carried unanimously upon call of the roll.

Upon motion by Mr. Chivukula, seconded by Deputy Mayor McKenzie, the following Consent Agenda Items were adopted as follows upon call of the roll:

<u>AYES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Ashley-Williams	Chivukula			
Eberle	Levine			
McKenzie	Regan			
Sumter	Unger			

- Appointment of Thomas Allaway as Regular Member representing the Franklin Park Senior Citizens Club on the Senior Citizen Advisory Committee for an unexpired one-year term ending 01/31/05 and appointment of Rose Allaway as Alternate Member representing the Franklin Park Senior Citizens Club on the Senior Citizen Advisory Committee for an unexpired one-year term ending 01/31/05.

Resolution #04-214 Transfer of Funds

BE IT RESOLVED by the Township Council of the Township of Franklin in the County of Somerset and State of New Jersey, that the following transfers be made from the Fiscal Year 2004 Municipal Budget Appropriations:

<u>DEPARTMENT</u>	<u>FROM</u>	<u>TO</u>
Liability Insurance	\$509.96	
Somerset County Senior Transportation		\$509.96

Resolution #04-215 Authorize refund of back property taxes to Szymborski, Block 474, Lot 6 (11 Fordham Road) in the amount of \$14,260.42 (Disabled Veteran Status).

BE IT RESOLVED that Henry F. Szymborski, owned Block 474, Lot 6 – 11 Fordham Road and was classified as a 100% permanent disabled veteran posthumously effective May 10, 1999 and that he passed away on July 8, 2001;

BE IT FURTHER RESOLVED by the Township Council of the Township of Franklin, County of Somerset, State of New Jersey that it hereby authorizes the refund of back local property taxes as follows:

<u>Year</u>	<u>Assessment</u>	<u>Tax Rate</u>	<u>Taxes</u>
2002	\$206,600	\$2.215	\$ 4,576.19
2001	\$162,500	\$2.343	\$ 3,807.38
2000	\$156,000	\$2.390	\$ 3,728.40
1999	\$149,900	\$2.457	\$ <u>2,148.45</u> (for 7/12 of the year)
		TOTAL	\$14,260.42

Resolution #04-216 Authorize Change Order for Senior Transportation Interlocal Agreement with Somerset County (07/01/03-06/30/04) in an amount not to exceed \$509.86.

WHEREAS, the Township Council of the Township of Franklin in the County of Somerset, State of New Jersey, has on June 26, 2003, authorized the awarding of a contract to

SOMERSET COUNTY TRANSPORTATION

**PO Box 3000
Somerville, NJ 08876**

An amount not to exceed \$40,000.00; and

WHEREAS, during the course of the contract, Somerset County increased their prices as of February, 2004, resulting in the need to increase the contract as follows:

CHANGE ORDER NO. 1:

Senior Transportation	\$509.96
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WHEREAS, the Chief Financial Officer has certified in writing hereon that funds are available and the Municipal Attorney has reviewed the certification of the Chief Financial Officer and is satisfied that said certification is in proper form;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin in the County of Somerset, State of New Jersey, does hereby authorize the issuance of Change Order N. 1 to the contract with Somerset County Transportation.; and

BE IT FURTHER RESOLVED that the Township Manager be and he is authorized to sign said Change Order on behalf of the Township.

Resolution #04-217 Authorize Extension of Contract for Duplicating Services for June 1, 2004 to July 30, 2004 with Innovative Business Services, Inc.

WHEREAS, the contract with Innovative Business Services, Inc. for duplicating services expires May 30, 2004; and

WHEREAS, the date of the bid opening for Duplicating Services had to be changed to May 4, 2004 because of the time frame required for advertisement of an addendum; and

WHEREAS, there is a need to extend this contract for the period of June 1, 2004 to July 30, 2004 on a monthly basis at the existing terms and conditions with the current vendor until a new contract is awarded; and

WHEREAS, the Chief Financial Officer has certified hereon that funds are available and the Township Attorney has reviewed the certification and is satisfied that said certification is in proper form;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Clerk be and the same are hereby authorized to extend the contract for duplicating services with Innovative Business Services, Inc. for the period of June 1, 2004 through July 30, 2004.

