

## **MINUTES OF MEETING OF AUGUST 17, 2011**

The regular meeting of the Frelinghuysen Township Committee was held in the Municipal Building, 210 Main Street, Johnsonburg, New Jersey on Wednesday, August 17, 2011 and was called to order at 7:35 p.m. by Mayor Charles.

### **SUNSHINE LAW STATEMENT:**

Under the provisions of the Open Public Meetings Act adequate notice of this meeting was provided by posting notice on the Township bulletin board and by e mailing notice to the New Jersey Herald and The Express-Times.

### **ROLL CALL:**

Those present were: Mayor Thomas Charles, Deputy Mayor David Boynton (arriving at 7:40) Committeeman Alan DeCarolis, Committeeman Frank Desiderio (arriving at 8:25) Committeeman Dale Durling, Attorney Edward Wacks, and Mr. Wack's associate Dwijen Mehta and Clerk Brenda Kleber.

### **MINUTES:**

The minutes of the meeting of July 20, 2011 were approved with corrections on motion made by Boynton, seconded by Durling. All in favor. The minutes of the executive session of July 20, 2011 were approved with corrections on motion made by Durling, seconded by Boynton. All in favor. The minutes of the work meeting of August 11, 2011 were approved with corrections on motion made by Durling, seconded by Boynton. All in favor. The minutes of the executive session of August 11, 2011 were approved on motion made by Boynton, seconded by Durling. All in favor.

**ORDINANCES**-None

### **RESOLUTIONS:**

#2011-63 (Professional services)-on hold

#2011-64 (Municipal Alliance)

WHEREAS, the Township Council of the Township of Frelinghuysen, County of Warren, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and

WHEREAS, the Township Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, the Township Council has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Warren.

NOW, THEREFORE, BE IT RESOLVED by the Township of Frelinghuysen, County of Warren, State of New Jersey recognizes the following:

1. The Township Council does hereby authorize submission of an application for the Frelinghuysen Municipal Alliance grant for calendar year 2012 in the amount of \$3,548.00.

2. The Township Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

Motion was made Boynton, seconded by Durling to adopt said resolution. Roll call vote: Durling-yes, Charles-yes, Boynton-yes, DeCarolus-yes. (Desiderio-absent)

#2011-65 (Redeem tax lien)

WHEREAS, Robert A. McNinch acquired a lien against Block 1801, Lot 10.02 at the Tax Sales held October 12, 1999 (Certificate #11-99). Richard R. Keiling, Esq., for the owners of said property has paid the amount to redeem the lien.

NOW THEREFORE BE IT RESOLVED, that the Township Treasurer is hereby authorized to issue a check in the amount of \$89,978.28 to Robert A. McNinch.

Motion was made by Boynton, seconded by Durling to adopt said resolution. Roll call vote: Boynton-yes, DeCarolus-yes, Charles-yes, Durling-yes. (Desiderio-absent)

#2011-66 (Refund Overpayment)

WHEREAS, a resolution is required by the Tax Collector to refund over payment of 2011 taxes for one property (assessment was reduced due to house fire-1<sup>st</sup> half was paid as billed) as listed below:

Block-502, Lot-24.01, Pay to-Alexander Pieroni, Amount-\$4,223.42

NOW, THEREFORE BE IT RESOLVED, by the Township Committee that the Treasurer is hereby authorized to refund the above paid property tax.

Motion was made by Boynton, seconded by Durling to adopt said resolution. Roll call vote: Charles-yes, Durling-yes, Boynton-yes, DeCarolus-yes (Desiderio-absent)

#2011-67 (cancel 2011 taxes deemed uncollectible)

WHEREAS, a resolution is required by the Tax Collector to cancel 2011 taxes deemed uncollectible, and

WHEREAS, the following properties have 2011 taxes that must be canceled of record:

Block 201, Lot 31Q0147, Owner-Frelinghuysen Township, Amount-\$561.50

Block 402, Lot 16, Owner-Frelinghuysen Township, Amount \$92.53

Block 1703, Lot 11Q0104, Owner-State of NJDEP, Amount \$212.40

Block 1703, Lot 15A0101, Owner-State of NJDEP, Amount \$2.10

NOW, THEREFORE BE IT RESOLVED, by the Township Committee that the above taxes be canceled of record as they are uncollectible.

Motion was made by Boynton, seconded by Durling to adopt said resolution. Roll call vote: DeCarolus-yes, Boynton-yes, Durling-yes, Charles-yes. (Desiderio-absent)

#2011-68 (approval of vouchers)

WHEREAS, the Municipal Clerk has submitted a list of bills in the agenda for the Township Committee's review; and

WHEREAS, the Township Committee finance members have reviewed the bills prior to the meeting and find to be in order.

