

WORK SESSION OF THE TOWNSHIP COUNCIL
TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, NEW JERSEY
NOVEMBER 27, 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 Mayor at 7:03 P.M.

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

1. CALL TO ORDER

The Township Clerk called the roll.

Present: Mayor Clyde, Deputy Mayor Eberle, Ms. Barrier, Mr. Chivukula, Mr. Grippo, Mr. Levine, Mr. Mazzola, Mr. Mettler, Mr. Sumter

Absent: No One

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

8. ORDINANCE HEARING - AMEND CODE - CHAPTER 151, HOUSING STANDARDS - SECTION 151-9B & D, NOTICE OF VIOLATIONS, SUMMONS, EMERGENCY ORDERS; CHAPTER 183, PROPERTY MAINTENANCE - SECTION 183-9, VIOLATIONS AND PENALTIES; CHAPTER 201, SEWERS AND SEWAGE DISPOSAL, SECTION 201-3, VIOLATIONS AND PENALTIES

Mr. Mettler noted his objection to the proposed ordinance since increased penalties will impact owners of older homes which tend towards septic problems and whose residents may be less able to pay higher penalties. Township Manager Daly responded that the purpose of penalties/increased penalties is to encourage compliance and avoid pollution of groundwater, aquifer and the environment rather than to punish violators. Fines are at the discretion of the Municipal Court Judge, and when the property owner has complied prior to the court hearing, in most cases the penalty is waived. The ordinance increases the maximum fine but does not change the minimum fine.

Ms. Barrier noted that if the owner is in violation because of financial constraints, higher fines will not serve any purpose. Township Manager Daly responded that penalties are required by law regardless of the violator's ability to pay. Meeting housing standards is part of the cost of owning a house, and in cases of financial hardship, Township enforcement officers will put homeowners in touch with County, CDBG or other organizations which can assist them in meeting the criteria.

Mr. Mazzola questioned if the Township has had a problem with enforcement because current fines are ineffective and if the proposed fines are in line with other municipalities. Township Manager Daly responded in the affirmative to both questions.

In response to a question from Mr. Chivukula, Township Manager Daly advised that the ordinance was requested by the Director of Health.

Township Attorney Rainone noted that municipal courts seldom impose maximum fines and would not impose a fine that is confiscatory. The purpose of the fine is to force compliance.

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Mayor Clyde noted the need for coordination between Code Enforcement Officers and Municipal Judges and that Council would expect Municipal Judges to be patient and understanding.

13C BUDGET - FY2001 INSERTION - NEW JERSEY DEPARTMENT OF HIGHWAY SAFETY - CHILD PASSENGER SAFETY EDUCATION GRANT - \$4,200.00

In response to a question from Mr. Grippo, Township Manager Daly reported that the Grant is used to pay for police officer enforcement of child safety laws and providing on-the-street education to violators.

13D BID AWARD - CELLULAR TOWER COMPANY a/k/a AT&T WIRELESS - CELLULAR TOWER REPLACEMENT AND CONSTRUCTION EQUIPMENT - PAYMENT TO TOWNSHIP OF \$18,000.00 PER YEAR

Mr. Mazzola requested an update from the Township Attorney on the protest to the bid award received. Township Attorney Rainone noted that he responded to the protester citing that the bids were solicited in accordance with the provisions of the Local Public Contracts Law rather than the Local Land and Buildings Law as cited by the protester. The recipient of the bid award represents the lead agency in the leasing of the tower, takes the initial risk for construction costs and gets first choice of location on the tower. After that, every user signing on to use the tower has equal opportunities. A letter withdrawing the protest has been received from the protester.

13F CHANGE ORDERS 1 & 2 - ICON CONSTRUCTION CORPORATION - ADDITIONS/ALTERATIONS - COMMUNITY/SENIOR CENTER - \$1,610.07 & 5,889.93

In response to a question from Mr. Grippo, Township Manager Daly advised that the two Change Orders represent completion of this project.

In response to a question from Mr. Levine, Township Manager Daly advised that the change orders are within the scope of existing funding for the building improvements.

13M PROFESSIONAL SERVICE AGREEMENT - APRIL KEENAN - DRAFTING SERVICES/WATER MAIN CLEANING & RELINING, PHASE VII - \$10,000.00

In response to a question from Mr. Chivukula, Township Manager Daly advised that April Keenan has provided these services for all prior phases of this project and that we are now proceeding with the seventh and last phase.

Community/Senior Center – Maintenance Issues

Mayor Clyde reported that, in response to a presentation by Ann Chiavaroli at the last meeting regarding maintenance at the Community/Senior Center, a tour of the building found all comments made to be well founded in terms of a desire to prevent small problems from accelerating into large ones. Director of Parks & Recreation Alice Osipowitz will be doing a report of the tour and corrective actions.

Dunham-Lebed Park – Impact on Barmouth Court Properties

Mayor Clyde reported that he and Councilman Chivukula visited the Barmouth Court homes, prompted by property owner complaints at the November 13th meeting. As a result of park improvements, vegetation along the common boundary was removed, leaving the adjacent property owners with no privacy for their back yards. Mayor Clyde and Mr. Chivukula agreed that there is need to

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install vegetation for screening purposes, with the possible need for fencing to be determined in the future.

Mr. Chivukula added that there is concern on the part of the Barmouth Court residents of people walking through their yards to gain access to the park and suggested the installation of a chain-link fence along the park boundaries, with vegetation to be planted by the Township on the park side and vegetation to be planted by the property owners on their side of the fence.

Mayor Clyde requested Council to authorize the Township Manager to obtain cost estimates for presentation to Council. Township Manager Daly noted that a change order over the original budget for this project has already been approved for \$6,081 for moving the driveway, and that the fencing/vegetation is not in the budget.

Mr. Mazzola expressed his surprised that fencing was not proposed initially since there is need to divide the park from private housing, concurred with the need for cost estimates, and noted that, unless really immature planting is proposed, the cost will be expensive.

Mayor Clyde responded that the Council will need to insure that adequate funding to finance these extra items is available which may require the rearrangement of other items in the FY2002 Capital Budget.

3. COMMITTEE REPORTS **FINANCIAL OVERSIGHT COMMITTEE - FRANKLIN-SOMERSET** **FIRST AID SQUAD BUILDING**

Mr. Chivukula reported that the Financial Oversight Subcommittee discussed the need for a new building for the squad, location of such building and the funding therefor. An amount of \$285,000 was appropriated by the Township several years ago and remains available. The cost estimate for the building as prepared by Capital Project Engineer Jim Pettit at the time of initial consideration is \$450,000, resulting in a \$165,000 differential. In addition, daytime service provider Rural Metro needs a place to park its ambulances during the day. Based on this information, Mr. Chivukula is of the opinion that the Township should construct a building.

Mayor Clyde concurred that Council should give serious consideration to constructing the building and noted:

1. The overall location of the building in the vicinity of a high volume call area is a good idea, however, staff input on the most appropriate location should be sought. Township Manager Daly responded that the \$450,000 estimate does not include buying other land or other soft costs such as legal fees.
2. The building should be owned by the Township, leased at nominal cost to FSFAS and to the daytime response crew.
3. The Squad should be required to take on some of the burden of raising funds.
4. The FY2002 Capital Budget will require review and possible rearrangement of priorities to accommodate the cost of construction and suggested that the matter be referred back to the Financial Oversight Subcommittee for review and recommendation.

Mr. Sumter concurred with Mayor Clyde.

Mr. Grippo concurred but noted the need to insure that the Squad is sensitive towards the maintenance of the building and that fundraising activities by the Squad should be used for furnishings rather than building construction since the Township will own the building. Mr. Mettler noted that based on prior presentations, the Squad has already raised a significant amount of money.

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Mr. Levine questioned 1) the benefit to the Township which would be derived from this expenditure; and 2) what other capital projects are expendable to be replaced by this project, and if they are expendable, why have they been included in the Capital Budget.

Mr. Mazzola noted that, to insure the continuation of the quality of service, a requirement of Township construction of the building should be that the Squad re-join the New Jersey Association of Rescue Squads and comply with their training and qualification requirements.

Township Clerk Pellicane noted that at the time of the initial consideration of this matter, the building was to be constructed on lands owned by the Squad. In order to permit the Township to construct the building, the land had to belong to the Township. The land was transferred, but when the project was abandoned, the land was returned to the Squad. The land transfer will probably have to be repeated if the project is resurrected.

Council determined:

1. The Financial Oversight Subcommittee will meet prior to the end of 2001 to provide the requested review and recommendations and that any members of Council with questions or suggestions should bring same to the Subcommittee's attention.
2. There is need to discuss the proposed conditions with the Squad to insure they are interested in pursuing the matter. There was discussion regarding whether the Squad should be invited to attend the Financial Oversight Subcommittee meeting or if the Subcommittee should determine the feasibility of the project before involving the squad.

Mr. Grippo moved to authorize the Financial Oversight Committee to proceed with the review and recommendation and to authorize ordinance introduction to provide the funding in January. Mayor Clyde seconded the motion. Mr. Levine objected to the motion before the Subcommittee study. Mr. Grippo amended his motion to authorize preparation of the ordinance instead of introduction.

Township Attorney Rainone suggested that Council authorize staff to begin discussions with the FSFAS and Rural Metro on legal issues before proceeding with the Financial Oversight Subcommittee study for financial issues. Mr. Grippo amended his motion accordingly. Mayor Clyde accepted the amendment to his second.

Township Clerk Pellicane polled the Council on the motion, with all members voting in the affirmative.

3. COUNCIL COMMENTS

Fire Chiefs' Association Survey/Questionnaire

Mayor Clyde noted receipt by most members of Council of a survey/questionnaire from the Fire Chiefs' Association and requested that Council authorize him to respond to the Association that the Council has the highest respect for fire companies and is eager and willing to work with the fire companies to resolve any issues they have.

Mr. Grippo suggested that staff, through the Township Manager, prepare the answers to the questionnaire, that Council respond as a unified body, and that the Association representatives be invited to appear before the Council after the first of the new year.

Mr. Levine noted that while some of the questions call for factual information, others require opinions which the staff can not answer.

Council concurred with Mayor Clyde's suggestion and authorized him to prepare the letter for their review before sending.

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Board of Education Request to Raise Tax Levy for New High School

Township Manager Daly advised Council that the Board of Education has requested the Council to raise the tax levy for the 1st quarter of 2002 to start collecting monies for the bonding for the new high school. The Financial Oversight Subcommittee will review this request and the matter will be placed on the agenda for the December 4th Work Session. Mayor Clyde requested that the Township Attorney review and provide an opinion on the request for that meeting.

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

Read by Mayor Clyde

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:

Matters Relating to Public Safety and Property: Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violation of the law.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Franklin, assembled in public session on this 27th day of November, 2001, that an Executive Session closed to the public shall be held on November 27, 2001, at 7:51 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 above.

It is anticipated at this time that the above-stated subject matter will be made public with respect to matters required by law to be Confidential, Public Safety, receipt of Government Funds or the imposition of a penalty at such time as the need for confidentiality no longer exists.

This Resolution shall take effect immediately.

Upon a motion made, seconded and unanimously agreed, the resolution was adopted.

Council adjourned to Executive Session at 7:51 p.m. Meeting resumed and was immediately adjourned at 7:59 p.m.

Respectfully submitted,

Jean C. Pellicane, RMC
Township Clerk