Resolution #04-218 Authorize Extension of Contract for Trash Removal from Buildings for July 1, 2004 to June 30, 2005 with Midco Waste Systems in an amount not to exceed \$10,288.00.

BE IT AND IT IS HEREBY RESOLVED that the resolution adopted on June 28, 2001 awarding bids for the Removal of Trash from Municipal Buildings for the period July 1, 2001 to June 30, 2004 and was extended by resolution on April 22, 2003:

**Midco Waste System
5 Industrial Drive
New Brunswick, NJ 08901**

be extended for the period July 1, 2004 to June 30, 2005 in an amount not to exceed \$10,288.00;
and

WHEREAS, the Chief Financial Officer has certified hereon that funds are available and the Township Attorney has reviewed the certification and is satisfied that said certification is in proper form;

WHEREAS, that continuation of the terms of this contract beyond June 30, 2004 is contingent upon availability of funds in the 2005 FY Budget, and in the event of unavailability of such funds, the Township of Franklin reserves the right to cancel this contract.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Clerk be and the same are hereby authorized to enter into a contract with the above listed company.

Resolution #04-219 Award Professional Services Agreement with Public Energy Solutions for LED modules for traffic lights in the amount of \$10,655.00.

WHEREAS, a need exists to contract for the below noted services for the Township of Franklin, County of Somerset, New Jersey; and

WHEREAS, the Chief Financial Officer has certified hereon that funds are available; and

WHEREAS, the Municipal Attorney has reviewed the attached certificate of the Chief Financial Officer and is satisfied that said certificate is in proper form; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40:11-1 et seq.) requires that the resolution authorizing the award of contracts for "PROFESSIONAL SERVICES" without competitive bids must be publicly advertised;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, County of Somerset, as follows:

- (1) The Mayor and Township Clerk are hereby authorized and directed to execute the below referenced agreement with the below stated vendor, which agreement shall be maintained on file with the Township Clerk and available for public inspection.
- (2) This agreement is awarded without competitive bidding as a "PROFESSIONAL SERVICE" under the provisions of the Local Public Contracts Law because it is a recognized profession licensed and regulated by law and it is not possible to obtain competitive bids.
- (3) A notice of this action shall be printed in the **LEGAL NEWSPAPER OF TOWNSHIP** as required by law within ten (10) days of its passage.
- (4) The vendor shall supply the Township of Franklin with Federal Affirmative Action Plan Approval or State Certificate of Employee Information Report within the time period specified by NJAC 17:27. The Contract shall contain the Mandatory Affirmative Action Language for Professional Service Contracts required by NJAC 17:27, a copy of which shall be attached to and incorporated in the Professional Service Agreement authorized herein.
- (5) The vendor shall agree to comply with the requirements of Title II of the Americans with Disabilities Act of 1990 and indemnify, protect and save harmless the Township the Township from all suits, claims, losses, demands or damages of whatever kind or nature arising out of or claimed to arise out of alleged violations of the Act. A copy of the Act shall be attached to and incorporated in the Professional Service Agreement authorized herein.

VENDOR NAME: PUBLIC ENERGY SOLUTIONS
ADDRESS: 407 Sette Drive, S4, PO Box 1849, Paramus, NJ 07653-1849
CONTRACT AMOUNT: Not to exceed \$10,655.00
SERVICE: LED modules for traffic lights

Resolution #04-220 Award Professional Services Agreements for Land Surveying Services with DeMuro Associates and Omland Engineering Associates in an amount not to exceed \$90,000.00.

