

**WORK SESSION OF THE TOWNSHIP COUNCIL
TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, NEW JERSEY
AUGUST 3, 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 Deputy Mayor McKenzie at 8:04 p.m.

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

CALL TO ORDER

The Township Clerk called the roll:

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

Absent: Mr. Chivukula, Mayor Levine

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

PUBLIC DISCUSSION

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

Michelle Tullio, attorney for Adam Latanzio, who is requesting the release of a deed restriction on 117 Alcorne Street (Block 193, Lots 69-72) to permit the building of a house on the property. She stated this case is distinguishable from other requests because the lot conforms to the Township Zoning Ordinance. She stated Mr. Latanzio paid fair market value for the property when he purchased it and has been assessed at fair market value. She stated the deed restriction is more restrictive than the Township's Zoning Ordinance.

Phil Kramer, 419 Canal Road, questioned when Ordinance #3465 was going to be acted on. Mr. Rainone replied the ordinance was tabled at the July 13th meeting to the August 10th meeting.

Courtney Throckmorton, 591 Somerset Street, asked Council not to rezone Block 123 because the residents in the neighborhood do not want it and it would destroy the neighborhood.

Shirley Pietrucha, 49 9th Street, reported the Michigan Supreme Court on Friday redefined the power of Michigan governments to take property for development projects, overruling a landmark 1981 decision. She asked that Council review this ruling before the next meeting.

John McConville, 5 Stone Leigh Way, asked Council to reconsider and start showing the Council meetings on the cable channel.

Tom Vislocky, 60 McGruffy Road, stated he disagrees with the dissolution of the Redevelopment Agency. He suggested Council refocus on why it was formed. He opposed the rezoning of Block 123 because it was not in the original plan. He recommended the vacancy on the Redevelopment Agency be filled. He was disappointed that Council Comments were tabled at the last meeting. He expressed his opposition of the canceling of the July Redevelopment Agency meeting, citing that it gave residents one less opportunity to voice their concerns to the Agency.

A motion was made by Ms. Ashley-Williams to close the meeting to public discussion. Said motion was seconded by Mr. Sumter and carried unanimously upon call of the roll.

REVIEW OF AUGUST 10, 2004 AGENDA

Deputy Mayor McKenzie led the following discussion of the August 10, 2004 agenda:

Ordinance #3479 – Amend Development Ordinance, Chapter 112, Section 9B, Subsection 25, Wireless Communications Antenna – Delete #9 Vliet Road Water Tower from First Priority Locations.

Mr. Regan asked for clarification of the purpose of this ordinance. Both Mr. Daly and Mr. Rainone replied the location was being deleted because the Township does not have the right to permit the location since the Homeowner's Association owns the land the water tower is located on. Mr. Regan expressed his concern of this ordinance setting a precedent of other locations being deleted. Mr. Regan suggested a purpose statement be included in the ordinance for clarification. Mr. Rainone stated he would prepare a statement with Mr. Daly and add it to the ordinance.

Ordinance No. 3465 – Amend Chapter 112, Development, Section 32,04, Renaissance 2000 Redevelopment Plan by changing the zone of Block 123 from Residential Infill to Gateway Commercial.

Deputy Mayor McKenzie suggested that reports by Mr. Daly and Stephanie Ferrier, Executive Director of the Renaissance Economic Development Corporation be added to the agenda to address the ordinance and the misinformation regarding the ordinance. He suggested that action on the ordinance be tabled until the September 14th meeting.

Motion – Add reports by Kenneth Day, Township Manager and Stephanie Ferrier, Executive Director of the Renaissance Economic Development Corporation regarding Ordinance No. 3465 – Rezoning of Block 123.

A motion was made by Ms. Ashley-Williams to add to the August 10, 2004 agenda reports by Kenneth Day, Township Manager and Stephanie Ferrier, Executive Director of the Renaissance Economic Development Corporation regarding Ordinance No. 3465 – Rezoning of Block 123. Said motion was seconded by Mr. Sumter and carried as follows upon voice vote:

Ayes: Ashley-Williams; Danile, Eberle, McKenzie, Regan, Sumter
Nays: Unger
Absent: Chivukula, Levine

Ordinance #3482 - Ordinance Amending Code Chapter 112, Development – Section 112-9G, Sign Regulations –

Mr. Regan asked for clarification regarding political signs. Mr. Rainone replied the ordinance allows political signs on private property, with the owner's permission and prohibits political signs on public property and public right-of-ways.

Ordinance #3483 – Ordinance Amending Ordinance No. 3073 entitled, “An Ordinance of the Township of Franklin, County of Somerset & State of New Jersey, Creating the Redevelopment Agency Pursuant to the Local Redevelopment and Housing Law (NJSA 40A:12A-1 et seq.) (Remove power of eminent domain from the Redevelopment Agency) – (Public Hearing and further consideration is scheduled for September 14, 2004 at 8:00 p.m.)

