

**FRANKLIN TOWN COUNCIL  
MINUTES OF MEETING  
December 16, 2015**

A meeting of the Town Council was held on Tuesday, December 16, 2015 at the Franklin Municipal Building, 355 East Central Street, Franklin, Massachusetts. Councilors present: Andrew Bissanti, Robert Dellorco, Glenn Jones, Matthew Kelly, Thomas Mercer, Peter Padula, Deborah Pellegrini, Judith Pond Pfeffer, Robert Vallee. Administrative personnel in attendance: Jeffrey Nutting, Town Administrator; Jamie Hellen, Deputy Town Administrator; Mark Cerel, Town Attorney.

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

**APPROVAL OF MINUTES:** None.

**ANNOUNCEMENTS:** ► Chairman Kelly 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 others. ► January 6, 2016, Citizen's Pipeline Coalition will be at Town Council meeting to speak regarding the potential pipeline through Franklin. ► January 12, 2016, Town Council Goals meeting to be held. ► January 20, 2016, will have discussion about the Town-owned land on Pond Street.

**PROCLAMATIONS/RECOGNITIONS:** None.

**CITIZEN COMMENTS:** ► David Patterson, 19 Plain Street, stated in 2009 a project was proposed to be built abutting his property. Project was originally designed to be a four bedroom facility to house people with disabilities. He was in favor of the facility going in. Prior to commencement of project it was brought to his attention that the scope and size of project had changed dramatically and had expanded from a four bedroom project to an eight bedroom project with approximately 28 rooms and approximately 5,000 sq. ft. He stated members of the Town Council at the time also thought it was going to be a four bedroom facility. There have been a number of highly questionable procedures during the application process including an extension of the permit for the project until September 8, 2015 provided by the Zoning Board of Appeals at the meeting on June 5, 2015. Mr. Patterson reviewed the video of the meeting as well as the minutes to confirm that the extension was for September 8, 2015, knowing that any vote in a public meeting had to stand. Several days later, the ZBA noted the decision with the office stamp smudged and showing a new extension date of September 21, 2015. After a close review of documents in Building Commissioner's office, it showed the building application permit was made on September 15, 2015, and the building permit was issued by the Building Commissioner on September 30, 2015; this clearly shows there is discrepancy with the dates. The building permit was obviously issued in error with disregard for proper procedure. The date of September 8, 2015, cannot be changed after it was voted on at the public ZBA meeting. The ZBA did not go back and change the date at another meeting. Therefore, the applicants missed the date of September 8, 2015. The educational use was not put into the first comprehensive permit so applicant cannot use it as an argument. The proper and right remedy would be for applicant to reapply as they did something faulty. He stated he is now being told that must allow ZBA the opportunity to fix this error before any enforcement action will be initiated, and ZBA will hold a meeting to consider whether to uphold or withdraw the building permit. He strongly urged the Town Council, representatives of the people, to inquire about this process in order to ensure the integrity of this process is kept fair. He stated he is hopeful the Council members will see the obvious violations and take this last chance to rectify this violation without graduating this violation to the next level. He also noted he had asked for a fence and a sidewalk and the applicant said no to both. He stated applicant is proceeding with this building at risk as they did not want to wait for his appeal. They poured the footings before it was even inspected. He also stated there are Police officers, DPW workers and emails that can

be produced showing that applicant told them not tell Mr. Patterson about the progress of the building, stripping him of his rights. He stated this has been very unfair. He thanked Town Council members for their time.

