

WORK SESSION OF THE TOWNSHIP COUNCIL
TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, NEW JERSEY
SEPTEMBER 25, 2001

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 the Deputy Mayor at 7:07 P.M. In the absence of Mayor Clyde, Deputy Mayor Eberle presided.

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

1. CALL TO ORDER

The Township Clerk called the roll.

Present: Deputy Mayor Eberle, Mr. Grippo, Mr. Levine, Mr. Mazzola, Mr. Sumter

Absent: Ms. Barrier, Mr. Chivukula, Mayor Clyde, Mr. Mettler

Also present: Louis N. Rainone, Esq., Township Attorney, Kenneth W. Daly, Township Manager, Jean C. Pellicane, RMC, Township Clerk

2. REVIEW PREPARED AGENDA FOR REGULAR MEETING

9. ORDINANCE HEARING - AMEND BOND ORDINANCE NO. 3119 - ACQUISITION OF ELKINS PROPERTY - BLOCK 259/LOT 74 - \$700,000.00 TO \$1,200,000.00

Township Clerk Pellicane noted Council's prior decision to defeat this ordinance based on the ultimate cost of acquisition.

21. ORDINANCE INTRODUCTION - AMEND CODE - CHAPTER 222 - TREE REMOVAL

Mr. Mazzola noted that the ordinance has not been reviewed by staff and other interested boards and committees, and suggested that ordinance introduction be deferred until reports from these agencies have been received. Township Manager Daly advised that copies of the ordinance have been distributed to the Planning Board, Environmental Commission, Agricultural Advisory Committee and the Business and Industry Advisory Committee. Their reports have not been received at this time.

Mr. Grippo suggested that the deferral of the ordinance introduction be discussed after Mayor Clyde's arrival for the Regular Meeting. Township Attorney Rainone suggested that the ordinance introduction proceed to get the process going. Mr. Levine expressed concern about giving the perception that Council is trying to push the ordinance through without input from the various interested agencies.

19. ORDINANCE INTRODUCTION - ACCEPT PRESERVATION AREA DEEDS - LaFONGE ASSOCIATES AND HAR REALTY - BLOCK 37.02

Township Manager Daly noted previous transmittal of a report from Township Engineer Joseph Russo that conditions set forth in the HAR developer's agreement regarding the open space have been satisfied.

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24. ORDINANCE INTRODUCTION - AMEND CODE - CHAPTER 29, JOINT TOWNSHIP ADVISORY COMMITTEE/VILLAGE OF KINGSTON (NEW CHAPTER)

Township Clerk Pellicane advised Council that the ordinance as revised by the Council was forwarded to the Chairman of the Kingston Initiative and the Municipal Clerk of South Brunswick. The Kingston Initiative Chair, however, has moved and is no longer affiliated with the Initiative and the ordinance was not received. Copies have been provided to new co-chairs Anne Zeman and George Luck. Responses have not been received from either agency to date.

Council determined to defer introduction of this ordinance pending response from Kingston Initiative and South Brunswick Township.

26. ORDINANCE INTRODUCTION - ACCEPT DEEDS OF DEDICATION - RECONSTRUCTION OF SCHOOLHOUSE ROAD FROM WESTON CANAL ROAD TO METTLERS ROAD - DIGIORGIO, MESSINEO, ALFONSO, CANAL WALK ASSOCIATES, MILLSTONE SCHOOL ASSOCIATES, SELODY

In response to a question from Mr. Levine, Township Attorney Rainone advised that the property owners along Schoolhouse Road have reached agreements with the Canal Walk developers and have dedicated right of way for Schoolhouse Road to the Township. The Council must now accept the dedicated right of way by ordinance.

27U. EXTENSION OF SANITARY SEWER SERVICE AREA - GRIGGSTOWN QUAIL FARM - BLOCK 20.02/LOT 45.03

In response to a question from Mr. Levine, Township Manager Daly advised that:

1. The owner of the quail farm is working to get the land in the farmland preservation program. The ability to connect to the sanitary sewer would assist the owner in meeting FDA requirements for his farm products. The resolution should be contingent upon the entering of the property in the farmland preservation program since the sanitary sewer facilities would increase the value of the land and make it desirable for development.
2. Adoption of the resolution grants Council approval of the concept of having the FTSA approach the MCUA and NJDEP to permit the expansion of the sewer service areas. There is no guarantee that the expansion will be approved.
3. Council questioned the possibility of this expansion of the sewer service area resulting in similar requests from other property owners. Township Manager Daly responded that the farm fronts on Bunker Hill Road where the sewer lateral is being installed, but because it is located on the opposite side of the street and not in the sewer service area, it is precluded from connecting to the sewer. Considering the location of the property in relation to the sewerage facilities being installed in Griggstown, the only other properties which could benefit from an additional expansion of the sewer service area is an 8 acre tract to the north and the already developed homes in Town & Country Estates.