Ms. Ashley-Williams asked for clarification of Ordinance No. 3483. Mr. Rainone replied the ordinance was prepared as requested by Mayor Levine. The ordinance is amended to

remove the eminent domain authority from the Redevelopment Agency. Ms. Ashley-Williams stated it was her understanding the Redevelopment Agency needs Council approval for eminent domain. Mr. Rainone replied in the negative and noted this ordinance removes eminent domain authority from the Redevelopment Agency.

Ordinance #3484 – Ordinance providing for the disconnection of improperly connected sump pumps and related apparatus from the Township of Franklin Sewerage Authority Sanitary Sewer System — *(Public Hearing and further consideration is scheduled for September 14, 2004 at 8:00 p.m.)*

Mr. Daly reported Ordinance #3484 was requested by the Sewerage Authority to provide for the disconnection and enforcement of improperly connected sump pumps. Mr. Regan asked if the State law was insufficient. Mr. Rainone replied the NJ Department of Environmental Protection requires sewerage authorities to enforce regulations and sewerage authorities need local enabling ordinances. Mr. Regan asked how is an improper connection determined. Mr. Daly explained how a smoke test is conducted.

Ordinance #3488 – Ordinance Authorizing Final Appropriations for SFY2005 in Excess of the Cost of Living Adjustment (COLA) Rate — *(Public Hearing and further consideration is scheduled for September 14, 2004 at 8:00 p.m.)*

Mr. Daly reported he did not receive the State figures until Friday. He stated he still recommends introducing the ordinance. He stated the adoption of the ordinance does not mean the Township has to spend all it. He explained that if the ordinance is not adopted, it would impair the Township's future cap banks. He explained that if you don't budget up to the cap, you cannot carry it over into a cap bank. He stated that the Township has a cap bank from two year ago that will help restore some of the reductions made to the Police budget.

Mr. Daly withdrew his recommendation of moving the Code Enforcement budget outside of caps. He reported he would be finishing the proposed budget this week and have it printed for Council next week.

Ordinance #3486 – Amend Code Chapter in its entirety that regulates the issuance of licenses for outdoor traveling shows, carnivals, circuses and special events. — *(Public Hearing and further consideration is scheduled for September 14, 2004 at 8:00 p.m.)*

Mr. Regan how the amended ordinance differs from the current ordinance. Mr. Daly replied it increases the application submission date to ninety (90) days. Ms. McCarthy replied the ordinance provides the same information as stated on the application. Mr. Regan suggested that annual applicants be notified of the changes of the application process.

Resolution #04-341 – Grant a Temporary License for Ingress and egress and to Use and Occupy Township Owned Land to Robert Puskas for Block 85, Lot 11.01 – South Middlebush Road.

Resolution #04-342 - Grant a Temporary License for Ingress and egress and to Use and Occupy Township Owned Land – Brian Thigpen – Block 11.01, Lot 73.01 – Coppermine Road.

Mr. Daly reported the aforesaid resolutions are to be tabled from the agenda because they are not ready to be acted upon.

Resolution #04-343 – Authorize Renewal of Liquor License for 2004-05 – BMBE Inc., t/a Halftime Pub (1808-33-007-005).

Ms. Ashley-Williams questioned the reason of renewing the aforesaid license when there has been many problems with it. Mr. Rainone replied the license has changed ownership and the Police Department has recommended its renewal with strict conditions placed on it. Mr. Regan asked what happens if the licensee stops adhering to the conditions. Mr. Rainone replied the license can be revoked.

Resolution #04-358 – Award State Contract to IKON and Minolta for photocopiers for all departments in the total amount of \$28,000.00.

Resolution #04-359 – Award State Contract to IKON for photocopies in the Recreation Department in the total amount of \$15,624.00, Municipal Court in the total amount of \$6,307.20 and Police Detective Bureau in the total amount of \$6,307.20.

Ms. Ashley-Williams asked for clarification of the aforesaid resolutions. Ms. McCarthy replied that Resolution #04-358 is a contract for the copies located in the Municipal Complex. Resolution #04-359 is a contract for copies location in the Recreation, Municipal Court and Police Departments.

Resolution #04-363 – Authorize Purchase under State Contract for copy paper for all departments in an amount not to exceed \$30,000.00 to Paper Mart and Central Lewmar.

Resolution #04-364 – Authorize Purchase under State Contract for the purchase of office supplies for all department to Raritan Valley Office Supplies/Somerset Office supplies/State of NJ Distribution & Support/W.B. Mason in a total amount not to exceed \$50,000.00.

Ms. Ashley-Williams questioned why the Township does not purchase paper from the vendors that it purchases office supplies from. Mr. Daly replied the Township receives a better price for copy paper from Paper Mart and Central Lewmar.