**APPOINTMENTS: None.**

**HEARINGS: None.**

**LICENSE TRANSACTIONS: 2016 Annual Alcoholic Beverages Licenses Renewals.** ► Ms. Pfeffer read the list of all 2016 Annual Alcohol License Renewals and the license renewals currently on hold. All establishments have passed Fire, Building, and Board of Health inspections. **MOTION to Approve** the renewal of the alcoholic beverages licenses listed on the attached Renewal List for the year 2016 with licenses where funds are owed or issues are outstanding to the Town being held in the Town Administrator's Office until outstanding fees are paid and issues are cleared up by **Pfeffer. SECOND** by **Mercer. Discussion:** ► Mr. Padula asked when the existing licenses expire and the new ones begin. ► Mr. Nutting stated December 31, 2015, and January 1, 2016. For establishments with issues, they will not be able to sell alcohol as of January 1, 2016. ► Mr. Jones asked in regard to Artistry Kitchen Franklin, LLC and Tastebuds Fresh Market Place being closed, have they given up their licenses. ► Mr. Nutting stated they have given up their licenses. ► Mr. Cerel stated there are specific deadlines for licensee/applicants that must be adhered to. If applicant does not get in by that date by State law they must come back and reapply again. He stated the changes noted are allowed and licenses automatically renew unless something very compelling. **VOTE: Yes-9, No-0.**

**PRESENTATIONS/DISCUSSIONS:** ► *Brutus Cantoreggi, DPW Director, Snow Presentation.* ■ Mr. Cantoreggi and Carlos Rebelo, Highway & Grounds Superintendent, addressed the Town Council. Mr. Cantoreggi thanked Mr. Rebelo and his excellent crew for the great work they do on all the Town fields. Mr. Cantoreggi recapped last winter having 23 events for plowing and salt. The budget was for \$953,000; approximately \$1.5 million used. He listed the snow plowing priorities and procedures. The road salting uses 100% salt. DPW got away from using sand. The cost of salt has gone up over the past years and is reflected in budget. When sand is put down it picks up pollutants on the ground such as oils and then goes down into the catch basins. This is a bigger problem; higher costs associated with cleaning up the sand and getting rid of catch basin material makes it more expensive overall. Also, people in the Town expect roads to be clear and salt is better. DPW does five-truck route (actually six trucks as one is used in schools). Subdivision roads may not be clear all the time, but people on those roads should not be going that fast anyway. Cost for a six-inch storm including pretreat, plow for eight hours, then sand after is about \$120,000.00. There are 35 miles of sidewalks in Franklin which are cleaned by the same people that just finished plowing the streets. With more than six inches of snow it can take about two to three days to do sidewalks. Very time consuming, and if have consecutive storms, can fall behind. DPW's goals are to try to be prepared, respond appropriately, ensure emergency vehicles can always respond, provide safe passage of vehicles during snow fall, and have all roadways cleared showing some asphalt within four hours after snow fall ends. All snow removal depends on time of day, sunlight, and ground temperature. He reviewed the many items that can affect response. The DPW prepares for storms by watching weather, equipment readiness, availability of DPW personnel, and availability of supplies, such as salt. Salt is not given out at the DPW yard. Mailbox policy is if mailbox is knocked over, get a receipt for new mailbox and DPW will reimburse up to \$45.00; DPW does not install. Basketball hoops are not to be installed in the public right of way. Do not have manpower to clear hydrants so asked public to do that. He reviewed the top ten complaints by residents. He stated if a resident believes a snow plow truck is speeding please notify DPW or call police to report. He noted law that states businesses are supposed to clear their own sidewalks. DPW does not want to be the snow police; not something they want to enforce, but wanted to bring it up. ■ Mr. Vallee stated snow blowers may be more effective such as used by Norwood. He also said some towns such as Bellingham pretreat better as their roads are bare when Franklin roads still have

snow. ■Mr. Cantoreggi said snow blowers do a better job, but have limited resources so have to decide the best use for the Town: to buy another snow blower or other piece of equipment. He said they do pretreat some roads using a liquid spray. ■Mr. Dellorco stated the calcium chloride is expensive and can only put it down at a certain temperature. He mentioned sometimes departments can get a test snow blower. Said DPW is doing a good job. ■Ms. Pfeffer stated it was agreed to last year to get more markers for the hydrants. ■Mr. Cantoreggi stated it was a priority to get them out there, but not sure if all have been put up. If someone wants one, just call. ■Mr. Jones said DPW did a great job with all the snow and asked if DPW had any additional requests. ■Mr. Cantoreggi said he thinks they are all set. ■Mr. Rebelo said they are ready to go. Biggest thing last year was they had to haul snow away which was a big challenge. ■Mr. Nutting said there is a different plan for the new high school this year. ■Mr. Cantoreggi said Public Works is not out patrolling the roads as police do that. Typically the police call the DPW and say the roads are getting icy. ■Mr. Bissanti said last year they started to talk about a snow melter. ■Mr. Dellorco said that would help in the center of Town, but they are not cheap. ■Mr. Cantoreggi said dream list would include 12 ft. wide snow blower that goes in front of the front-end loader--about \$280,000. But, Town buys that or a new truck. So, have to look at priorities. As well, if it does not snow, equipment sits there. ■Mr. Vallee stated they do an excellent job. ■Mr. Jones asked Mr. Nutting to explain how there is a set budget, but as the snow and ice removal budget went over last year, where did the extra money come from. ■Mr. Nutting stated they take a five-year rolling average. Retain Free Cash until spring to see how the winter goes. This past year transferred money from Free Cash to pay for snow budget deficit. Also, DPW applied for FEMA reimbursement for the storm in February and Town will get \$270,000 which will go back into Free Cash for next year. ■Chairman Kelly questioned if snow melter was purchased, could it be used as something regional with other local towns. ■Mr. Cantoreggi stated there is no place in Town that does not get salt. He said the sidewalk plows start from center of Town and work outward. Try to do one side of the street at a time to get as much done as possible and concentrate in front of schools.

► **Brutus Cantoreggi, DPW Director, Wetlands Protection Bylaw Amendment.** ■Mr. Cantoreggi stated when he first came to Town, he had to notify Conservation Commission for everything and they determined if needed a Notice of Intent. Then, he and Conservation Commission came up with agreement if going to stay in public right of way, even if paving road going through wetland or buffer area, did not have to go through Commission every time which was a savings of time and money. DPW just let them know what roads were going to be done and if they had any concerns DPW would address them. Town property now has more than 90 detention/retention ponds that DPW does maintenance on such as mowing and tree removal. Franklin's wetland bylaws are more stringent than the State. In 1992 State said when retention pond was manmade and turned into a wetland, it would never be treated as a wetland. In Franklin, if a retention pond is built and it turns into a wetland, it is considered a wetland. So, in order to do maintenance, DPW would have to notify everyone in Town with certified mail and it would cost about \$12,000.00. Both Conservation Agent and Mr. Cantoreggi thought it was silly to do this if just wanted to go in and do maintenance and mow the retention pond. Came up with this agreement to change bylaw and Conservation Commission approved Chapter 181-2, a new Paragraph D, which states generally that DPW can go in and do general maintenance in the retention/detention ponds; not changing the use of area. ■Mr. Bissanti clarified that DPW will be exempt from the manmade wetlands, but general public will not be exempt from the manmade wetland bylaw as it stands, and stated he did not believe this was right. If Conservation Agent wanted to change it, it should be across the board. It is still a manmade wetland. ■Mr. Cerel, stated Town is not going to be exempt across the board, only on routine maintenance. So, if there was a need to reconstruct one or do major excavation, would still need to go through the Conservation Commission. The rationale for distinguishing between Town and private owners and developers is twofold: 1. As part of the infrastructure of the subdivision it handles the street drainage. The sooner the developer completes the infrastructure, the sooner he hands it off for acceptance. If the developer has dragged it out so long that the retention/detention pond needs maintenance, he has created the situation. 2. The DPW is part of the Town and can be relied upon to protect the Town's interest,

whereas a private party cannot be relied on to that extent so need oversight which is the Conservation Commission. ■Mr. Bissanti agreed with oversight and maintenance needed. He did not agree with a manmade area becoming a wetland and then the manmade wetland is given all jurisdictional protections of a wetland. For example, someone builds a manmade wetland and then a homeowner wants to put in a pool and cannot as the area is now considered a wetland. ■Mr. Cerel stated the State set minimum standard for the protection of wetlands and left it open to the communities the extent to which they wanted to further protect wetlands. ■Mr. Nutting stated this is a bylaw adopted by the Town Council and is ultimately their decision; someone from Conservation Commission should come in to present rationale. He noted that for instance, the retention basins put in at the High School are not yet considered wetlands because they have not been there long enough. But, over time if they are not maintained, things grow in them and then become a wetland. The State says it is not a wetland, but the Town Council many years ago adopted a bylaw that says it is a wetland. The Conservation Commission enforces the bylaw adopted by the Town Council. If want to change that, Town Council should have conversation with the Conservation Commission. ■Mr. Padula agreed with Mr. Bissanti that issue should be reviewed with Conservation Commission. ■Mr. Vallee commented that retention/detention ponds are waste of money and land, eyesore and not maintained and would do away with the bylaw. ■Mr. Cerel stated that drainage must be kept on site by both State and Federal law.

► **Brutus Cantoreggi, DPW Director, Contamination in Recycling.** ■Mr. Cantoreggi stated this issue has been brought up before. Contamination in the recycling costs money and causes rates to go up. He has been sending out lots of letters. Contamination starts in the cart, gets dumped into the truck, goes to the facility, then shuts down the plant. For single-stream recycling, when economy is good Town gets paid for it, when economy is not good, Town has to pay to get rid of it. If there is a lot of trash in recycling, Town has to pay more. So, have been educating public, sending lots of notices about what can and cannot put in recycling. He listed items that cannot be put in the single-stream recycling that must be thrown away. Town was measured last week for how much trash was in the recycling and came in under 10 percent. Because residents have been doing a good job, he is now going to try to renegotiate for a lower rate

**SUBCOMMITTEE REPORTS:** ►Mr. Bissanti stated EDC meeting on January 6, 2016, at 6:00 PM.

#### **LEGISLATION FOR ACTION:**

- 1. Resolution 15-75: Authorization for Municipal Aggregation of Electricity.** Ms. Pfeffer read the resolution. **MOTION to Move** Resolution 15-75 for authorization for Municipal aggregation of electricity by **Mercer. SECOND by Padula. Discussion:** ►Mr. Nutting stated Town had looked at this several years ago and declined. Now taking second look. Municipal aggregation of electricity is the ability of the Town to go out and purchase electricity for every citizen in Franklin. Electricity is broken into three parts: power, transmission, distribution. Get bill from National Grid, but they buy their power from different places. The Town of Franklin can bid for electricity for every citizen. Communities have done this across Commonwealth and usually see average savings of about \$100.00 per family per year. If Town goes through this process, no citizen is required to participate—can opt out. Can stay with National Grid or buy power from other vendor. This is really group purchasing for residents of Franklin. Will probably take 6-9 months to work through process. It is a way for average citizen to save money. **VOTE: Yes-9, No-0.**
- 2. Resolution 15-84: Ratification of the Franklin Permanent Firefighter Association Local 2637.** Ms. Pfeffer read the resolution. **MOTION to Move** Resolution 15-84 for ratification of the Franklin Permanent Firefighter Association Local 2637 by **Mercer. SECOND by Padula. Discussion:** ►Mr. Nutting reminded that Council voted last June to ratify a four-year contract that ended six days after the vote. Since then, have met with new bargaining team, and have had productive process. Last night they voted to approve new contract. This is a three-year deal similar to other contracts that have been

ratified with changes in wages consistent with other unions. Holiday language was changed. ► Ms. Pfeffer commended negotiating committee of Fire Department and Town as this is first time Fire Department has settled a contract in the same year in which it was written. ► Mr. Nutting agreed this was a good working relationship and settled timely. **VOTE: Yes-8, No-0, Abstain-1.** (Ms. Pellegri abstained.)

**TOWN ADMINISTRATOR'S REPORT:** ► Mr. Nutting introduced Jamie Hellen, the new Deputy Town Administrator, beginning January 4, 2016. He reviewed Mr. Hellen's prior experience and educational background and stated Mr. Hellen comes from a similar role in Hopkinton. He looked forward to Mr. Hellen's help with Council and community and stated Mr. Hellen will be great asset with public relations and communication skills. ► Mr. Hellen stated he is looking forward to getting started. ► Mr. Nutting stated approved for TIF agreement for Cold Chain Technologies so they will be moving to Franklin after the beginning of the year. They will be bringing about 200 jobs. He wished all Happy Holidays.

**OLD BUSINESS:** ► None.

**NEW BUSINESS:** ► Mr. Jones stated he would like to put Conservation Commission on future Town Council agenda for a presentation in regard to wetland issue. ► Mr. Bissanti stated he wanted to push along the alcohol awareness certification. He stated Mr. Cerel reviewed and it is not against the law for a town to mandate alcohol awareness. He would like to pursue mandating a bylaw that all that handle liquor be alcohol awareness certified. He stated the new scanners are practically worthless with new technology available to make fake IDs. ► Mr. Padula had question for Mr. Patterson. As this project cannot be denied under comprehensive permit, what is it that you are trying to achieve? ► Mr. Patterson stated the ZBA took an official vote and the date cannot be arbitrarily changed; just trying to have fairness. ► Mr. Cerel stated the bottom line is the Building Commissioner issued a building permit. Mr. Patterson appealed that building permit. And, it is on for the Zoning Board of Appeals for proper process for tomorrow night. If ZBA feels the Building Commissioner was in error they can rescind the building permit, or they can uphold it. Mr. Patterson then has right of appeal back to the courts. ► Mr. Bissanti stated he has compassion for the situation and asked what remedy Mr. Patterson is looking for. ► Mr. Patterson stated if a date was voted on, it should be adhered to, therefore, they should have to go back and reapply. He just wants basic fairness. He cited numerous examples where applicant did not care and disregarded rules. ► Mr. Dellorco asked Mr. Cerel if the date was September 8, 2015, then was the Town wrong. ► Mr. Cerel stated the Town was not wrong. He provided overview and background into the complicated issue noting the Housing Authority is a separate legal entity and they agreed to make some remediation for Mr. Patterson. This is a state grant. It is eight beds not bedrooms. Town Planner wanted it to go through 40B for the Town to get credit for it. This falls under an exempt use for State. This is a protected class under Federal Law. He stated he expects ZBA to say it is an as of right use, the building permit is valid, and project should go forward. Housing Authority has own attorney. ► Ms. Pfeffer reaffirmed that ZBA is going to make a decision tomorrow night. ► Ms. Pellegri asked if applicant was going to put the fence up as agreed. ► Mr. Patterson said yes, but the approved vinyl fence was changed to wood and he had to make calls to have it returned to vinyl. He should not have to do all this as they are being punitive. He wants basic fairness and they should have to reapply.

**COUNCIL COMMENTS:** ► Ms. Pellegri wished everyone a Merry Christmas and Happy New Year. ► Mr. Jones welcomed the new Deputy Town Administrator and said Merry Christmas to everyone. ► Mr. Dellorco wished all a Merry Christmas and welcomed Mr. Hellen. ► Ms. Pfeffer said Merry Christmas and welcomed Mr. Hellen. She thanked all who cleaned and re-painted the white rocks that spell Franklin at the train station. She said the group is hoping on Earth Day volunteers will clean up more around the station. ► Chairman Kelly welcomed Mr. Hellen.

**EXECUTIVE SESSION: *Pending or Threatened Litigation.***

1. Proposed Excelon expansion of Medway electric generating facility pending before Energy Facilities Siting Board.
2. Proposed Spectra gas transmission line through Franklin.

**MOTION** by **Pfeffer** that Town Council enters executive session to discuss strategy with respect to litigation. **SECOND** by **Mercer**. ► **ROLL CALL VOTE:** Bissanti-YES; Dellorco-YES; Jones-YES; Kelly-YES; Mercer-YES; Padula-YES; Pellegrini-YES; Pfeffer-YES; Vallee-YES. **VOTE: Yes-9, No-0.**

Town Council Meeting Public Session ended at 8:37 PM.

Respectfully submitted,

Judith Lizardi  
Recording Secretary