

**BOROUGH OF FRANKLIN PARK
BOROUGH COUNCIL REGULAR MEETING
WEDNESDAY, JUNE 16, 2010**

The regular meeting of the Borough Council of the Borough of Franklin Park was held on Wednesday, June 16, 2010 at 8:00 p.m. at the Municipal Building, 2344 West Ingomar Road, Pittsburgh, Pennsylvania 15237.

Council President Amy Sable called the meeting to order.

Pledge of Allegiance

Cathy Krummert called the roll:

COUNCIL MEMBERS:

Richard H. Hartman, Second Vice President..... present
Jane A. Hopey, Vice President..... present
Andrew Hrishenko..... present
Ash K. Marwah..... present
David J. Quatchak..... present
Amy E. Sable, President present
Junior Councilperson Brennan McGovern absent
Mayor Dennis E. O'Keefe present

ENGINEER:

Bob Nedzesky, W.E.C. Engineers present

SOLICITOR:

Robert Max Junker, Law Offices of Ira Weiss..... present

STAFF:

Don Dorsch, Chief of Police absent
Cathy Krummert, Borough Secretary present
Ronald Merriman, Superintendent of Public Works present
Brienne Morris, Assistant Parks & Recreation Director present
Tim Phillips, Building Inspector/Zoning Officer..... present
Ambrose Rocca, Borough Manager..... absent
Bill Schweitzer, Golf Course Superintendent present
Sam Snyder, Police Sergeant present
Jim Watenpool, Parks & Recreation Director present

APPROVAL OF THE MINUTES – Mr. Quatchak moved the minutes of the May 17, 2010 special meeting, the May 19, 2010 pre/post meeting, the May 19, 2010 regular meeting, and the June 2, 2010 work session, be approved, seconded by Mr. Hartman and carried unanimously.

TREASURER'S FINANCIAL REPORT – Mayor O'Keefe read the May 2010 Treasurer's Financial Report. May 2010 revenues totaled \$867,409.36 and May 2010 expenditures totaled \$366,856.81. Year-to-date revenues totaled \$2,882,404.15 and year-to-date expenditures totaled \$1,914,218.18. Mr. Hartman moved the May Treasurer's Financial Report be accepted as read, seconded by Mr. Marwah and carried unanimously.

POLICE REPORT – Mayor O'Keefe read the Police Report and activity report for the month of May 2010. Mr. Hartman recommended the Police Report be filed with the Police Secretary.

BUILDING INSPECTION REPORT - Mr. Phillips read the Building Inspection Report for May 2010. Mr. Phillips issued 24 permits and collected \$39,602.00 in fees. Total value of construction was \$5,732,514.00.

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ANNOUNCEMENT OF EXECUTIVE SESSION - Mrs. Sable announced that an executive session was held at the May 19, 2010 Post Meeting to discuss the legality of certain borough expenditures and to discuss Franklin Nursery litigation. An executive session was held on June 2, 2010 to discuss the Schomaker/T-Mobile litigation, potential litigation regarding cell towers, a personnel matter and recovery of borough funds. An executive session was held on June 16, 2010 to discuss a Teamsters grievance and the Franklin Nursery litigation. After this meeting this evening an additional executive session will be held with respect to the P6 Investment Self Storage case as well as the Franklin Nursery litigation.

COMMENTS FROM THE FLOOR

Susan Duffy, 1624 Carriage Lane – Ms. Duffy stated that there are ongoing violations by Franklin Nursery and she discussed the Consent Order and the Commonwealth Court Order. She stated that this matter was very costly to the residents of Carriage Lane and the taxpayers, and she asked how Council could prevent this from ever happening again. Council responded that they could not speak for previous Councils, but this Council is trying to rectify the situation and make sure that the Judge's Order is being complied with. In the future Council hopes that we would not have a situation like this one, and this Council will work very hard to avoid situations of that nature. It was noted that as of an inspection last week, the nursery has come into compliance for the removal of the tub grinder and respecting the 30 foot buffer.

APPROVAL OF THE BILLS – Mrs. Hopey moved Council authorize the payment of the bills, which have been reviewed and approved since the last meeting, seconded by Mr. Marwah and carried unanimously.

PUBLIC HEARING, CONDITIONAL USE APPLICATION CU-10-05-01, DAVID E. WOLFORD -

Mrs. Sable turned the meeting over to Mr. Junker to conduct a public hearing to consider Conditional Use Application CU-10-05-01 submitted by David E. Wolford. Mary Ellen Wolf, court reporter, was present to take a verbatim transcript of the hearing. Mr. Wolford explained that he would like to erect a 32'x40' structure to use as a storage building for personal use. Mr. Phillips noted that his staff report sets forth all conditions. No public comment was heard. The hearing was closed. Mrs. Hopey moved approval be granted for Conditional Use Application CU-10-05-01 submitted by David E. Wolford for the construction of a 1,280 sq. ft. detached garage on the property located at 2395 Rochester Road in the R-2 zoning district, contingent upon compliance with the Building Inspector/Zoning Officer's Staff Report dated May 27, 2010 seconded by Mr. Hrishenko and carried unanimously.

PURCHASE OF NEW HYDROSEEDER –Mr. Hrishenko moved to ratify the purchase of one (1) new Turbo Turf 500 EH Hydroseeder from Turbo Technologies Inc. of Beaver Falls, PA at a cost of \$5,505.25, seconded by Mr. Hartman. Mrs. Sable then called for a roll call vote.

Mr. Hartman – Aye
Mrs. Hopey – No
Mr. Hrishenko – Yes
Mr. Marwah – Yes
Mr. Quatchak - No
Mrs. Sable – No

The vote resulted in a 3-3 tie. Mr. Junker then explained that in the event of a tie the Borough Code directs that the Mayor cast the deciding vote. The Mayor may either cast the deciding vote tonight or he could request that the motion be tabled until a special meeting of Council could be held within no less than 5 days or more than 10 days at which time the matter shall be reconsidered by Council. If a tie or split vote still exists, it shall be the duty of the Mayor at that time to cast the deciding vote. Mayor O'Keefe then stated that he would like to table the motion and reconvene at a later date. Mrs. Hopey stated that she voted no because a hydroseeder has never been listed in the budget over the past 5 years, and she does not like hydroseeders since seed and hay do a much better job.

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Mrs. Hopey moved to table the motion to ratify the purchase of one (1) new Turbo Turf 500 EH Hydroseeder from Turbo Technologies Inc. of Beaver Falls, PA at a cost of \$5,505.25, seconded by Mr. Quatchak. Mrs. Sable then called for a roll call vote.

Mr. Hartman – No
Mrs. Hopey – Aye
Mr. Hrishenko – No
Mr. Marwah – No
Mr. Quatchak - Aye
Mrs. Sable – Aye

The vote resulted in a 3-3 tie and the Mayor was asked to cast the deciding vote on the motion to table. The Mayor then voted “Yes” on the motion to table. The motion to table carried unanimously.

RUSTIC RIDGE PLAN OF LOTS, MAINTENANCE BOND RELEASE AND CANCELATION – Mrs. Hopey moved Allegheny Surety Company Maintenance Bond No. 624-8575MTN in the amount of \$34,677.27 for the Rustic Ridge Plan of Lots be released and canceled, in accordance with the Public Works Superintendent’s recommendation dated May 25, 2010, seconded by Mr. Hartman and carried unanimously.

PURDY NURSERY LAND DEVELOPMENT, LETTER OF CREDIT REDUCTION AND CANCELATION – Mr. Marwah moved Bank of America Letter of Credit No. S201343 in the amended amount of \$19,503.27 for Purdy Nursery Land Development, be reduced by \$19,503.27 to \$0.00 and canceled, in accordance with the Borough Engineer’s recommendation letter dated May 12, 2010, seconded by Mrs. Hopey and carried unanimously.

APPOINT KEVIN LINGENFELSER TO THE RECREATION BOARD – Mr. Hrishenko moved Kevin Lingenfelser be appointed to the Recreation Board to fill the unexpired term of Bob Zick, which term will expire December 31, 2014, seconded by Mrs. Hopey and carried unanimously.

APPOINT BETTY GAIL DIETZ TO THE RECREATION BOARD – Mr. Hartman moved Betty Gail Dietz be appointed to the Recreation Board for a five-year term, which term will expire December 31, 2014, seconded by Mr. Quatchak and carried unanimously.

ACCEPT THE RESIGNATION OF BILL KIPP FROM THE EAC – Mr. Quatchak moved to accept the resignation of Bill Kipp from the Environmental Advisory Council, effective May 20, 2010, seconded by Mr. Hartman and carried unanimously.

AGREEMENT FOR THE BLUEBERRY HILL PARK COURT LIGHTING PROJECT – Mr. Marwah moved to approve the Agreement with Herbert, Rowland & Grubic, Inc. for the Blueberry Hill Park Court Lighting Project at a not-to-exceed fee of \$2,600, seconded by Mr. Hrishenko and carried unanimously.

ROCK SALT, CONTRACT OPTION YEAR FOR 2010-2011 – Mrs. Hopey moved to approve the Option Year I – Articles of Agreement between the Borough and Morton Salt of Chicago, Illinois, exercising an additional contract option year for the 2010-2011 season beginning September 1, 2010 and ending August 31, 2011, at a cost of \$59.10 per ton delivered, in accordance with the North Hills COG bid for rock salt opened May 12, 2009, seconded by Mr. Hartman and carried unanimously.

REJECT \$500,000 DEP GRANT FOR PAY-AS-YOU-THROW GARBAGE COLLECTION SYSTEM – Mr. Hrishenko moved to reject the \$500,000 grant provided to Franklin Park by the PA Department of Environmental Protection to implement a pay-as-you-throw garbage collection system and simultaneously request the PA DEP to authorize a portion of said grant to be used to purchase a cardboard compactor, seconded by Mr. Quatchak and carried unanimously.

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HIRE ATTORNEY MICHAEL F. SANTICOLA AS SPECIAL COUNSEL TO PERFORM ADDITIONAL WORK RELATED TO SUBDIVISION AND ZONING ORDINANCE UPDATE – Mr. Marwah moved to hire Attorney Michael F. Santicola of Sainovich, Santicola & Steele as special counsel to perform additional work related to the Subdivision and Zoning Ordinance update, seconded by Mr. Hartman. Mr. Marwah stated that he would like to include the Consent Order in this process. Mrs. Sable stated that it should not be put into the motion this evening, because Council needs to discuss the matter further in more detail in executive session. Mr. Marwah then repeated the motion as previously stated, seconded by Mr. Hartman. Council voted on the motion and Mrs. Hopey voted “No”. The motion carried.

Mr. Quatchak announced that he would be abstaining from voting on the next 3 motions related to Saints John and Paul Church because he is a member of the church. He filed a memorandum with the Borough Secretary.

SAINTS JOHN AND PAUL PARISH, NEW CHURCH CONSTRUCTION, LETTER OF CREDIT REDUCTION – Mr. Hrishenko moved Parkvale Bank Letter of Credit No. 2008004 in the amended amount of \$441,898.66 for the Saints John and Paul Parish new church construction, be reduced by \$304,067.44 leaving a balance of \$137,831.22, in accordance with the Borough Engineer’s recommendation letter dated June 9, 2010, seconded by Mrs. Hopey and carried. Mr. Quatchak abstained from voting.

SAINTS JOHN AND PAUL PARISH, CONNECTOR ROAD, LETTER OF CREDIT REDUCTION – Mr. Marwah moved Parkvale Bank Letter of Credit No. 2008003 in the amended amount of \$8,400.15 for the Saints John and Paul Parish connector road, be reduced by \$3,314.58 leaving a balance of \$5,085.57, in accordance with the Borough Engineer’s recommendation letter dated June 9, 2010, seconded by Mr. Hrishenko and carried. Mr. Quatchak abstained from voting.

SAINTS JOHN AND PAUL PARISH, SIPPEL PARKING LOT, LETTER OF CREDIT REDUCTION – Mrs. Hopey moved Parkvale Bank Letter of Credit No. 2008002 in the amended amount of \$13,433.15 for the Saints John and Paul Parish Sippel parking lot, be reduced by \$0.00 leaving a balance of \$13,433.15, in accordance with the Borough Engineer’s recommendation letter dated June 9, 2010, seconded by Mr. Hartman and carried. Mr. Quatchak abstained from voting.

AGREEMENT FOR MILLING 2009 – Mr. Quatchak moved to ratify the Agreement and execute a written agreement with Donegal Construction of Greensburg, PA for the period from May 1, 2009 to September 30, 2009 for milling and disposal of bituminous pavement materials, at a cost of \$2.03 per sq. yd. and \$1,200 per mobilization, as submitted to the North Hills COG for its bid opening on May 14, 2009, seconded by Mr. Marwah and carried unanimously.

AGREEMENT RENEWAL FOR MILLING 2010 – Mr. Hrishenko moved to reauthorize the Agreement Renewal with Donegal Construction of Greensburg, PA for the period from May 1, 2010 to September 30, 2010 for milling and disposal of bituminous pavement materials, maintaining the cost of \$2.03 per sq. yd. and \$1,200 per mobilization, as submitted to the North Hills COG for its bid opening on May 14, 2009, seconded by Mr. Hartman and carried unanimously.

SOLICITOR – Mr. Junker commented that whenever there are political disputes or disputes in general the solicitor’s office is fair target. They can take the heat and criticism as long as it is consistent. He noted that Ira Weiss has been criticized for driving the Franklin Nursery litigation to fill his own pockets and yet he has also been criticized for trying to settle the case.

MAYOR O’KEEFE – Mayor O’Keefe noted that Chief Dorsch is not here this evening because he is attending a Law Enforcement Communications During Risk and Crisis Management seminar at Nemaquin, and he reviewed the details of the seminar. The Mayor thanked Sergeant Sam Snyder for sitting in for the Chief this evening.

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MR. MARWAH – Mr. Marwah responded to Mr. Junker’s comments regarding Ira Weiss. He discussed the Consent Order noting that it was signed in executive session and the neighbors were excluded. It is an unfair thing that happened to residents of Marble Lane and Carriage Lane and it was not handled right. Mr. Marwah also discussed letters he has seen relating to the issue of unauthorized meetings by Mr. Quatchak that if such an action was taken in executive session then it can be appealed by any resident to our auditor and that will have to be pursued. Mr. Marwah noted that the Treasurer’s Report shows that we have about \$1.5 million in unrestricted accounts and \$500,000 in restricted accounts. The Earned Income Tax (EIT) office staff collects about \$6.4 million and one-half of that amount goes to the school district. The school district also pays one-half of their salaries. These same staff members collect the Local Service Tax (LST). He noted that at the end of next year the EIT collection will go to a different body and we will no longer collect EIT here. He suggested that Council consider repealing the LST because it costs too much to collect the tax and it would be a net loss. Council will discuss this matter further in October, and he encouraged everybody to participate and express their views on how the LST should be handled in the future.

MR. HARTMAN – Mr. Hartman stated that you have to work before you pay the LST. It was clarified that only those who work in the borough pay the LST. Mr. Hartman also stated that Ira Weiss is the right man for the job.

MRS. SABLE – Mrs. Sable reminded everybody that the Festival in the Park would be held on Saturday, June 26th starting at 2:30 p.m. Mrs. Sable discussed the LST explaining that it is a tax that is paid by individuals who work in the borough. The tax is \$52 per year and the purpose is to support our police and roadway infrastructure. We are expected to collect approximately \$80,000 from this tax this year. This first year there was a lot of work that went into putting the processes in place for the collection of the LST. Now that this work is done, it is anticipated that the work to collect the tax in future years will be minimal and would only require a part-time employee. It has not yet been determined how many hours that employee would have to work. The statement that it would be a net loss is inaccurate. It was also noted that there was an RFP put out for the future collection of the EIT and one of the items in the RFP was to look into whether or not the entity that collects the EIT would also be willing to collect the LST and what that would cost each municipality. Mr. Marwah then corrected his statement to say that it would be a net loss to the employers and the borough because they are both expending some effort. Mrs. Sable noted that she and Mr. Marwah differ in their opinions.

SUPERINTENDENT OF PUBLIC WORKS

- No report.

SERGEANT SNYDER

- No report.

BUILDING INSPECTOR/ZONING OFFICER

- No report.

ASSISTANT PARKS & RECREATION DIRECTOR

- Miss Morris reported that this is the first week for the Playground Program, the Jr. Golf Program and the Ultimate Sports Program.
- The Festival in the Park will be held on Saturday, June 26th starting at 2:30 p.m. and concluding with fireworks at 9:30 p.m.
- The Seniors’ Luncheon will be held tomorrow.

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PARKS & RECREATION DIRECTOR

- Mr. Watenpool reported that they have been spending a lot of time mowing grass.
- They have installed another cricket pitch area for the youth to learn how to play cricket.
- They have installed sleeves in the ground near the pavilion so we can have a volleyball court in the area. The sleeves will allow us to remove the poles for other activities.
- They are working on information for the fall newsletter.
- Mr. Watenpool mentioned that during a very warm evening on June 5th there was a double graduation party at the Activity Center and the air conditioning quit working. The Activity Center Supervisor called Mr. Watenpool and he directed her to call the regular service company. Unfortunately that company was extremely busy and indicated that they could not come until the next day. Mr. Watenpool then instructed the supervisor to contact Hopey Heating and Air Conditioning to see if there was anything they could do to fix the air conditioning that evening. Hopey Heating and Air Conditioning was available and came out right away. They replaced the control board and had it working that evening. Hopey Heating and Air Conditioning is only going to charge the borough for the cost of the control board. Mr. Watenpool noted that he really appreciated their help, and we were able to help our residents have a successful graduation party. Mrs. Hopey noted that the reason this was brought up is because of the circumstances under which her husband's company has been criticized in the past. They are volunteering their services, and she does not want any repercussions for their company. They try to stay away from borough facilities because of previous repercussions.

GOLF COURSE SUPERINTENDENT/MANAGER

- Mr. Schweitzer was absent.

COMMENTS FROM THE FLOOR - None

Mrs. Sable asked for a motion to recess to discuss the scheduling of the special meeting regarding the hydroseeder vote.

MOTION TO RECESS – Mr. Marwah moved to recess the meeting to the conference room, seconded by Mrs. Hopey, and carried unanimously.

Mr. Junker noted that Council would adjourn to the conference room at this time to continue a discussion to schedule the special meeting, and the public is welcome to attend. We want to keep the meeting open in case we need to vote to authorize it.

RECONVENE AND OPEN DISCUSSION – Mrs. Sable reconvened the meeting in the conference room. She noted there had been a motion to table the ratification of the purchase of one (1) new Turbo Turf 500 EH Hydroseeder. Council can either schedule a special meeting to discuss and vote on that matter or vote on the matter this evening.

Mr. Marwah moved to take from the table the ratification of the purchase of one (1) new Turbo Turf 500 EH Hydroseeder from Turbo Technologies Inc. of Beaver Falls, PA at a cost of \$5,505.25, seconded by Mr. Hrishenko. The motion was voted upon and carried unanimously.

Mrs. Hopey moved to ratify the purchase of one (1) new Turbo Turf 500 EH Hydroseeder from Turbo Technologies Inc. of Beaver Falls, PA at a cost of \$5,505.25, seconded by Mr. Hartman. Mrs. Sable then called for a roll call vote.

Mr. Hartman - Aye
Mrs. Hopey - No
Mr. Hrishenko - Yes
Mr. Marwah - Yes
Mr. Quatchak - No
Mrs. Sable – No

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The vote resulted in a 3-3 tie and Mayor O'Keefe then was asked to vote to break the tie. Mayor O'Keefe voted "Yes". The vote was then 4-3 in favor of the ratification of the purchase of the Turbo Turf Hydroseeder. The motion carried.

MOTION TO ADJOURN – Mrs. Hopey moved to adjourn the meeting, seconded by Mr. Marwah and carried unanimously. The meeting adjourned at 9:10 p.m.

Respectfully submitted,

Cathy L. Krummert
Borough Secretary

Audience Present – 22