WHEREAS, a need exists to contract for the below noted services for the Township of Franklin, County of Somerset, New Jersey; and

WHEREAS, the Chief Financial Officer has certified in writing, a copy of which certification is attached hereto, that funds are available; and

WHEREAS, the Municipal Attorney has reviewed the attached certificate of the Chief Financial Officer and is satisfied that said certificate is in proper form; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40:11-1 et seq.) requires that the resolution authorizing the award of contracts for "PROFESSIONAL SERVICES" without competitive bids must be publicly advertised;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, County of Somerset, as follows:

- (1) The Mayor and Township Clerk are hereby authorized and directed to execute the below referenced agreement with the below stated vendors, which agreements shall be maintained on file with the Township Clerk and available for public inspection.
- (2) These agreements are awarded without competitive bidding as a "PROFESSIONAL SERVICE" under the provisions of the Local Public Contracts Law because they are a recognized profession licensed and regulated by law and it is not possible to obtain competitive bids.
- (3) A notice of this action shall be printed in the **LEGAL NEWSPAPER OF THE TOWNSHIP** as required by law within ten (10) days of its passage.
- (4) The vendor shall supply the Township of Franklin with Federal Affirmative Action Plan Approval or State Certificate of Employee Information Report within the time period specified by NJAC 17:27. The Contract shall contain the Mandatory Affirmative Action Language for Professional Service Contracts required by NJAC 17:27, a copy of which shall be attached to and incorporated in the Professional Service Agreement authorized herein.
- (5) The vendor shall agree to comply with the requirements of Title II of the Americans with Disabilities Act of 1990 and indemnify, protect and save harmless the Township from all suits, claims, losses, demands or damages of whatever kind or nature arising out of or claimed to arise out of alleged violations of the Act. A copy of the Act shall be attached to and incorporated in the Professional Service Agreement authorized herein.

VENDOR: DEMURO ASSOCIATES
ADDRESS: 24 West Cliff Street Somerville, NJ 08876
SERVICE: Land Surveying Services for Open Space Lands for the period of June 1, 2004 through May 30, 2005.

VENDOR: OMLAND ENGINEERING ASSOCIATES
ADDRESS: 54 Horsehill Road Cedar Knolls, NJ 07922
SERVICE: Land Surveying Services for Open Space Lands for the period of June 1, 2004 through May 30, 2005.

CONTRACT AMOUNT: *The two contracts combined are not to exceed \$90,000.00*

Resolution #04-221 Renewing opposition to the construction of Route 92 in its present alignment.

WHEREAS, the following:

- The New Jersey Turnpike Authority (NJTA) has proposed an extension of the Turnpike to Route 1 near the Village of Kingston, known as "Route 92,"

- The United States Environmental Protection Agency has three times rejected wetlands permits required to construct Route 92,
- The New Jersey Department of Environmental Protection (NJDEP) issued wetlands permits to construct Route 92, contradicting the USEPA decision not to issue permits,
- The NJDEP wetlands permits to construct Route 92 have now expired,
- The NJTA has applied to the United States Army Corps of Engineers (USACE) to arbitrate this dispute and issue permits, effectively overriding the USEPA,
- The USACE has completed and publicly released a draft environmental impact study (DEIS or draft EIS),
- The Route 92 DEIS study area stops at the Middlesex County border, and does not study the damage that 92 would cause to all the communities to the west of Route 27, including communities within Franklin Township,
- Camp Dresser McKee, the contractor that the USACE hired to do the Route 92 EIS, has done substantial business with the New Jersey Turnpike Authority, raising a strong question of serious conflicts of interest in the preparation of the EIS,
- The Army Corps of Engineers itself was censured in 2001 by the United States Department of Defense for systematically favoring the issuing of construction permits over protection of the environment,
- The DEIS does not adequately address the impacts that Route 92 would have upon the region, and particularly the historic communities of Kingston, Griggstown, Blackwells Mills, and East Millstone,
- The DEIS statement of purpose and need has been crafted to exclude all possible and viable alternatives to Route 92 for relieving regional traffic,
- Route 92 would worsen, rather than relieve, the local traffic congestion problems in Franklin Township,
- Route 92 would stimulate extra traffic, sprawl, and pollution in the region to the west of its western terminus,
- Traffic, sprawl and pollution from Route 92 would particularly impact the historic communities of Kingston, Griggstown, Blackwells Mills, and East Millstone, in which the homes typically have short setbacks,
- Route 92 traffic would increase congestion on the roads in Franklin Township, make local travel more difficult, discourage walking and bicycling, and reduce the quality of life in Franklin Township's communities and neighborhoods,
- With or without Route 92, all but two local intersections in the DEIS study area still fail (according to the Army Corps' latest study in the DEIS),
- Route 92 will cause toxic runoff to leach into our underground aquifers which supply our drinking water,
- Route 92 would be built on top of the smallest (and therefore the most vulnerable) aquifer in the State of New Jersey,
- Route 92 would fragment one of the largest remaining contiguous open spaces in the region, disrupting wildlife habitat,
- Alternatives to Route 92 are already built, including Route 522, which is within one mile of 92, runs parallel to it, and is a free, multi-access highway that can handle high-speed traffic,
- Bus Rapid Transit (BRT), a viable system now being used throughout the United States, could solve the congestion problems 92 is supposed to solve, at a much smaller price tag, and without all the traffic and sprawl that 92 would cause,
- A study by the Delaware Valley Regional Planning Commission concluded that bus rapid transit with feeder service, rather than Route 92, was the most viable alternative to solve the serious congestion problems along Route 1 which Route 92 purports to address,
- Route 92 would waste scarce New Jersey public funds for transportation improvement, in a manner which would worsen the problems of sprawl and traffic, rather than relieving them,
- The United States Environmental Protection Agency has found that all counties of New Jersey have higher levels of air pollution than are permitted by Federal law,