Appointments

Deputy Mayor McKenzie recommended the appointments (xx-ggg) be removed from the Consent Agenda and scheduled for the September 14th meeting.

COUNCIL COMMENTS

Mr. Regan expressed his disappointment that he motion to table Ordinance No. 3462 at the June 24th meeting was not seconded. He stated that he recommended tabling the ordinance based upon the Planning Board's request for more time to provide information. He stated the non-seconding of his motion implied that Council had enough information on the ordinance to vote on it.

Mr. Regan explained that it was the understanding that the Township was receiving 50 senior citizen affordable housing units at no cost. He stated this is no true because the developer was allowed an extra 100 units, which at \$200,000 per unit, the developer will make \$20 million. He stated that his numbers have not been disproved after review by the Township Manager. He stated he was angry and disappointed that his motion was not seconded. He deeply regretted that the senior citizens were misinformed. He stated he would address the lack of leadership at the next meeting.

REQUEST FOR WAIVER OF WATER CONNECTION FEES
SOMERSET COMMUNITY ACTION PROGRAM

Mr. Daly reported this request has been previously discussed by Council. Mr. Daly stated he felt it was in good faith to revisit this request since Council members withdrew from a final decision because it was the understanding that the capital connection fees would be decreasing this year. Since that discussion, the auditor have increased the capital connection fees from \$1033 to approximately \$1300. Mr. Daly stated his recommendation to not waive fees still stands. After a very brief discussion, it was the consensus of Council to accept the recommendation of the Township Manager.

REQUEST FOR RELEASE OF DEED RESTRICTION
117 ALCORNE STREET – BLOCK 193, LOTS 69-72

Mr. Daly reported that Council has received the same reports they received in June from various staff members. Mr. Daly reminded Council that the lots were sold with the deed restriction and by removing the deed restriction, the value of the land would increase, creating a windfall.

After a brief discussion by Council, a motion was made by Mr. Regan to place a resolution on the September 14th agenda to either approve/deny the release of the deed restriction.

Ms. Ashley-Williams asked why the restriction was placed in the first place. Mr. Daly replied that former Clerk Jean Pellicane and former Councilman Mettler explained that the Township sold land to raise money but placed deed restrictions on these lands so there would not be future tax liabilities on the land. If the deed restriction is released, the value increases as well as the selling price.

A brief discussion ensued regarding the reason of the deed restriction, whether the owner was aware of the implications of the deed restriction and whether Council would be inclined to modify the deed restriction as an option.

The motion failed as follows upon call of the roll:

Ayes: Ashley-Williams, Regan, Unger
Nays: Danile, Eberle, McKenzie, Sumter
Absent: Chivukula, Levine

SPEED HUMPS

Mr. Daly stated that Council has received memoranda and information regarding speed humps. Mr. Daly reported that in Sergeant Vornlocker's memorandum dated June 19, 2002 he recommended that Council, if it chooses to pursue the installation of speed humps on Township streets, develop an application process along with justification criteria. Mr. Daly stated that if Council so chooses, Sergeant Vornlocker would write a policy on speed hump installation for their review. A brief discussion ensued regarding the issue of speed humps. Mr. Rainone stated Edison has a written policy and recommended Sergeant Vornlocker contact the Edison Police Department. Mr. Daly stated he would direct Sergeant Vornlocker to write a speed hump policy and have it reviewed by Fire Prevention and the ELS Committee prior to Council review.

COUNCIL COMMENTS

Ms. Ashley-Williams announced it was National Night Out. She recommended that since it is always the first Tuesday of August that it be considered when addressing the 2005 Council Meeting schedule so Council members can participate in National Night Out.

EXECUTIVE SESSION

Deputy Mayor McKenzie 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 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 – FMBA Contract**
- **Litigation – Settlement of Tax Appeals – Davidson Associates and ESA, New Jersey, Inc.**

NOW, THEREFORE, BEIT RESOLVED by the Township Council of the Township of Franklin, assembled in public session on this 3rd day of August, 2004, that an Executive Session closed to the public shall be held on August 3, 2004, at 9:25 p.m. in the Franklin Township Municipal Complex, 475 DeMott Lane, Somerset, New Jersey for the discussion of matters relating to the specific items designated.

It is anticipated at this time that the above-stated subject matters 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 Ms. Ashley-Williams and seconded by Mr. Regan, unanimously. Council adjourned to Executive Session at 9:25 p.m. Meeting resumed at 9:55 p.m.

ADJOURNMENT

Upon motion made by Ms. Ashley-Williams, seconded by Mr. Sumter and unanimously agreed, the Work Session was adjourned at 9:55 p.m.

Respectfully submitted,

Ann Marie McCarthy, RMC, CMC
Township Clerk

Approved:

Date: