

**FRANKLIN TOWN COUNCIL  
MINUTES OF MEETING  
March 18, 2015**

A meeting of the Town Council was held on Wednesday, March 18, 2015 at the Franklin Municipal Building, 355 East Central Street, Franklin, Massachusetts. Councilors present: Andrew Bissanti, Robert Dellorco, Brett Feldman, Matt Kelly, Thomas Mercer, Peter Padula, Judith Pond Pfeffer, Robert Vallee, Steve Williams. Administrative personnel in attendance: Jeffrey Nutting, Town Administrator; Maxine Kinhart, Assistant to the Town Administrator; Mark Cerel, Town Attorney.

**CALL TO ORDER:** Chairman Vallee called the meeting to order at 7:00 PM with a moment of silence and the Pledge of Allegiance.

**APPROVAL OF MINUTES:** *April 30 2014 Budget Hearing Pt.1; May 1, 2014 Budget Hearing Pt. 2; January 7, 2015 – Executive Session; March 4, 2015 – Executive Session.* **MOTION to Approve** by Kelly. **SECOND** by Mercer. **VOTE: Yes- 9, No-0, Absent-0.**

**ANNOUNCEMENTS:** Chairman Vallee announced the meeting would be recorded by Franklin TV and available for viewing on Comcast Channel 11 and Verizon Channel 29. This meeting may also be recorded by and available on *Franklin Matters*.

**PROCLAMATIONS/RECOGNITIONS:** **None.**

**CITIZEN COMMENTS:** *Dale Lippert, 8 Beth Road.* Mr. Lippert stated that he purchased his house in 1966; the house was built in 1963 on a spring area. In 1967, 1968, and 1969 the area flooded and each time a Town firetruck pumped the water over the hill into a storm drain on Tyson Road as there is no other way to remove the water. In 1970 the pressure under the house was so intense, it blew a 5 ft. hole through the cellar floor and water filled the basement almost to the rafters. The Town pumper truck again pumped the water. At that time, the DPW Director engineered a drainage system including two submersible pumps, manholes in the back and side yards, and perforated pipe in the side yard. Mr. Lippert installed a French drain in his basement and was told by the DPW to connect it to the created drainage system. In 1973 the Town added a generator to the pumping system in case of an electricity outage. For 45 years, the Town has maintained this pumping station, including replacing worn pumps. Last spring there were problems with both pumps and the cellar filled with water. The Town investigated and changed the check valve on one pump; it resumed working. Although the other pump was not repaired, the water resided. However, two pumps are needed. When this year's snow melts, it will be too much for one pump to handle and the area will become flooded. The Town replaced the broken pump last Tuesday. On Thursday, Mr. Lippert received a letter from the DPW stating that they no longer have any responsibility for the pumping equipment on his property. The following Monday, Mr. Lippert spoke with Brutus Cantoreggi, DPW, who stated that as the area was private property with no easement, the homeowner would now be responsible. Mr. Lippert reported that the pumps and pumping of this area was previously approved by the Board of Selectman; but, there are no records, only residents and former Board members that remember this situation. The cost to maintain the pumps is significant. Mr. Lippert stated the legal liability is great as if he does not maintain the pumps and neighbors flood, they could possibly take legal action against him for not maintaining the pumping equipment. It is an injustice that the DPW has stated that they will no longer maintain the pumps.

Chairman Vallee stated the Council would discuss this during *New Business*.

**APPOINTMENTS:** ► *Finance Committee.* **MOTION** by Padula to **Appoint** Kerri Anne Bertone to serve as a member of the Finance Committee. **SECOND** by Mercer. **VOTE to Approve: Yes-9, No-0, Absent-0.**

**HEARINGS:** *Public Hearing to determine whether it is in the public interest to accept Lenox Drive, Berkshire Drive, and Symphony Drive.* ► Mr. Cerel stated that this is part of the ongoing process pursuant to the Special Legislation to accept roadways that did not go through the normal acceptance process. Acceptance plans have been prepared, abutters have received notices and the Public Hearing is a requirement. There are additional streets currently being worked on. Most of the Town roads that have not yet been accepted are due to the complex acceptance process not being followed correctly during times of peak building. Currently, the process is more clearly followed and enforced.

Mr. Nutting stated that they have reviewed Town streets and reached out to firms that may have started or will prepare road acceptance plans in the required legal and recordable format. Some of the older streets that need to be accepted will be challenging as the plans will be more difficult and expensive to prepare. About four years ago \$25,000 was made available for this purpose. There is some financial advantage to having more accepted public ways as State funding is based on miles of road.

*Public Hearing to determine whether it is in the public interest to accept Windsor Circle.* ► Mr. Cerel stated that this is a recent subdivision where the developer went under and the Town completed the roadway with bank money.

**MOTION** by Mercer to **Close** the Public Hearing to determine whether it is in the public interest to accept Lenox Drive, Berkshire Drive, and Symphony Drive, and to **Close** the Public Hearing to determine whether it is in the public interest to accept Windsor Circle. **SECOND** by Kelly. **VOTE to Approve: Yes-9, No-0, Absent-0.**

**LICENSE TRANSACTIONS:** ► *The Curry House-Transfer of License.* **MOTION** by Pfeffer to **Approve** the transfer of the All Alcoholic Beverages Restaurant License from Franklin Deli, LLC d/b/a/ Franklin Café & Grill to the new licensee, Jai Ho Group Inc. d/b/a/ The Curry House and the new manager, Krishna KC. **SECOND** by Mercer. **VOTE to Approve: Yes-9, No-0, Absent-0.**

► *The Bamboo House-Transfer of License.* **MOTION** by Pfeffer to **Approve** the transfer of the All Alcoholic Beverages Restaurant License from Pu Yong, Inc. d/b/a Bamboo House to Zhu Jiang, Inc. d/b/a Bamboo House, and the manager is to be Limei Qiu. **SECOND** by Bissanti. **VOTE to Approve: Yes-9, No-0, Absent-0.**

**PRESENTATIONS/DISCUSSIONS:** ► *FY 16 Budget.* Mr. Nutting stated that the State's proposed budget with the local aid numbers was released showing an increase in the Charter School budget. After investigation, it was determined that the Department of Education used the wrong enrollment numbers and added 190 students to the Charter School. The State will revise the estimate which should be available in early April. Out to bid on health insurance and waiting for the Firefighter's Arbitration award. Once all information is available, will meet with Budget Sub-Committee and work to finalize budget.

► *Gus Brown – Building Commissioner.* Mr. Brown provided an overview of the Franklin Building and Zoning Department functions. He reviewed the staffing, daily operations, residential and commercial new buildings, and number of issued permits for 2014. He described various types of field inspections, including Chestnut Ridge, Franklin Retail/Liscotti Development, Dean Avenue wireless tower, fire response, pools without permits, obstruction of view on corner lots, unregistered vehicles, and vacant properties. Mr. Brown discussed a State offered program to help with vacant properties. As well, he indicated that solar roofing applications are frequently encountered in his office. The structural

component of the roof must be reviewed to determine if the roof can handle the weight of the solar, including snow.

► Ms. Pfeffer stated that Mr. Brown has been a great asset in working with the Housing Trust. Also, the house the Tri County the students are completing will be an Affordable House open for lottery. ► Mr. Dellorco stated that Mr. Brown did a great job. ► Mr. Nutting conveyed that Mr. Brown worked nights and weekends to get the Affordable Houses completed. His entire staff, including the customer service aspect, is excellent.

**SUBCOMMITTEE REPORTS: None.**

**LEGISLATION FOR ACTION:**

**1. Resolution 15-10-Order of Layout, Acceptance, and Taking of Lenox Drive, Berkshire Drive, and Symphony Drive and related Drainage Lot and Easement.** MOTION to Waive the reading by Kelly. SECOND by Mercer. VOTE: Yes-9, No-0, Absent-0. MOTION to Move Resolution 15-10 by Mercer. SECOND by Kelly. VOTE: Yes-9, No-0, Absent-0.

**2. Resolution 15-11-Order of Layout, Acceptance, and Taking of Windsor Circle and Related Drainage Lot and Easement.** MOTION to Waive the reading by Kelly. SECOND by Mercer. VOTE: Yes-9, No-0, Absent-0. MOTION to Move Resolution 15-11 by Kelly. SECOND by Mercer. VOTE: Yes-9, No-0, Absent-0.

**3. Resolution 15-12-Acceptance of Gift-Town of Franklin Police Department.** Ms. Pfeffer read Resolution 15-12-Acceptance of Gift-Town of Franklin Police Department. MOTION by Mercer to MOVE Resolution 15-12. SECOND by Kelly. DISCUSSION: Mr. Nutting recommended a Thank You letter. VOTE: Yes-9, No-0, Absent-0.

**4. Bylaw Amendment 15-746: Chapter 181, Wetlands Protection – 1st Reading.** Ms. Pfeffer read Bylaw Amendment 15-746: Chapter 181, Wetlands Protection-1st Reading. MOTION by Mercer to MOVE Bylaw Amendment 15-746: Chapter 181, Wetlands Protection, to a second reading. SECOND by Bissanti. DISCUSSION: Mr. Nutting stated this would be similar to other laws the Planning Board and Zoning Board have when an applicant needs to get an outside consultant. With a large building or development, the Conservation Committee may not have enough money to cover the costs. This amendment is to make sure the Town is not paying the costs. VOTE: Yes-9, No-0, Absent-0.

**TOWN ADMINISTRATOR'S REPORT:** ► The snow and ice budget is near \$500,000--final number available mid-April. Need to make sure salt barn is full at end of season in preparation for next winter. ► Thanked Lacrosse and Soccer helpers who donated money to clear snow from the turf fields for the children to use. ► Approved High School turf field at \$839,000 and will move ahead when weather improves.

**OLD BUSINESS: None.**

**NEW BUSINESS:** ►► **Responses to Citizen Comments:** ► Mr. Cerel stated that Mr. Lippert's concern was brought to his attention by the DPW. There are no records available regarding this matter. Although previously Town employees assisted the homeowner with the drainage issues, this is not a Town issue. It is a private lot where a house was built with incorrect drainage. This is not an issue of an easement as the Municipality is not gaining any public benefit. It is not roadway drainage that is causing the issue, rather the topography of the land from either groundwater or surface water. Mr. Lippert has had the benefit of the Town maintaining the drainage for past years, but there was never any authorization to do so. Public funds cannot be used for this purpose. Therefore, moving forward, Mr. Lippert will be on his own. ► Mr. Lippert provided a copy of a letter addressed to the Town allowing them access to his property to fix the

situation. As well, he had pictures showing the street floods onto his land. In response to the legality of the issue, Mr. Lippert asked if it was legal for the Town to give away equipment as there are two pumps and a generator on his property. ► Mr. Cerel indicated that the developer or builder of the house is responsible and should have provided remedy. The Municipality should not have become involved to assist the homeowner. There is no liability from the Town due to the original permitting. As the house is on a flood plain which is not buildable, it is not clear how the house was allowed to be built. Mr. Cerel stated that although something wrong was done many years ago, it does not give the Town the right to continue to do so. Town is constrained on how taxpayer money can be spent. ► Mr. Kelly stated that as the Town has been taking care of this for 47 years, the Town has shown intent that they planned to continue to take care of this problem. There is Town pipe that goes across private properties and into a public storm drain. He would like to have a meeting to reach a workable solution. The Town should not simply state they will no longer take care of the flooding. ► Mr. Nutting responded that he would take a second look at the problem to try to work out a legal remedy. However, the Town did something wrong many years ago by providing a solution. ► Mr. Bissanti indicated that the Town should help Mr. Lippert as this has been going on for 47 years. As the pictures show, the entire cul-de-sac flooded which is a public issue. He became a Council Member in order to help and would like to provide such help to Mr. Lippert. ► Ms. Pfeffer stated that as the Town stepped in a long time ago and took care of the problem, the Town should continue to take care of it, otherwise everyone in that area is going to be flooded.

►► Ms. Pfeffer stated the Towns of Upton and Uxbridge are known as Purple Heart Communities. She spoke with Bob Fahey, Veteran's Agent, and he is in favor of the Town of Franklin being designated as a Purple Heart Community. ► Mr. Nutting stated he would look into this.

**COUNCIL COMMENTS:** ► Mr. Padula thanked the DPW for being extremely prompt and professional in fixing a frozen water line for his rental property. ► Mr. Kelly stated that Mr. Brown's staff in the Building Department is always courteous and helpful. ► Mr. Feldman showed the new logo of the *Franklin Solar Challenge* created by local artist David Mann. ► Ms. Pfeffer stated that Dean College, in recognition of Stella Jeon, is sponsoring a lecture series at the Senior Center. ► Ms. Pfeffer stated that Mr. Feldman and she went to an open house event at the Helen Keller School regarding Spectra Engineering's Algonquin Pipeline expansion project that goes through Franklin. The presentation was extremely polished and slick. ► Mr. Nutting thanked Ms. Alger's 5<sup>th</sup> grade class at Davis Thayer for the opportunity to read to the class.

**EXECUTIVE SESSION: *To Consider Purchase of Real Property (unimproved land).* Motion to Move** by Pfeffer that Town Council enters executive session for discussion to consider purchase, exchange or lease of real property (unimproved land). **ROLL CALL VOTE:** Bissanti-YES; Dellorco-YES; Feldman-YES; Kelly-YES; Mercer-YES; Padula-YES; Pfeffer-YES; Vallee-YES; Williams-YES. **YES-9, NO-0. Passes.**

Town Council Meeting Public Session ended at 8:18PM.

Respectfully submitted,

Judith Lizardi  
Recording Secretary