- The State of New Jersey would lose Federal transportation funding unless it can be brought substantially into compliance with these Federally mandated levels of air pollution,
- Multiple scientific studies have established the fact that adding highway capacity induces traffic in regional road systems, beyond the capacity that was added, in a phenomenon known as “induced demand,”
- Route 92 would therefore induce additional traffic in the regional road system,
- Route 92 would therefore further add to air pollution by inducing traffic, rather than helping to reduce air pollution,
- Route 92 would send a signal to the USEPA that New Jersey is not serious about addressing the major cause of air pollution in New Jersey, i.e., automotive emissions,
- Route 92 would therefore add to the risk of the State’s losing Federal transportation funding,
- Projects such as BRT, light rail, or the Intelligent Transportation Systems (ITS) have not been adequately studied as alternatives to Route 92,
- Tolls charged on Route 92 would not pay for the interest on the bonds, let alone the principal, with the result that Route 92 would effectively impose taxes or result in increased tolls on the Turnpike,
- Franklin Township would be required to provide fire and EMT services to Route 92 vehicles, thus adding to local taxes,
- The Regional Planning Partnership (RPP) has already expressed an interest in extending Route 92 through property owned by NJDOT through Franklin and to Montgomery,
- Such an extension of Route 92 would be a “segmentation” process, and risks violating Federal environmental law,
- Such an extension of Route 92 would further exacerbate all the problems to Franklin Township which Route 92 in its present alignment would cause, including traffic, sprawl, pollution, noise, loss of open space, and loss of quality of life,
- Route 92 contradicts Governor James E. McGreevey’s strong support of both smart growth and fiscal responsibility,
- The New Jersey Turnpike Authority, the New Jersey Department of Environmental Protection, and the Governor’s Office of Smart Growth have had a period of six months to review the DEIS in substantially completed form, an opportunity which Franklin Township has not had,
- Franklin Township was not offered the opportunity to participate in the decision process leading to the proposal for the current alignment of Route 92, and is still not offered any such opportunity,
- Route 92 does not benefit the interests of Franklin Township, or other communities to the west of its western terminus, but instead benefits only a few very wealthy corporations who hope to profit from the traffic Route 92 would bring,

BE IT RESOLVED by the Township Council of the Township of Franklin, County of Somerset, State of New Jersey as follows:

- Franklin Township renews its opposition to the construction of Route 92 in its present alignment,
- Franklin Township urges Governor James E. McGreevey to cancel Route 92 now, and instead to:
 - Use the money allocated for Route 92 to fund transportation projects which will reduce sprawl, traffic, and smog, rather than exacerbating these problems;
 - Involve all municipalities in the No 92 Coalition in a fair and constructive process to relieve traffic congestion in the region, similar to the successful process used in the case of the Penn’s Neck Bypass;
 - Seriously investigate the possibility of using less polluting modes of transportation, such as BRT, light rail, or ITS, to relieve traffic along the Route 1 corridor and throughout the region;
 - Fund transportation projects that will protect Franklin’s, and the region’s, historic communities;