NOW, THEREFORE BE IT RESOLVED, that all vouchers and purchase orders as reviewed and approved by the Township Committee of the Township of Frelinghuysen are reasonable and proper claims and are to be paid from its appropriate fund accounts.

Motion was made by Durling, seconded by Boynton to adopt said resolution. Roll call vote: Charles-yes, Durling-yes, Desiderio-yes, DeCarolus-yes, Boynton-yes.

#2011-69 (setting executive session)

WHEREAS, it is necessary to discuss items dealing with land acquisition in private or executive session; and

WHEREAS, under the Open Public Meetings Act (number 5) of the permitted exceptions to the requirements that a public body hold its meetings in public it is permissible that such matters be discussed in executive or private session.

NOW, THEREFORE BE IT RESOLVED, on this 17<sup>th</sup> day of August, 2011 that the Township Committee of the Township of Frelinghuysen will adjourn to private or executive session to discuss the above mentioned. Results or portions of that discussion will be made known in a reasonable length of time.

Motion was made by Desiderio, seconded by Boynton to adopt said resolution. Roll call vote: Desiderio-yes, DeCarolis-yes, Boynton-yes, Charles-yes, Durling-yes.

### **OLD BUSINESS:**

A letter received from Amy Hufnagel regarding "Pig naming at township event" as follows: "On July 20, an item I had asked for, an investigation into the naming of the township pig at the township event, was presented (in a different place in the agenda at the Mayor's whim) by Durling and Boynton. The Mayor read a statement. I, as the citizen who called for the investigation, was not allowed to speak. Every other "agenda Item" that was brought forward by a citizen or by a sub-committee member, was allowed to speak. I was the only one denied. This unfair, capricious, representation. Request that action be taken by the Township Committee: How can results of investigation by Dale Durling and David Boynton be old business when it has never been on the agenda before? Why can a new item appear under old business? What happened to my agenda item? Naming of the Township Pig: Politics and Civility? I asked the Township Committee, in my formal complaint to provide me with written response, and what actions would be taken, and a number of other unanswered questions. Where are all the answers to the questions I asked that the "investigation" did not answer? When are you going to answer my questions from 6/15? Put the naming of the pig, and my formal complaint back under old business for the August meeting; we are not done yet?" This letter was read by Mayor Charles who stated that it was under old business as it was discussed at the previous meeting. Mr. Wacks explained that when correspondence comes in it should go on the list of correspondence. If someone wants to be heard on the agenda they can ask to be put on the agenda to be heard but Ms. Hufnagel indicted she would not be attending and wanted her letter on the agenda which was done as a commendation. No action will be taken on this letter.

A letter received from Amy Hufnagel regarding "Inequitable time allowances for public section of meeting; arbitrary and capricious enforcement of time; and constant revision, without public vote, to the public vote, to the public terms of the meeting" "Arbitrary, whimsical, capricious and slanted": this how time is told at my public township meeting. The Public comment section of the Frelinghuysen township meeting has, for the last 4 meetings, become more and more and more restrictive with each month. However, the real kicker is that this "time enforcement" implemented at the last meeting regarding the "public component of the meeting" (15 minutes total; 3 minutes per citizen; changed from June) is managed/kept by a clock from 10 B.C. Sand through the hourglass... I have a clock on my laptop that I bring to meetings for note taking. In the 15 minutes designated for public, the Mayor, talking, spent 8 minutes. 7 minutes by public. Furthermore the 3 minute rule was arbitrarily and capriciously enforced. SEVEN MINUTES ONLY was open to the public-in a town with 2000 voters, and maybe 15 people in the room at the meeting. Why is there this level of shut down? At the 15 minutes mark, I requested that the committee take a vote to extend the public comment portion of the meeting by 8 minutes. It was denied. Asked again. It was denied. I am not, in any way, objecting to there being limits and designated times relative to the

public section of the meeting. However, I am completely objecting to 1) the way time is being told (198.C. sand device) and 2) the arbitrary and capricious determination that "time is up" for the public. This unfair representation was read by Mayor Charles. Mr. Wacks commented that the Committee has tried to come up with a fair procedure for the public to be heard and yet for them to not monopolize the public section of the meeting. Mr. Wacks recommended that three minutes be given to the public to state their case and the time that the Committee responds should not be part of the public session time. The Committee felt this was a fairer way and should address Ms. Hufnagel's concerns, however, if the Committee does not have an answer to their concern the question will be taken under consideration and answered at the next meeting.

An e mail letter regarding a follow up on the implementation of 25 mph trail crossing signs for Henfoot Road, Stillwater Road and CR 659. This request was approved in August 2010; however, nothing was done on it. Ms. Mikowski, who sent the e mail is assisting the New Jersey Horse Council and the DEP Kittatinny Valley State Park in following up with Warren county and its municipalities where trail crossing signs are needed for the Paulinskill Trail. Frelinghuysen needs signs on Henfoot Road, Stillwater Road. Motion was made by Boynton, seconded by Durling approving the request to have the signs installed which will be done by the Frelinghuysen Township DPW. All in favor.

At last month's meeting, a letter received from the Warren County Emergency Services & 911 Memorial Committee asking for a \$2,000.00 contribution. Due to budget constraints, motion was made by Durling, seconded by Boynton to donate \$500.00 from the public events line item. All in favor.

#### **NEW BUSINESS:**

The 2011 Best Practices Checklist which will determine how much of the municipality's final 5% of aid payment will be disbursed based upon the scoring of the checklist was reviewed and approved to be forwarded to DCA on motion made by Durling, seconded by Boynton. All in favor.

#### **OPEN MEETING TO THE PUBLIC:**

Motion was made by Boynton, seconded by Durling to open the meeting to the public for 15 minutes: All in favor.

Loren Greco asked if the 25mph trail crossing signs were legal and if signs for bikers were going to be next.

Bob Canace, President of Ridge & Valley Conservancy, who had sent a letter asking the Township to contribute funds in order to preserve Windkissed Farm, appeared personally before the Committee asking them to reconsider their decision on not contributing. The Mayor stated that this farm was not on the target list and is not contiguous of any preserved farms. Mr. Wacks offered his service at the closing at no charge if this would help with the preservation. Mr. Canace will check this out.

Cliff Kimball asked the status of Kerrs Corner Road construction project and was told it would begin on or before August 29<sup>th</sup>.

Dan Kohuth asked for an update on South Street. He was told by the Mayor that the last discussion he had with Maser Consulting was they are in the process of identifying endangered species. The stream delineation from DEP will be the next step.

Roman Osadca asked the status of the solar project from Power Partners. Committeeman Durling will give the progress in his report.

Loren Greco asked about the distribution of the millings from Kerrs Corner Road. He was told to contact the construction supervisor at the site.

Motion was made by Boynton, seconded by Durling to close the public portion of the meeting. All in favor.

**AUTHORIZATION OF PAYMENT OF BILLS**-see scheduled attached to minutes.

### **DEPARTMENT REPORTS:**

Motion was made by Boynton, seconded by DeCarolis to approve the department reports number 1 through 14 on a consent agenda motion. All in favor.

#### Mayor Thomas Charles report:

The Mayor reported on a kick-off meeting he and Committeeman Desiderio about the construction of Kerrs Corner Road. The Mayor also reported on a meeting he and Ms. Randolph had with the Warren County Municipal & Charitable Conservancy for a presentation of the Grzelak acquisition; the mayor asked that this presentation be put on the website. Lastly, the Mayor reported on a house in Blairstown for which the Green Township Fire Dept responded to that was caused by the homeowners burning papers

#### Deputy Mayor David Boynton's report-none

#### Committeeman Alan DeCarolis report:

Committeeman DeCarolis report was animal related. There were 2 bats tested by the State and both came back negative. Mr. DeCarolis wished to publicly commend Mr. Wacks for volunteering his service for the Windkissed property should this be accepted.

#### Committeeman Frank Desiderio's report:

Committeeman Desiderio reported that the road construction should start on August 29th on Kerrs Corner Road which should take 2 days. Removal of 2400' of guardrails and replacement will also occur. There has been another grant for a section of Kerrs Corner for next year approved. The speed limit signs have been ordered through the coop. The Forestry Management grant went further than anticipated and approval has been received to add more trees to be cut. There will be a chipper party for the walking trail on August 20<sup>th</sup> at 8:00 a.m. volunteers are needed. Lime is needed for the fields. Motion was made by DeCarolis, seconded by Boynton to take the funds out of the Open Space account not to exceed \$500.00. All in favor.

### Committeeman Dale Durling's report:

Committeeman Durling advised that Marty Connor asked about e mail address for e blasts, the Clerk was instructed to contact the Election board for approval; Mr. Durling also stated that Amy Hufnagel does not want to be on the solar panel subcommittee and a replacement is needed. Roman Osadca offered to be on the subcommittee and motion was made by Boynton, seconded by Desiderio adding Mr. Osadca to the subcommittee. All in favor.

### Attorney Edward Wacks report:

Mr. Wacks introduced Dwijen Mehta who will be working with Mr. Wacks. Mr. Wacks mentioned that Mr. Mehta has been working with Allamuchy's code book and checking the statutes against the code book to make sure everything is up to date. Mr. Wacks recommended that we should get our code book up to date. With regard to the Linz contracts things are moving forward. The Lee/Yang acquisition is also moving forward and should close by September or October. Mr. Wacks wished to commend the tax assessor for reporting on the homes he has been inspecting that do not have any co's and are being occupied; lastly, Mr. Wacks reported on the pending litigation. Mr. Wacks then reported on several questions that the Mayor had. First, with regard to policies and procedures, the Mayor asked if there was a legal requirement on the part of the township to advertise for positions. Mr. Wacks stated that our ordinances do not state this and state statutes do not require that we advertise for positions. Some community's have requirements that they advertise for that position and some community's require hiring residents. Mr. Wacks doesn't recommend this as a practice as our practices are adequate as long as we follow them. The Mayor asked for information from Mr. Wacks about hiring of people who could have prior injuries such as back problems and can we ask them for this information before hiring them. Mr. Wacks advised that if there is a specific job that requires a strong back then we can ask about their medical condition or if there was anything that could prevent them from doing their job but to ask, for example, a secretary then no we cannot ask. Lastly, the Mayor asked what information we should have on file for subcontractors. Mr. Wacks advised that if we have public contractor by way of bidding as it's over the threshold, there's a legal requirement that the bidder has to give us all the information required by the law. If under the bid threshold and we obtained 3 quotations, we have the right to ask if they are going to perform all the services or sub out any of those services, if they sub out those services we have the right to get certain information.

### Municipal Clerk's report:

Mrs. Kleber advised that at last month's meeting, a resident requested information on clean up such as the costs and the names of the residents who took advantage of the landfill. Mrs. Kleber stated that the cost for 2010 was \$5,501.66 and \$1,579.72 for 2011. The landfill did not keep names only the make and color of the vehicle.

### **CORRESPONDENCE:**

NJDEP Re: Notice of public hearing

JCP&L Re: annual universal service fund compliance filing

NJ DOT Re: announcements that applications will be accepted for bikeways

NJ Transit Re: Public hearing notice

IPD Re: Seminar on new rules and regulations

Office of the Governor Re: Newsletter  
Township of Woodbridge Re: NJ Senior Olympic Games  
Morris County JIF Re: loss control report  
Wacks & Hartmann Re: Lee/Yang -copy of driveway easement  
Amy Hufnagel Re: Inequitable time allowances for public section of meeting; arbitrary and capricious enforcement of time; and constant revision, without public vote, to the public terms of the meeting.  
MCCPC Re: Cooperative pricing program savings exceed \$18,564,960.00  
Frelinghuysen Township Construction Official Re: Copy of letter to owners regarding new deck  
Frelinghuysen Township Tax Collector Re: Certification of mailing of tax bills  
Mr. & Mrs. Roy Heymer Re: explanation of their situation in the building of a garage  
Frelinghuysen Township 2011 tax rate data  
Dept of Community Affairs Re: Local Finance Notice 2011-20  
Assemblyman John DiMaio Re: News of the 23<sup>rd</sup> district  
New Jersey State League of Municipalities Re:

1. 2009 New Jersey legislative district data book order form
2. NJSLM annual audit statement
3. Calendar of statewide activities to honor memory of 9/11 victims
4. Mayor's newsline
5. Guide to medical leave laws
6. S-2795 & A-3835, Inspection of multiple dwellings
7. CEU tracking system for league conference sessions
8. Two Issues:
  - a. Federal alert, PACE legislation introduced in Congress
  - b. Law requiring employees to live in-state takes effect Sept 1<sup>st</sup>.
9. Supreme court decision on civil service "Rule of Three"
10. Quarterly report on activities of the NJLM
11. Six Federal Updates:
  - a. House committee proposed COPS elimination
  - b. EPA appropriations bill sees house action
  - c. Energy appropriations bill sees action too
  - d. NLC urges House to oppose wireless tax bill
  - e. House approves National Flood Insurance Program
  - f. Administration responds to city leaders call for Federal Partnership
12. Corrected info-senior freeze reimbursement will not appear as a credit on property tax bills.
13. Pensions & Health benefits update
14. Two Issues:
  - a. Recycling grants awarded
  - b. Southern pine beetle suppression efforts continue
15. Legislative bulletin No. 4

## **EXECUTIVE SESSION:**

Motion was made by Desiderio, seconded by Boynton to enter into executive session with regard to land acquisition. All in favor. Upon returning, motion was made by Boynton, seconded by Durling to return to public session. All in favor. At this time, motion was made by Boynton, seconded by DeCarolis to agree to pay in total, not to exceed 7.5% of the acquired price, based on a fair market value of the Grzelak property.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Brenda J. Kleber, RMC