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Mr. Mazzola requested that the resolution be amended to provide that it is not effective until the property has been placed in farmland preservation and that it be removed from the Consent Agenda and added for separate consideration. Council concurred.

29. APPOINTMENT - VETERANS MEMORIAL COMMITTEE - ONE (1) VACANT TOWNSHIP COUNCIL POSITION

Mr. Sumter indicated that he would be willing to join Mr. Mazzola & Mr. Grippo on the committee.

3. COMMITTEE REPORTS

Library Board of Trustees

Mr. Grippo reported that the Library Board has adopted a resolution authorizing that the grant money received for the Library expansion will be given to the Township to reduce the amount to be bonded by the Bond Ordinance. The grant approval is anticipated by mid-November. If all 144 grant applications are approved by the State, the Township would get 83% of the grant for which it applied. It is anticipated, however, that the whole grant request will be received.

Senior Citizen Advisory Committee

Deputy Mayor Eberle reported that the Senior Citizen Advisory Committee held a successful public hearing last night on the non-binding referendum requesting the Township Council to provide funding for the installation and maintenance of the senior housing.

4. REQUEST FROM SOUTH BRUNSWICK TOWNSHIP TO JOIN COALITION TO OPPOSE ELIZABETHTOWN WATER COMPANY'S RATE INCREASE

Township Attorney Rainone reported that the Elizabethtown Water Co. request for a rate increase was filed last Spring. The BPU has conducted the public hearing and the request is pending before that Board. The Ratepayers Advocate is representing the public and has an expert witness who will testify. The public comment period closes at the end of this month. South Brunswick asked the Township to join with the group to oppose the rate increase. To be effective, the group would need to hire an expert to analyze the rate increase and its impact which is being done by the Ratepayers Advocate. Township Attorney Rainone recommended that the Township allow the Ratepayer Advocate to represent our interests. Report recently received from Director of Public Works C. Andrew Twiford indicates that Elizabethtown hasn't had a rate increase in 10 years and that the BPU will probably not grant the entire rate increase requested.

Upon a motion made, seconded and agreed, Council concurred with the advice of the Township Attorney and requested the Township Manager to advise South Brunswick that we decline the request to participate.

5. VACATION OF QUEEN'S PLACE FROM EQUATOR TO WESTERN TERMINUS

Council reviewed this request on behalf of NII Real Estate Holding Corporation for the vacation of a portion of Queens Place from Equator Avenue to the westerly terminus of that portion of the road.

Township Manager Daly advised:

1. Council will be taking action this evening to establish a policy not to sell Township land unless there is a benefit to the Township. This small paper street has no value to the Township.

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2. Report received from the Township Engineer does not address whether the vacation would create a buildable lot for the adjacent property owners. Even if the Township vacated the street with a restriction that the land could not be used for construction of a dwelling, the property owners could apply for a release of that restriction in the future.

Township Attorney Rainone advised that consideration of the request would be easier if an application for development were filed and Council would know what advantage the property owner would receive from the vacation. Council could advise the applicant that, if there is a plan to develop the property and a plan of the proposed development is submitted at a future date, the Council can reconsider the request.

Council concurred with the Township Attorney's suggestion and authorized the Township Manager to have the Economic Development Director contact the property owner.

6. VACATION OF CULVER STREET FROM THIRTEENTH STREET TO WESTERLY TERMINUS

Council reviewed the request from Norma Mansfield for the vacation of a portion of Culver Street from Thirteenth Street to its southwesterly terminus.

Township Attorney Rainone noted that the vacation would landlock Lot 15.05 in Block 425.03 which appears to possibly have access through a private right of way to Walnut Avenue but which would be precluded from using Culver Street for access if the street is vacated.

Deputy Mayor Eberle requested Township Manager Daly to get input from the neighboring property owners.

7. MILITARY LEAVES - EMPLOYEES

Mr. Mazzola noted that the decision in this matter could impact him as a member of the Air Force Reserve and questioned his ability to participate in the discussion. Township Attorney Rainone advised that Mr. Mazzola can participate.

Township Manager Daly advised that:

1. Assistant Manager Marc Dashield is getting information on the numbers of employees who could be called up for active duty.
2. Council reviewed September 21st memo from Assistant Township Manager Dashield noting that the current Township Ordinance provides that such employees be granted military leave in accordance with State and Federal Law. The Veterans Reemployment Rights Law and NJSA Title 38, Soldiers, Sailors, Marines Statute have been reviewed. Two areas requiring Council policy have been noted:

"Any officer, department, institution, committee, commission or other body of the state or any subdivision or municipality thereof, may pay in his or its discretion the whole or a part of the salaries or compensation of their employees or attaches during the time that are engaged in a branch of the military or naval service of the national government or this state.

No greater portion of the salary or compensation of a commissioned officer as an employee of a department of the state or municipal government shall be paid to him under this section than will, when added to his salary as such commissioned officer, equal the amount paid to him by the state of municipal department before entering the military or naval services.

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Based on the above statute the Township has three policy options:

1. Not to provide any compensation to Reservist and National Guard members while on active duty in a "Emergency" as defined by NJSA 38:23-4.1
2. Pay enlisted and non-commissioned officers who are members of Reserves or National Guard their full salary and pay commissioned officers any differential between their current salary and their military pay while on active duty in an "Emergency" as defined by NJSA 38:23-4.1.
3. It is recommended that the Township pay all members of the Reserves and National Guard any differential between current salary and their active duty salary and continue their medical benefits during time of service.

I would recommend that Township Council consider option three since it provides the most equitable alternative.

Furthermore, NJSA 38:23-4 details that any member of the Reserves and National Guard during the period of a leave of absence (military leave) shall be entitled to all the rights, privileges and benefits that they would have had if they actually served in their public office. Therefore, employee on active duty shall continue their benefits such as Medical, Dental, Prescription, Optical and Pension. Families of members of the Reserves and National Guard will be eligible for state pension insurance death benefits.

A number of employees within the Township are required to contribute by payroll deductions to the cost of part of their prescription premiums, dental premiums and some medical premiums if they choose a plan other than the basic medical plan. The Statute does not require a municipality to pay the cost an employee would pay for Health benefits. The statute does however require the Township to contribute the employees' portion of pension contributions as indicated in NJSA 38-4. Consequently, I would request Council to consider picking up the cost the employee would have paid for dental, prescription and medical premiums.

Mr. Mazzola noted that the Soldiers, Sailors, Marines Statute provides two different scenarios – one where the employee has involuntarily been called back and one where the employee volunteers to serve. Mr. Mazzola recommended that the Township use the most liberal interpretation to grant employees the benefits and other protections of the law such as seniority, regardless of whether their service is involuntary or voluntary.

Council concurred with Mr. Mazzola's recommendation, and an ordinance to amend the Code accordingly will be prepared.

8. COUNCIL COMMENTS

Council comments were not solicited.

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

Read by Deputy Mayor Eberle

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

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

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

Property Acquisition - Nepote/Negri

Matters Relating to the Purchase, Lease or Acquisition of Real Property or the Investment of Public Funds: Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

Litigation - Pizzo & Pizzo vs. Franklin Township and the Franklin Township Sewerage Authority

Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege: Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, assembled in public session on this 25th day of September, 2001, that an Executive Session closed to the public shall be held on September 25, 2001, at 7:46 pm in the Franklin Township Municipal Complex, 475 DeMott Lane, Somerset, New Jersey for the discussion of matters relating to the specific items designated above.

It is anticipated at this time that the above-stated subject matter will be made public:

With respect to litigation, negotiation, collective bargaining and Attorney-Client Privilege at the conclusion of said litigation or negotiations;

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 Mr. Grippo and seconded by Mr. Mazzola; motion was carried unanimously. Council adjourned to Executive Session at 7:46 p.m. Meeting resumed and was immediately adjourned at 8:01 p.m.

Respectfully submitted,

Jean C. Pellicane, RMC
Township Clerk