

MINUTES OF THE MEETING OF FEBRUARY 20, 2008

The regular meeting of the Frelinghuysen Township Committee was held in the Municipal building, 210 Route 661, Johnsonburg, New Jersey and was called to order at 7:30 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 faxing notice to the Star Gazette and New Jersey Herald on January 3, 2008.

ROLL CALL:

Those present were: Mayor Thomas Charles, Committeeman Debra Natyzak-Osadca, Committeeman Alan DeCarolis, Committeeman Frank Desiderio, Attorney Edward Wacks and Clerk Brenda Kleber. Committeeman Dale Durling was absent.

ORDINANCES:

AN ORDINANCE (#2008-01) TO EXCEED THE MUNICIPAL BUDGET APPROPRIATIONS LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A.40A:4-45.14) was opened to the public on motion made by Desiderio, seconded by DeCarolis. All in favor. Motion was made by Desiderio, seconded by DeCarolis to close the public discussion. All in favor. Motion was made by Desiderio, seconded by DeCarolis to adopt said ordinance. Roll call vote: Natyzak-Osadca-yes, DeCarolis-yes, Desiderio-yes, Charles-yes.

AN ORDINANCE (#2008-02) TO AMEND CAPITAL ORDINANCE #2007-11 AUTHORIZING LAKE AND STREAM RESTORATION AND APPROPRIATING \$262,500.00 TO SAID PURPOSES SET FORTH HEREIN AND AUTHORIZED TO BE UNDERTAKEN IN AND BY THE TOWNSHIP OF FRELINGHUYSEN, IN THE COUNTY OF WARREN, STATE OF NEW JERSEY. The Clerk read the Ordinance by title and advised that a public hearing will be held on March 19, 2008. Motion was made by Committeeman DeCarolis, seconded by Committeeman Desiderio to introduce the ordinance after an explanation by the Auditor is given. Roll call vote: Natyzak-Osadca-yes, DeCarolis-yes, Desiderio-yes, Charles-yes.

AN ORDINANCE (#2008-03) "FIXING THE SALARIES AND WAGES OF THE OFFICIALS, APPOINTEES AND EMPLOYEES OF THE TOWNSHIP OF FRELINGHUYSEN, COUNTY OF WARREN, STATE OF NEW JERSEY FOR THE YEAR 2008. The Clerk read the Ordinance by title and advised that a public hearing will be held on March 19, 2008. Motion was made by DeCarolis, seconded by Desiderio to introduce the ordinance after clarification about the Building Department Secretary's salary. Roll call vote: Natyzak-Osadca-yes, DeCarolis-yes, Desiderio-yes, Charles-yes.

RESOLUTIONS:

#2008-14:

WHEREAS, the Township of Frelinghuysen, in order to comply with New Jersey Emergency Management Directive #102, directing a minimum three year appointment for the Emergency Management Coordinator and Deputy Emergency Management Coordinator hereby makes the following appointment; and

WHEREAS, the Mayor and Township Committee of the Township of Frelinghuysen hereby appoints James Drylie to the position of Emergency Management Coordinator for a period of three years retroactive from January 1, 2008 and ending December 31, 2010; and

WHEREAS, the Mayor and Township Committee of the Township of Frelinghuysen hereby appoints Debra Natyzak-Osadca for a period of three years retroactive from January 1, 2008 and ending December 31, 2010.

NOW, THEREFORE BE IT RESOLVED, that the appointment of James Drylie as Emergency Management Coordinator and Debra Natyzak-Osadca as Deputy Emergency Management Coordinator be affirmed.