- Franklin Township finds that the process under which Route 92 has been promulgated has been both unfair and biased against the interests of its citizens,
- Franklin Township urges Governor McGreevey to stop the present EIS process and institute a more fair and participatory process to find a rational solution to traffic congestion in the region,
- Franklin Township urges NJDEP not to reissue wetlands permits to construct Route 92,
- Franklin Township urges the State Legislature and the Governor to speedily enact the Baroni/Inverso bill to deauthorize the Turnpike's construction of Route 92,
- Franklin Township will cooperate with the municipalities of the No 92 Coalition, and will contribute funding and other resources to the No 92 Coalition to fight 92,
- Franklin Township urges its citizens to also attend the USACE DEIS Hearing on May 20, 2004, 2-5 PM and 7PM-midnight, at the Radisson Hotel at Route 1 on Ridge Road,
- Franklin Township urges its citizens to contact Governor McGreevey and ask him to cancel plans to construct Route 92,
- Franklin Township will publicize these messages to its citizens through newspapers, mailings, electronic communication, and such other means as it has available,
- Franklin Township will join with the No 92 Coalition in making an extensive study of the DEIS, and in presenting comments verbally at the DEIS hearing and in writing to USACE within the comment period,
- Franklin Township will join in any efforts by the municipalities of the No 92 Coalition to defeat Route 92 in the courts,
- Franklin Township will join in any efforts by the municipalities of the No 92 Coalition to defeat Route 92 by all means necessary.

Resolution #04-222 Authorizing Tax Title Lien Redemptions – Outside Buyers.

WHEREAS, at a sale of land for delinquent taxes and all liens held by the Collector of Taxes of Franklin Township, Somerset County, various blocks and lots were sold to the following persons; and

WHEREAS, said property and/or liens have been redeemed by the owners thereof, and the purchasers of said property are legally entitled to a refund of monies paid at the time of redemption in the following specific amount;

NOW, THEREFORE, BE IT RESOLVED that the amounts covering the certificates of sale, together with all the charges due the said individuals at the time of redemption be and the same are hereby ordered refunded to the said individuals, and the proper officials of the Township of Franklin, Somerset County, New Jersey are hereby authorized and empowered to execute a voucher to the said individuals in the following amounts:

Date of Sale:	June 10, 2003
Block/Lot:	34.03/16.01
Name & Address:	Bittner, David 24 Crabapple Lane Franklin Park NJ 08823
Amount:	\$718.34
Make Check Payable To:	Ding Huang & Yi Ma 251 Woodside Lane Bridgewater NJ 08807
Certificate No.:	03-021
Payment Received:	April 16, 2004

Date of Sale:	June 10, 2003
Block/Lot:	424.04/239
Name & Address:	Giglio, Joseph 218 Parkside Avenue Trenton NJ (For 239 Tintern Court)

Amount: \$1,257.44
Make Check Payable To: James C. Older
 87 East Mountain Road Hillsborough NJ 08844
Certificate No.: 03-215
Payment Received: April 16, 2004

Date of Sale: June 7, 2001
Block/Lot: 276/5.01
Name & Address: Lee, Aso Jr. & Willye
 14 Carmen Street
 Somerset NJ
Amount: \$26,179.39
Make Check Payable To: Wachovia CT Phoenix Funding
 123 South Broad Street, PA 1328P Philadelphia Pa 19109
Certificate No.: 01-138
Payment Received: April 16, 2004

Resolution #04-223 Endorsement of 2003 Recycling Tonnage Grant Application.

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to Implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and to indicate the assent of the Township Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Franklin in the County of Somerset and State of New Jersey hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Hank Kolakowski, Superintendent of DPW to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

Integrated Communications Committee

- Appointment of Upendra Chivukula, Brian Regan and Eugene Unger as members of the Integrated Communications Committee.

Resolution #04-224 Resolution authorizing off-premises raffle for Friends of McCarrick Care Center on September 18, 2004 at 2:00 p.m.

WHEREAS, the following have made application to the Township of Franklin, Somerset County, for a Raffle/Bingo License; and

WHEREAS, said applications have been presented to the Mayor and the Chief of Police for Findings and Determinations; and

WHEREAS, the Clerk has reported that the proper fees have been paid;

NOW, THEREFORE, BE IT RESOLVED that the Clerk be instructed to issue a **RAFFLE/BINGO LICENSE** to the following:

<u>NAME OF ORGANIZATION</u>	<u>DATE OF RAFFLE/BINGO</u>
Friends of McCarrick Care Center 15 Dellwood Lane, Somerset, NJ Off-Premise 50/50 – RL#1435 Drawing: 15 Dellwood Lane, Somerset	September 18, 2004 2:00 PM
Franklin Township Pop Warner, Inc. P.O. Box 6644, Somerset, NJ Off-Premise Raffle – RL#1436 Drawing: Franklin High School Football Field	September 12, 2004 2:00 PM

Resolution #04-225 Issuance of Special Event Permit to the Middlebush Volunteer Fire Department for Fire Engine Wet Down on May 22, 2004 (rain date May 23).

WHEREAS, a request has been received from Middlebush Volunteer Fire Department (c/o Bob Cuddy, 21 Olcott Street, Somerset NJ) for permission to have a Fire Engine Wet Down on May 22, 2004 (rain date May 23), to be conducted on Olcott Street from Amwell Road to Smith Street, also Debow Street due to dead end; and

WHEREAS, Middlebush Volunteer Fire Department has requested that the Permit Fee of \$125.00 be waived since they represent a non-profit organization; and,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, County of Somerset, New Jersey, that permission is hereby granted to Middlebush Volunteer Fire Department to conduct a Fire Engine Wet Down on May 22, 2004 (rain date May 23), to be conducted on Olcott Street from Amwell Road to Smith Street, also Debow Street due to dead end, subject to compliance with the requirements of Township Officials, including but not limited to the Chief of Police and Director of Fire Prevention; and,

BE IT FURTHER RESOLVED that the permit fee of \$125.00 be waived since said organization is a non-profit organization; and

BE IT FURTHER RESOLVED that the conduct of this special event requires the closing of Olcott Street from Amwell Road to Smith Street, also Debow Street due to dead end , a public roadway of the Township of Franklin, and said closing is subject to the following conditions:

- (1) Said public roadway shall be closed to traffic between the hours when the Event commences and the time the event will be totally finished;

- (2) The closing of said public roadway in conjunction with said Event shall be accomplished in a manner whereby access by emergency vehicles is easily maintained at all times;
- (3) The Applicant shall notify all persons and businesses affected by said road closing. Said notice shall be in writing and served upon the person/business in person or by certified mail at least ten (10) days prior to the event. Affidavit of Service to said affected persons/businesses shall be prepared by the Applicant and filed with the Township Clerk at least five (5) days prior to the event;
- (4) Applicant shall provide an Insurance Policy to cover the Event and the closing of the aforesaid public roadway in conjunction therewith in the amount of \$1,000,000. Said policy shall name the Township of Franklin as additionally insured and a Certification of same shall be filed with the Township Clerk at least 5 day prior to the event;

BE IT FURTHER RESOLVED that the Applicant shall be responsible for providing a sufficient number of off-duty Police Officers to the satisfaction of the Chief of Police during the conduct of this event and;

- (1) Applicant shall deposit with the Township Finance Director, at least five (5) days prior to the event, an escrow amount sufficient to cover the cost of said off-duty police protection in accordance with the fee schedule set forth in Ordinance #1417;
- (2) Payment to said off-duty police officer for services provided shall be made by the Finance Department from said escrow deposit. Should escrow funds be found insufficient, the Applicant shall deposit additional funds with the Finance Department to cover the remaining cost of off-duty police protection;
- (3) Any unused monies deposited for off-duty police protection shall be returned by the Township Clerk to the person or organization making the deposit upon approval of the Chief of Police.

BE IT FURTHER RESOLVED that in accordance with Section 97-6 (e) of the Township Code that there shall be deposited with the Township Clerk a cash deposit, money order, certified check or treasurer's check in the amount of \$300.00 to guarantee the maintenance of the premises on which the applied for activity is to be conducted; and,

- (1) If at the end of such activity, the Health Inspector of the Township decides that the premises were not returned to the condition they were in as of the time that the applied for activity commenced, he/she shall be authorized to return the premises to such condition and to pay for having same done out of the deposit left with the Township Clerk for such purposes;
- (2) Any unused monies deposited for maintenance shall be returned by the Township Clerk to the person or organization making the deposit upon approval of the Health Inspector.

Resolution #04-226 Resolution authorizing release of Plan/Review Inspection Escrows – Mack Management (Franklin Development Company) – Docket No. PLN 2001-0012 in the amount of \$12,505.00.

WHEREAS, the Township of Franklin, Somerset County has received escrow monies for purposes of professional fees incurred for review of and/or testimony concerning an application for development in accordance with Section 112-29 of the Code of the Township of Franklin; and

WHEREAS, the project has been completed and the Township Engineer has certified to the Township Clerk the amount of money charged against the escrow and has recommended that the balance remaining as set forth be returned to the applicant:

APPLICANT: MACK MANAGEMENT (FRANKLIN DEVELOPMENT CO.)
 ADDRESS: 2115 Linwood Avenue
 Fort Lee NJ 07024

DOCKET NO: PLN2001-0012
 BLOCK/LOT: 517.01/8.07
 LOCATION: 500 Cottontail Lane
 AMOUNT DEPOSITED: \$4,900.00 Inspection Escrow
 AMOUNT CHARGED: 735.00
 AMOUNT TO BE REFUNDED: \$4,165.00

AMOUNT DEPOSITED: \$12,500.00 Plan Review Escrow
 AMOUNT CHARGED: 4,160.00
 AMOUNT TO BE REFUNDED: \$ 8,340.00

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, County of Somerset and State of New Jersey that the remaining escrow monies be returned to the above named applicant; and

BE IT FURTHER RESOLVED that the Chief Financial Officer be and is hereby directed to refund the escrow amounts herein.

Resolution #04-227 Resolution authorizing performance guarantee release for Franklin Development Company – Docket No. PLN 2001-0012 in the amount of \$312,923.52.

WHEREAS, the Township Clerk of the Township of Franklin, Somerset County, New Jersey 08873 has received the following:

ITEM: IRREVOCABLE LETTER OF CREDIT
 NAME OF APPLICANT: FRANKLIN DEVELOPMENT COMPANY
 ADDRESS OF APPLICANT: 211 Linwood Avenue, Suite 110
 Fort Lee NJ 07024
 NUMBER: SM417607C
 INSURANCE CO./BANK: First Union
 IN THE AMOUNT OF: \$312,923.52

FOR: Site Improvement for Docket No. PLN2001-0012, Block 517.01/Lot 8.07; and

WHEREAS, the aforesaid applicant has requested release of the aforesaid Performance Guarantee; and

WHEREAS, the Township Engineer, after inspection, recommends release of the aforesaid Performance Guarantee, since the project has been cancelled by the applicant;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, County of Somerset and State of New Jersey that the aforesaid Irrevocable Letter of Credit No. SM 417607C in the amount of \$312,923.52 be released to the above named applicant.

EXECUTIVE SESSION

Mayor Levine asked for a motion to adopt the following resolution calling for Executive Session for the items listed below:

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

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:

▪ **Personnel**

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, assembled in public session on this 11th day of May, 2004, that an Executive Session closed to the public shall be held on May 11, 2004, at 11:00 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 acquisition of property at such time as the property is acquired or the acquisition is abandoned.

This Resolution shall take effect immediately.

Motion was made by Deputy Mayor McKenzie and seconded by Mr. Chivukula, unanimously. Council adjourned to Executive Session at 11:00 p.m. Meeting resumed at 11:40 p.m.

ADJOURNMENT

Mr. Chivukula moved to adjourn the meeting at 11:40 p.m. Said motion was seconded by Deputy Mayor McKenzie and carried unanimously upon voice vote.

Brian D. Levine, Mayor

Ann Marie McCarthy, Township Clerk

Approved:

Date: