

**BOROUGH OF FRANKLIN PARK
BOROUGH COUNCIL REGULAR MEETING MINUTES
WEDNESDAY, MAY 15, 2019**

The regular meeting of the Borough Council of the Borough of Franklin Park was held on Wednesday, May 15, 2019 at 7:00 p.m. at the Municipal Building, 2344 West Ingomar Road, Pittsburgh, Pennsylvania 15237.

Council President Jim Hogg called the meeting to order.

Pledge of Allegiance

Cathy Krummert called the roll:

COUNCIL MEMBERS:

Laura A. Coombs, Second Vice President present
James W. Hogg, President present
James W. Lawrence present
Lucas R. Myslinski present
John P. Parks, Vice President present
Thomas C. Schwartzmier present
Junior Councilperson Nicholas Bridges present
Mayor Dennis E. O'Keefe present

ENGINEER:

Michael Malak, Senate Engineering Company present

SOLICITOR:

Robert Max Junker, Babst Calland present

STAFF:

Zach Brower, Recreation Program Director present
Walt Healy, Chief of Police present
Rege Ebner, Borough Manager present
Walt Healy, Police Sergeant present
Cathy Krummert, Borough Secretary present
Tim Phillips, Building Inspector/Zoning Officer present
Bernie Rossman, Superintendent of Public Works present
Bill Schweitzer, Manager of Golf Course & Sports Fields absent

ACKNOWLEDGE RECIPIENTS OF THE 2019 FRANKLIN PARK COMMUNITY SCHOLARSHIP –

In 2003, the first Junior Councilperson, Jacob Ramsey, recommended that Borough Council establish a scholarship fund for students in the Borough of Franklin Park. The funds for the community scholarships are raised by the Borough from the ad revenue generated by the Borough newsletters, private donations, and through participation in the annual golf outing and wine and cheese event - no tax dollars are used. Thanks to all individuals and businesses for your contributions over the years. Scholarships were first awarded in 2004, and since that time, the Borough has awarded \$144,000 in scholarship funds to 145 high school seniors from Franklin Park. The 13 students who were chosen to receive scholarships this year have all demonstrated a high level of academic performance, extensive involvement in their school community, and provided countless hours performing volunteer work to benefit others. The following students have been selected to receive a 2019 Franklin Park Community Scholarship.

1. Jordana Avigad, Matterhorn Drive, will attend Washington University studying biology and psychology.
2. Kristen Chomos, Fountain Hills Drive (not able to attend this evening).
3. Riya Divekar, Pioneer Drive, will attend Drew University studying neuroscience and economics.

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4. Megan George, Field Club Drive, will attend Bowling Green State University studying biology and pre-veterinary.
5. Shweta Gudapati, Pioneer Drive, will attend Carnegie Mellon University studying neuroscience.
6. Thomas Lyons, Holmes Drive, will attend Duquesne University studying business.
7. Elise Maletta, Salem Drive, will attend the University of Notre Dame studying architecture.
8. Nadine Oury, Dogwood Drive, will attend Harvard studying environmental science and public policy.
9. Connor Poisker, King Charles Drive, will attend Suny Maritime College studying marine transportation.
10. Tomer Shamir, Shady Knoll Court, will attend Cornell University studying computer science.
11. Rebecca Shaw, Glenchester Road, will attend Penn State University studying computer science.
12. Jessica Smith, Field Club Drive, will attend Carnegie Mellon University studying history.
13. Zach Trdinich, Oakleaf Lane, Penn State University studying materials science and engineering.

Mr. Hogg also recognized the members of the Scholarship Selection Committee who have spent many hours reviewing all of the scholarship applications: Annette Blamar, Ron Coombs, Matt Garland, Nancy Hamilton, Alyce Jacob, Iris Parks and Lisa Tourek.

APPROVAL OF THE MINUTES - Mr. Lawrence moved the minutes of the April 17, 2019 pre/post meeting, the April 17, 2019 regular meeting, and the May 1, 2019 work session, be approved, seconded by Mr. Myslinski and carried.

TREASURER'S FINANCIAL REPORT - Mr. Ebner read the April Treasurer's Financial Report. April revenues totaled \$594,889.80 and April expenditures totaled \$596,604.81. Year-to-date revenues totaled \$2,019,243.25 and year-to-date expenditures totaled \$2,250,106.27. Mr. Ebner noted that the borough made a payment in the amount of \$88,630.25 to Northland Public Library for the 2019 second quarter contribution. We received an annual dividend check in the amount of \$69,380.04 from the Municipal Risk Management Workers Compensation Pooled Trust, and we received an annual dividend check in the amount of \$29,676.70 from the Municipal Risk Management Liability Trust. Mrs. Coombs moved the April Treasurer's Financial Report be accepted as read, seconded by Mr. Schwartzmier and carried.

POLICE REPORT – Mayor O'Keefe read the Police Report and activity report for the month of April 2019. Mr. Lawrence recommended the Police Report be filed with the Police Secretary.

FIRE COMPANY REPORT - Mr. Parks read the Fire Company Report for April 2019.

BUILDING INSPECTION REPORT - Mr. Phillips read the Building Inspection Report for April 2019. Mr. Phillips issued 28 permits and collected \$133,585.00 in fees. Total value of construction was \$20,501,526.00.

ANNOUNCEMENT OF EXECUTIVE SESSION – Mr. Hogg announced that Borough Council held an executive session on May 1, 2019 to discuss a Teamsters Union grievance and the Public Works Superintendent position and Borough Council held an executive session on May 15, 2019 to discuss personnel.

PUBLIC WORKS SUPERINTENDENT RETIREMENT - Mr. Hogg announced that Bernie Rossman, Superintendent of Public Works, has announced his intent to retire. The borough is searching for a replacement, and we wish him well.

COMMENTS FROM THE FLOOR - None

OLD BUSINESS

ORDINANCE NO. 649-2019, TO CHANGE THE ZONING DISTRICT FOR PROPERTY LOCATED AT 2460 NICHOLSON ROAD – Mr. Junker summarized Ordinance No. 649-2019, and explained that a public hearing was held last month under the Municipalities Planning Code. Mr. Myslinski moved to enact Ordinance No. 649-2019, amending the Borough Zoning Map in Chapter 212 of the Code of the Borough of Franklin Park, "Zoning," to change the zoning district for property located at 2460 Nicholson Road to R-3, and to authorize the publication of the optional public notice under Section 108 of the Municipalities Planning Code, seconded by Mrs. Coombs. Mr. Lawrence asked if the change from R-1 to R-3 would increase the density, and Mr. Phillips confirmed it would increase the density of the property. A roll call vote was then taken as follows:

Mrs. Coombs Yes
Mr. Hogg Yes
Mr. Lawrence No
Mr. Myslinski No
Mr. Parks No
Mr. Schwartzmier Yes

The vote resulted in a tie. Mr. Junker explained that under the Borough Code, in the event of a tie vote, the Mayor can cast the deciding vote this evening, or he can consider the matter at a future public meeting. Mayor O'Keefe indicated that he would prefer to cast his vote at a later date. Mr. Junker stated that no formal action would be taken this evening. When this matter is placed back on the June regular meeting agenda, there will be an opportunity for Council to re-vote. If there is still a tie vote, Mayor O'Keefe will be required to vote at that time.

NEW BUSINESS

APPROVAL OF THE BILLS - Mr. Lawrence moved Council authorize the payment of the bills, which have been reviewed and approved since the last meeting, seconded by Mrs. Coombs and carried.

RESOLUTION NO. 1195-2019, K&L WEXFORD RUN PLAN SUBDIVISION APPROVAL – Mr. Junker summarized Resolution No. 1195-2019. Mr. Lawrence moved to adopt Resolution No. 1195-2019, granting preliminary and final subdivision approval for Subdivision Application No. SPF-19-02-01, submitted by Keith Locke of K&L Holdings LLC, for the K&L Wexford Run Plan, a 3-lot subdivision located at 2545 Wexford Run Road in the R-2 zoning district, seconded by Mr. Parks and carried.

RESOLUTION NO. 1196-2019, TAPH LLC WORKFORCE CAMPUS OFFICE BUILDING LAND DEVELOPMENT APPROVAL – Mr. Junker summarized Resolution No. 1196-2019. Mr. Schwartzmier moved to adopt Resolution No. 1196-2019, granting preliminary and final Land Development approval for Land Development Application No. LPF-19-02-01, submitted by TAPH LLC, for the TAPH LLC Workforce Campus office building to be located at 2563 Brandt School Road in the M-2 zoning district, seconded by Mrs. Coombs. Mr. Lawrence asked how many offices would be located in the building. Mr. Doug Tait of Tait Engineering indicated that it will be a two-story building. The owner/developer will be located on the upper floor and another software company will be located on the lower floor. The motion was then voted on and carried.

AWARD BID FOR MILLING - Mr. Myslinski moved to award Mele & Mele and Sons Inc. of Braddock, PA, the bid for milling and disposal of bituminous pavement materials, at a cost of \$2.78 per sq. yd. and \$3,750.00 per mobilization, and the bid securities be returned to the unsuccessful bidders, seconded by Mr. Schwartzmier and carried.

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AWARD BID FOR MUNICIPAL BUILDING MASONRY RESTORATION WORK - Mr. Parks moved to award Wilson Restoration of Pittsburgh, PA, the bid for the masonry restoration work at the municipal building, at a cost of \$112,707.00, and the bid security be returned to the unsuccessful bidder, seconded by Mr. Myslinski and carried.

REJECT BID FOR NEW BASEBALL & FOOTBALL STORAGE BUILDINGS - Mrs. Coombs moved to reject the bid received from Yarborough Development, Inc. of McKeesport, PA, for new baseball and football storage buildings in Blueberry Hill Park, at a cost of \$373,737.00, seconded by Mr. Lawrence. Mr. Hogg explained that the bid came in significantly over budget, and Council has decided to hold off and advertise for bids again over the winter to get more competitive bids. The motion was then voted on and carried.

ANNUAL DONATION TO McCANDLESS-FRANKLIN PARK AMBULANCE AUTHORITY - Mr. Parks moved to authorize the annual donation of \$15,000.00 to the McCandless-Franklin Park Ambulance Authority, seconded by Mr. Lawrence. Mr. Hogg stated that the ambulance authority is in good financial condition, but most in Allegheny County are not. Three or four years ago, Borough Council decided to make an annual donation on behalf of the taxpayers that amounts to \$1.00 per resident. He noted that only 30% of the households served by the ambulance authority participate in the annual fund drive. Council decided to supplement the donations to make sure that the ambulance authority remains in good financial condition. No other municipality has followed the borough's lead. The motion was then voted on and carried.

RESOLUTION NO. 1197-2019, TRAFFIC SYNCHRONIZATION WORK I-79/SR 910 TRAFFIC CORRIDOR – Mr. Junker summarized Resolution No. 1197-2019. Mr. Lawrence moved to adopt Resolution No. 1197-2019, for the PennDOT Green Light Go Project in the I-79/SR 910 traffic corridor for traffic signal synchronization work, seconded by Mr. Schwartzmier and carried.

APPOINT CAROL L. HESZ AS AN ALTERNATE MEMBER OF THE CIVIL SERVICE COMMISSION - Mrs. Coombs moved to appoint Carol L. Hesz as an Alternate Member of the Civil Service Commission, for a six-year term, which term will expire December 31, 2024, seconded by Mr. Myslinski and carried.

RESOLUTION NO. 1198-2019, INSTALLATION OF ONE SPEED MINDER DEVICE ON BRANDT SCHOOL ROAD – Mr. Junker summarized Resolution No. 1198-2019. Mr. Myslinski moved to adopt Resolution No. 1198-2019, for the submission of an Application for Traffic Signal Approval to PennDOT for the installation of one speed minder device on Brandt School Road, 565 feet south of Pine Creek Road, seconded by Mr. Lawrence and carried.

SOLICITOR – Mr. Junker congratulated the scholarship recipients. Mr. Junker explained that the resolutions that were adopted this evening to grant approval for a subdivision and a land development had been thoroughly vetted by the Planning Commission and staff prior to this meeting.

MAYOR O'KEEFE – Mayor O'Keefe congratulated the scholarship recipients and thanked the Scholarship Selection Committee. He also thanked everyone for attending this evening and noted that opinions are very important. Mayor O'Keefe thanked Mr. Rossman for a job well done.

MR. PARKS – Mr. Parks looks forward to receiving comments this evening, in addition to those comments previously received. He congratulated the scholarship recipients.

MR. LAWRENCE - Mr. Lawrence congratulated the scholarship recipients, and congratulated Mr. Rossman on his retirement. Mr. Rossman has done a great job with the public works department and for the borough.

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MR. MYSLINSKI - Mr. Myslinski congratulated the scholarship recipients and stated that Mr. Rossman will be missed. He also congratulated Mr. Brower on the birth of his third child.

MRS. COOMBS - Mrs. Coombs congratulated the scholarship recipients, and congratulated Mr. Rossman on his retirement.

MR. SCHWARTZMIER - Mr. Schwartzmier congratulated the scholarship recipients and noted that the North Allegheny School District has such high quality students. He congratulated Mr. Rossman and stated that he did an excellent job managing public works.

BOROUGH ENGINEER - Mr. Malak congratulated the scholarship recipients and Mr. Rossman.

NICHOLAS BRIDGES, JUNIOR COUNCILPERSON - Mr. Bridges congratulated the scholarship recipients and Mr. Rossman.

SUPERINTENDENT OF PUBLIC WORKS

- Mr. Rossman congratulated the scholarship recipients.
- He thanked everyone for the well wishes regarding his retirement, and he thanked Council.

CHIEF OF POLICE

- Chief Healy congratulated the scholarship recipients.

BUILDING INSPECTOR/ZONING OFFICER

- Mr. Phillips congratulated Mr. Rossman.

RECREATION PROGRAM DIRECTOR

- Mr. Brower congratulated the scholarship recipients and Mr. Rossman.

MR. HOGG - Mr. Hogg congratulated the scholarship recipients and Mr. Rossman.

COMMENTS FROM THE FLOOR - None

There was a brief recess to prepare for the public hearing.

CONTINUE PUBLIC HEARING REGARDING ORDINANCE NO. 648-2018 AMENDING THE ZONING ORDINANCE TO ADD AN OIL AND GAS RECOVERY DISTRICT OVERLAY TO THE ZONING ORDINANCE

– Mr. Hogg turned the meeting over to Mr. Junker to conduct the continued public hearing on Ordinance No. 648-2018 that originally commenced on March 20, 2019. Sherry Erwin, court reporter, was present to take a verbatim transcript of the hearing. Mr. Junker stated that the ordinance was not advertised for enactment this evening, and Council does not intend to vote on the ordinance tonight. Mr. Junker entered additional exhibits into the record and reviewed the ground rules and procedures for the public hearing this evening.

Mr. Junker noted that he has served as Solicitor for the borough since 2007. He changed law firms in 2013, and his current firm does a lot of work for the energy industry. He informed Council at that time, and he continues to do so, that he must recuse himself from any substantive review of any oil and gas matters. However, he is permitted to be engaged in the procedural aspects. This rule also applies to his colleague, Alyssa Golfieri, who is assigned to the Planning Commission. Because of this conflict, Borough Council engaged Attorney Amy Sable and the law firm of Sable and Sable to serve as Special Counsel regarding oil and gas matters. Mrs. Sable is here this evening to address the substantive matters in this ordinance.

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Although not required under the Municipalities Planning Code (MPC), a court reporter is present, so all comments and testimony are recorded. Because this is not public comment under the Sunshine Act, there is no time limit on public comment. However, everyone is asked to be conscientious of the other residents' time.

Mrs. Sable provided a summary of the changes to the pending ordinance that were recommended by the Planning Commission, based on public feedback and input over the last several months.

- An increase in the minimum lot sizes for all oil and gas uses from five acres to ten acres.
- The addition of 2,000 foot setbacks for certain types of protected structures including adult care facilities, day cares, hospitals, retirement communities and schools.
- The revision of the definition of Public Recreation Area such that it includes additional public lands that are used for recreation.
- The addition of provisions requiring an oil and gas operator to provide the borough with copies of all permits and permit applications required by state and federal agencies.
- Additional language regarding what can be stored in impoundments and a statement that the borough reserves the right to require impoundments to be completely enclosed in a structure.
- Additional requirement for the immediate notification of certain borough personnel of spills, leaks, malfunctions or releases constituting an emergency on an oil and gas site.
- Changing the boundaries of the oil and gas recovery district overlay such that the size of the overlay is reduced from approximately 667.9 acres to approximately 514.1 acres.

Additionally, there were many requests for a seismic testing ordinance and an ordinance is being drafted.

There are a number of items that have been requested many times by different speakers and also in writing that have either already been addressed in the pending ordinance or are already addressed in our existing ordinance. These items include:

- A request for a two-step application process for a Conditional Use Application (Section 212-1802 of current Zoning Ordinance).
- A request for an oil and gas applicant to enter into a roadway maintenance agreement and be responsible for certain costs related thereto (Sections 1405 B(2) and 1405 R of the pending ordinance).
- Requests have been received for the borough to enter into a multi-municipal plan with other local governments in an effort to share zoning responsibilities and obligations and to possibly have oil and gas uses zoned outside of the borough. Entering into such a plan was considered from the very outset of discussions by Borough Council with respect to oil and gas uses and how to address these uses in the borough. It was determined last summer to move forward with an ordinance first, since it would be the most efficient means of providing the borough with protections with respect to oil and gas uses. Prior to the pending ordinance being in place, the borough's ordinances did not address oil and gas uses at all. This did not mean that those uses were not permitted here. What it actually means under Pennsylvania law is that those uses are conditional uses throughout all zoning districts in the borough. With well pad sites being developed in neighboring Economy Borough, Borough Council felt the need to act quickly and efficiently to put an ordinance in place to add some protections, to limit geographically where oil and gas uses could go, and to regulate how those uses could be conducted if they came into the borough. Within five months, the pending ordinance was in place. A multi-municipal plan is very time consuming and labor intensive and can take years to get into place. The borough is open to exploring it further to see if it makes sense.

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- Setbacks - Having a setback in the ordinance that reasonably allows for the use offers more protection to borough residents than a setback that a court will determine is exclusionary. Exclusionary zoning comes in two forms. By law with an ordinance that states it is not permitted or by putting an ordinance in place that says you can do this here, but then with all of the restrictions and requirements you make it impossible to do so. It is far better to have a setback in the ordinance that reasonably allows for the use because it will offer more protection to borough residents than a setback that a court will determine is exclusionary. So for that reason, the proposed ordinance includes a 1,000 foot setback.

Another item included in the pending ordinance is that oil and gas uses have been made conditional uses. They are not uses permitted by right. If an applicant submits a conditional use application, a hearing will be held where all sides/parties that have anything to say about it can come in and present testimony to Borough Council. Council can also put conditions on the use.

A second means of protection in the pending ordinance is that it invokes the Environmental Rights Amendment of the Pennsylvania Constitution. By putting that in the ordinance, the borough is saying that we are taking the Environmental Rights Amendment seriously. We are stewards of the land, of the air, and of the water that our citizens breathe and drink and this is where we live. We don't want the area polluted. Every applicant for an oil and gas use has a burden to prove to Council that they are not going to infringe upon the health, safety, and welfare of borough residents.

Mrs. Sable then turned the meeting back over to Mr. Junker who opened the floor for public comment. The following individuals provided public comments:

1. Matt Ferriolo, 1512 Shaker Court
2. Shantanu Bhide, 1703 Shady Knoll Court
3. Edward Derby, 1515 Fox Chase Drive
4. Sylvia Choi, 1506 Fox Chase Drive
5. Bob Cameron, 1508 Fox Chase Drive
6. Saima Sitwat, 1514 Fox Chase Drive
7. Rosemary O'Neill, 1521 Fox Chase Drive
8. Theresa Hastings, 2549 Wexford Bayne Road
9. Kristina Kress, 2573 Hunters Point Court South
10. Albert Wells, 1517 Fox Chase Drive
11. Robert Battiston, 1520 Fox Chase Drive
12. Charles Hutchko, 1507 Fox Chase Drive
13. John Strahsmeier, 2518 Fairmount Church Road
14. Gil Shamir, 1704 Shady Knoll Drive
15. Francis Guzek, 2566B Wexford Bayne Road
16. Jiangang Sun, 1402 Mystic Valley Drive
17. Lauren Schweiger, 1522 Sandhurst Drive
18. Amanda Miller, 2212 Ben Franklin Drive
19. Paul Rechenmacher, 1714 Holmes Drive
20. Patrick Pagano, 1408 Mystic Valley Drive
21. Amanda Upton, 2356 Little Sewickley Creek Road
22. John Ripper, 1547 Field Club Drive
23. JoAnne Phillips, 1621 Stone Mansion Drive
24. Cathy Lodge, 257 Meinrad Drive, Robinson Township, PA 15019
25. Robert Wyckoff, 1629 Stone Mansion Drive
26. Patrick Kent, 1585 Stone Mansion Drive
27. Janet Harner, 1705 LaCosta Court

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At the conclusion of the public comments, Mr. Junker stated that Borough Council will review the recommendations and public comments. They will be meeting with Special Counsel Amy Sable in executive session to do some deliberation on the issues that have been raised on the legal side. If the ordinance is revised after that, it will need to be introduced at a public meeting. If Council elects to put the revised ordinance into pending status, a resolution will be drafted, additional public hearings will be scheduled, and we go through additional notice requirements and posting requirements. The Municipalities Planning Code (MPC) is very specific on how that is to be done. Council has elected to go above and beyond those requirements by putting updates and information on the borough website. Residents can sign up on the website to receive notifications when they are sent out through the website. Residents may also call the borough or come in to view any information they are not able to view through the website.

Mr. Lawrence moved to close the public hearing, seconded by Mrs. Coombs and carried.

MOTION TO ADJOURN – Mr. Lawrence moved to adjourn the meeting, seconded by Mr. Schwartzmier and carried. The meeting adjourned at 11:24 p.m.

Respectfully submitted,



Cathy L. Krummert
Borough Secretary

Audience Present - Approximately 100