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

#2008-15:

WHEREAS, on January 15, 2008, legislation requiring expansion of survivor recovery in the event of wrongful death was pocket vetoed by Governor Jon Corzine; and

WHEREAS, we are of the understanding, legislation is being drafted to incorporate a cap on damages for wrongful death; and

WHEREAS, liability claims are already increasing at the rate of 10% per year; and

WHEREAS, revisions to the Wrongful Death Act will add another 6% to 10% to this costs; and

WHEREAS, under the current Wrongful Death Act, family members can already collect substantial compensation for actual losses such as medical bills and lost income as well as loss of companionship; and

WHEREAS, revisions to the Wrongful Death Act will allow juries to award substantial, additional compensation for "emotional distress"; and

WHEREAS, without the limitations in Title 59, it would be difficult for state, county and local government to respond to a wide range of emergency situations.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Frelinghuysen that we urge the legislature to fully exempt Title 59 entities from any expansion of the Wrongful Death Act; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to Senator Leonard Lance, Assemblyman Michael J. Doherty and Assemblywoman Marcia Karrow, Governor Jon Corzine, Senate President Richard "Dick" Codey, Assembly Speaker Joe Roberts, Municipal Excess Liability Fund and the NJ League of Municipalities

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

#2008-16:

WHEREAS, the Township of Frelinghuysen is holding a meeting on February 20, 2008, for the purpose of introducing the 2008 Municipal Budget and conducting other matters; and

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Frelinghuysen, Warren County, New Jersey, that the Township of Frelinghuysen hereby petitions the Director of the Division of Local Government Services that the 2008 Local Municipal Budget be introduced and approved on February 20, 2008.

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

#2008-17:

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 20th day of February, 2008 that the Township Committee of the Township of Frelinghuysen will adjourn to private or executive session to discuss the above mentioned and result or portions of that discussion will be made known in a reasonable length of time.

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

#2008-18:

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

WHEREAS, the Township Committee members have reviewed the list.

NOW, THEREFORE BE IT RESOLVED, that all vouchers and purchase orders as submitted and reviewed by the Township Committee of the Township of Frelinghuysen

are reasonable and proper claims against the Township and are to be paid from its appropriate fund accounts.

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

#2008-19:

WHEREAS, the Mayor and Township Committee of the Township of Frelinghuysen require the services of an Open Space Preservation consultant; and

WHEREAS, funds will be available in the 2008 budget to pay for the aforesaid services;

NOW, THEREFORE BE IT RESOLVED, that:

1. The appointed of the following for term indicated is hereby approved:
 - a. Open Space Preservation Consultant-Morris Land Conservancy-1 year term
2. The services of the above mentioned appointees were engaged without competitive bidding as "professional services", as defined in the local public contracts law., because such services are performed by person authorized by law to practice a recognized profession, regulated by law, and it is not possible to obtain competitive bids.
3. A copy of this resolution shall be published as required by law within ten (10) days of its passage.

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

Natyzak-Osadca, seconded by Desiderio to adopt said resolution. Roll call vote: Natyzak-Osadca-yes, DeCarolis-yes, Desiderio-yes, Charles-yes.

OLD BUSINESS:

A letter received from the Warren County Mosquito Commission was read advising that aerial applications will be done to control the immature waterborne stage of the mosquitoes when found. Motion was made by Desiderio, seconded by DeCarolis authorizing the Clerk to sign the required paperwork. All in favor.

Attorney Wacks reported on the Burns/Marie matter. Mr. Wacks has been in contact with Board of Adjustment attorney, Edward Palmer and advised that this should be before the Board of Adjustment for an interpretation. Mayor Charles feels that the public should be aware of the situation, therefore, motion was made by Desiderio, seconded by Natyzak-Osadca to have the letter addressed to Attorney Richard Keiling, dated February 6, 2008 spread upon the minutes. All in favor except Committeeman DeCarolis who recused himself.

February 6, 2008

Richard R. Keiling, Esq.
104 Route 94
Blairstown, NJ 07825

Re: 117 Silver Lake Road, Block 301, Lot 1

Dear Mr. Keiling:As Township Attorney for the Township of Frelinghuysen I have been requested to respond to your letters of October 18, 2007, November 12, 2007 and January 23, 2008. These letters were addressed to the Zoning Officer of the Township and the matter has been placed in my hands by the Township Committee for investigation and response. In your January 23, 2008 letter you requested the Zoning Officer to provide "written confirmation from the zoning department as to the above use and days of hours of operation." In response to that request, please be advised that it is not the Zoning Officer's duty or obligation to issue interpretative rulings or confirmations with respect to actions taken by either the Planning Board or Zoning Board. The respective Board has the sole jurisdiction over such matters and should your client desire clarification with regard to these matters, I would suggest that the appropriate method to obtain such clarification would be by application to the appropriate board for either such clarification or for interpretation under the Municipal Land Use Act. Accordingly, I have instructed Mr. Boesze to not provide the written request set forth in your letter of January 23, 2008.

With regard to both of your 2007 letters referred to above, the resolutions in question, as you suggest, speak for themselves. Resolution No. 07-02 of the Planning Board specifically recites the testimony of the hours of operation and the days of operation as

well. Whether those hours of operation and days of operation conflict with the original Zoning Board resolution issued in 1991, is not capable of being determined at this time. As stated above, should your client wish clarification of this issue, it is my suggestion that she seek a further clarification or interpretation by the Planning Board of its Resolution 07-02 so that there is no further question concerning this matter. Please also understand that it is my intention to advise Ms. Jensen that should she have a legal right to challenge the actions of either the Zoning Board or Planning Board, that she should do so if she feels aggrieved by any of these actions. She may very well be out of time to launch such a challenge. However, it is not my province to give her legal advice and she is accordingly encouraged to seek the advice of counsel with regard to any rights she may have. I do want you, however, to understand that our Construction Official has been notified that work may have been done at the 117 Silver Lake Road property without proper permits. If that is the case, then the Construction Official will proceed with whatever remedy may be available to the Construction Official for the property owner or tenant failing to obtain the necessary permits. Should you wish to discuss this matter with me further, I will be happy to do so. However, a copy of this letter is being sent to Mr. Lavery as the Planning Board attorney, Mr. Palmer as the Zoning Board attorney, Ms. Jensen as the adjoining property owner, our Zoning Official and Construction Official, and the Mayor and Township Committee. Please be guided accordingly.

Very truly yours,
EDWARD WACKS

NEW BUSINESS:

Jean Smolha approached the Committee with regard to the stone outcropping being destroyed by rock removal companies and feels that we should have an ordinance for areas that have vistas. The Mayor questioned Ms. Smolha on how this should be regulated and enforced and still be reasonable to the property owner. It was decided that Ms. Smolha would do some additional research.

Mayor Charles appointed Kevin Bailey as alternate #2 to the Planning Board to serve out the term of Lisa Pachnos.

A letter received from the Historic Preservation Office was read advising of a meeting to review public projects. The meeting will be held for the Main Street sidewalk from the church to the municipal building. The Mayor reported that Engineer Paul Sterbenz will attend the meeting on behalf of the township. Motion was made by Desiderio, seconded by DeCarolis authorizing Mr. Sterbenz to attend the meeting with compensation not to exceed \$750.00. All in favor.

A letter received from the Warren County Planning Department was read asking the Township to respond to their request as to whether the Township wants to accept the responsibility of preparing the wastewater plan or whether they would prefer the County to prepare the plan. The Committee decided on motion made by Desiderio, seconded by Natyzak-Osadca to contact Bob Canace for this interest in preparing the plan as they would like to continue as a local agency. All in favor.

MINUTES:

The minutes of the meeting of December 19, 2007 were approved with changes on motion made by Charles, seconded by Natyzak-Osadca. All in favor. The minutes of the Executive Session of December 19, 2007 were approved on motion made by Natyzak-Osadca, seconded by Charles. All in favor. The minutes of the meeting of January 1, 2008 were approved with corrections on motion made by Natyzak-Osadca, seconded by Desiderio. All in favor. The minutes of the Executive Session of January 1, 2008 were approved on motion made by Natyzak-Osadca, seconded by DeCarolis. All in favor. The minutes of the meeting of January 16, 2008 were approved on motion made by Natyzak-Osadca, seconded by Desiderio. All in favor. The minutes of the Executive

Session of January 16, 2008 were approved on motion made by Natyzak-Osadca, seconded by Desiderio. All in favor. The minutes of the meeting of January 25, 2008 were approved on motion made by Natyzak-Osadca, seconded by DeCarolis. All in favor. The minutes of the meeting of January 30, 2008 were approved on motion made by Desiderio, seconded by Natyzak-Osadca. All in favor. The minutes of the meeting of February 7, 2008 were approved on motion made by Natyzak-Osadca, seconded by Desiderio. All in favor.

DEPARTMENT REPORTS:

Department reports received from the Tax Assessor, Tax Collector, Building Dept., Warren County Court were approved on a consent agenda motion made by Natyzak-Osadca, seconded by Desiderio. All in favor.

Mayor Thomas Charles report:

At a meeting held earlier in the day with the township engineers, Mayor Charles reported that more information is need with regard to the South Street project. Since an aerial topo is needed Southeast of South Street. The engineer will need authorization to proceed with either installing a berm around the Johnson's pond; dredging or piping. The engineer will outline the plan and get authorization on how the Committee wants to proceed at next months meeting.

The Mayor recommended a joint arrangement with Hardwick Township on a grant writer. Motion was made by DeCarolis, seconded by Desiderio authorizing the Mayor to meet further with Hardwick Township and get the specifications. All in favor.

Mayor Charles reported that Committeeman Desiderio spent over 30 hours plowing and salting the township roads on his own time and feels we should compensate him in some way besides thanking him. It was decided that a voucher would be submitted for the hours along with calling the Committee members for help in the future.

The Mayor prepared a draft letter from the Township Committee to COAH and needs authorization to send the letter. The Committee will study the letter and advise the Clerk on how to proceed.

Mayor Charles reported on the test scores the Frelinghuysen School received. There was 94% passing grade in English and 98% in Math.

Committeeman Natyzak-Osadca's report:

Committeeman Natyzak-Osadca reported on the Farmland update along with Municipal Alliance preparing the needs assessment.

Committeeman Natyzak-Osadca wants to proceed with updating the tax maps and asked for approval to obtain proposals. Motion was made by Desiderio, seconded by DeCarolis giving the approval. All in favor.

A public hearing on the Recreation Complex will be held on March 13th at 7:00 p.m.

Committeeman Natyzak-Osadca reported that she is presently preparing the 2010 census. With regard to the Planning Board minute books, Committeeman DeCarolis has on hand over 20 years on minutes of which he is compiling and will be given to the Clerk and Planning Board secretary for entry in the minutes books.

Committeeman Frank Desiderio's report:

Committeeman Desiderio reported of the purchase of a 1997 dump truck with plow that he was able to purchase for the Road Department at a cost of \$15,500.00 He also announced that the tractor on order is arriving next week.

Committeeman Desiderio reported on beet juice which is sprayed on the road salt and will eliminate the use of road grits. A 5000 lb tank will be needed if he feels this is the way to go.

Committeeman Desiderio reported on the hiring of a 3rd road department worker. This worker will be a mechanic and work on the township vehicles.

Committeeman Alan DeCarolis report:

Committeeman DeCarolis applauded the Committee on the preparation of the 2008 budget along with commending Committee Desiderio for the purchase of the 1997 vehicle.

Mr. DeCarolis suggested putting together a dialog between the Farmland Preservation and Open Space Boards.

Committeeman DeCarolis reported on his follow up on the letter from Colts Neck whereby they would like to township to join them in litigation against COAH. Right now, Colts Neck is looking for feedback and is no one has yet confirmed their participation. It was decided to pass on this offer.

Attorney Edward Wacks report:

Mr. Wacks reported on a copy of letter given to the Clerk with regard to a decision handed down holding that Open Public Records Act requests made to the City of Hoboken were not specific enough to qualify as proper requests under the statute, and therefore the city clerk's failure to respond within the seven days allowed by the law in inconsequential in light of the circumstances. The plaintiff asked for "all correspondence" relating to certain city projects were overly broad, in the courts view.

With regard to the road swap between Ackerson Road and Route 661, an ordinance will be prepared for the March meeting. The ordinance from the Open Space Committee will also be prepared for the March meeting.

Mr. Wacks will prepare a formal report and opinion on the ham radio update. The Federal government does have jurisdiction, however, the municipality has the jurisdiction on the location and construction for which the international building code applies. The Zoning Officer also has no jurisdiction in this matter. Mr. Wacks also advised that the property owner will pay for the township's costs for the preparation of this report.

The attorney advised of a report he forwarded to the Clerk of the clarifications and terms of the members of the various boards which should clear up any confusion over the terms.

CORRESPONDENCE:

Frelinghuysen Township Open Space Committee Re: Accomplishments for 2007
Warren County Mosquito Control Commission Re: Freshwater Wetlands permit
Employment News newsletter
Notice of hearing for Planning Board
NJDEP Re: Meeting of the New Jersey Historic Sites Council
Warren County Planning Dept. Re: Process to reserve the Eager Beaver
Thank you note from Senior Citizen coordinator
Hope Township Re: Municipal Court of North Warren at Hope
Warren County Board of Taxation Re: Preliminary equalization table
Dorsey & Semrau Re: Police officers/county indemnification
Warren County Planning Dept. Re: Meeting on COAH
Frelinghuysen Township Zoning Officer Re: Copy of letter
Service Electric Cable TV Re: Franchise fee
NJDEP Re: Biennial report for CEA

Rabinowitz, Lubetkin & Tully, LLC Re: Opra update

Municipal Liability Joint Ins. Fund Re:

1. Wrongful death legislation
2. 2008 MEL Coverage bulletins
3. Safety Director's bulletin S2008-01

NJDEP Re: Extension for completion of mandatory courses in Land Use Law

NJDOT Re: Safe Routes to School program

Township of Green Re: Ordinance No. 08-03

Legal Notice for Board of Adjustment

Morris Land Conservancy Re: Response to reduction of fees

Warren County Dept. of Public Safety Re: New Fire and EMS alerting channel

Wacks & Hartmann Re: Agreement to sell development easement copy

Warren County Public Safety Re: Copy of letter regarding Emergency Operations plan

New Jersey State League of Municipalities Re:

1. League Seminars
 - a. In Rem Foreclosures
 - b. Fair Labor standards act & Family and Medical Leave act
 - c. Finance-Budget update
 - d. Sexual Harassment-your rights
 - e. Labor relations for Administrators, counsel & council members
 - f. Come take a chance-licensing
2. State Financial Restructuring
3. Appellate Division affirms specificity required for proper OPRA request
4. League electronic library of Ordinances & sample shared service agreement
5. Dual elective office holding prohibition
6. New Jersey future 2008 redevelopment forum
7. Attorney general directive concerning immigration
8. Home ownership preservation
9. Interconnection of PEG between Verizon and Incumbent cable providers
10. Affordable housing update: Clarifications
11. Use your league
12. Legislative developments-Two Issues
 - a. Municipal Prosecutor mandates
 - b. Paid family leave
13. Two Issues:
 - a. Municipal library over-funding relief bill advances
 - b. A-1645-Qualified purchasing agent
14. Statewide conference Re: Understanding & Implementing the New Jersey school funding formula
15. 2008-09 Legislative roster
16. Binding arbitration and property taxes
17. Coastal Management rules hearing
18. Important new information
19. Governor's pocket vetoes
20. Budget deadline extension and budget referendums
21. Smart future planning grant request for proposals (RFP)

BILLS:

See schedule attached to minutes

EXECUTIVE SESSION:

Motion was made by Natyzak-Osadca, seconded by Desiderio to enter into Executive Session with regard to land acquisition. All in favor. Motion was made by Desiderio, seconded by Natyzak-Osadca to return to public session. All in favor. The attorney reported that two land acquisitions were discussed. In the first case, the final decision will be held until the March meeting. The second case, the attorney will ask the property owner in question to make an offer.

AUDIENCE PARTICIPATION:

A member of the audience asked if a resident could help their selves to the salt & grit. The attorney advised that a policy should be effect of which the Mayor and Road Supervisor will prepare.

Gabe DeCarolis asked if the new grant writer could look into getting a grant for a security camera on Main Street.

Jean Smolha asked if Chip Greene's Farmland Preservation situation has been resolved. She was advised that the Planning Board is still working on it.

ADJOURNMENT:

There being no further business, motion was made by DeCarolis, seconded by Charles to adjourn the meeting. All in favor.

Respectfully Submitted,

Brenda J. Kleber, RMC