

**FRANKLIN CITY COUNCIL MEETING
APRIL 4, 2011**

Call to Order

Mayor Merrifield opened the Council Meeting at 7:00 p.m. in the Council Chambers, Franklin City Hall. Salute to the Flag was led by Councilor Bowers. Mayor Merrifield called for a moment of silence in remembrance of Mrs. Beverly Goodearl, (her son is Captain Robert Goodearl in the Franklin Fire Department); and Mrs. Ed Merrill, (Mr. Merrill was a City Councilor for many years).

Public Hearings

Mayor Merrifield advised that three consecutive public hearings were to be held beginning tonight concerning a community Development Block Grant on behalf of the Tiny Twisters Child Care Center. Mayor Merrifield advised that the public hearing scheduled for tonight has been cancelled and requested a motion for the rescheduling of the three consecutive public hearings.

Motion made by Councilor Feener that the Franklin City Council re-schedule three consecutive public hearings scheduled for this evening to May 2, 2011 beginning at 7:05 p.m. in the Council Chambers, Franklin City Hall. This concerns an application for a Community Development Block Grant (CDBG) Grant up to \$500,000 on behalf of tiny Twisters Child Care Center. Motion seconded by Councilor Bowers. All in favor, motion passes.

Public Hearings

Ordinance #05-11 – an ordinance concerning amendment to Chapter 233, Property Maintenance Code to address procedures for the maintenance of damaged buildings.

Mayor Merrifield opened the public hearing to the public. Mr. George Dzujna, Ward I, commented that he hoped the Council would look favorably on both ordinances and stated the better the way the downtown looks, the better off everyone will be. He stated in Ordinance #05-11 it states that for any extension beyond the 90 day period (Section A), the wood or any material used to board the

building shall be painted to match the color scheme of the existing building or abutting structure. Mr. Dzujna commented that perhaps if someone got mad for one reason or another they might paint stripes on the plywood.

No one else came forth to speak; Mayor Merrifield closed the public hearing.

Ordinance #06-11 – an ordinance concerning the removal of Section 305-29-2, Disorderly Residence, from the Zoning Ordinance and create a revised and separate chapter in the City Code that outlines new definitions and enforcement procedures for the control and management of disorderly residence throughout the City.

Mayor Merrifield opened the public hearing. Mrs. Sandra Cady, resident spoke in favor of the ordinance. She stated she has had lots of trouble in her neighborhood (9 Orchard Street) and that this ordinance is very important and may curtail some drug activity. She stated something has to be done to hold landlords accountable. Mrs. Lisa Hodgsdon spoke in favor of the ordinance stating they have owned their home for 14 years, have had beer bottles all over their yard, as well as their front door broken open. She stated the landlords must be accountable for who they allow in their buildings. Ms. Andrea Allen spoke in favor of the ordinance.

Mr. Charles Farmer, resident and landlord stated he agrees with the ordinance but has a problem with it which is when you go after the landlord and if there is someone in the apartment that is paying their rent, they are disabled and have children living with them the landlord cannot evict them. Mr. Farmer recommended that more teeth be put into the ordinance. Mayor Merrifield commented that he would assume then it is a State Statue that prevents that type of eviction. Mr. Farmer stated that is correct, you would have to prove that they are behind on their rent or damaging the apartment but disorderly in this type a case can not cause them to be evicted.

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Mr. Leigh Webb, resident, Ward III thanked the Council and City Manager for addressing the issues in this ordinance as well as Ordinance #05-11 (Property Maintenance Code). He stated these ordinances are about quality of life for everyone in Franklin. Mr. Webb suggested once these ordinances are passed it might be a good idea to get with Judge Gordan and make sure he is aware of the ordinances as he is the one that would have to act on them in the court setting.

No one else came forth to speak, Mayor Merrifield closed the public hearing.

Comments from the Public

Mr. Jim Aberg, FBIDC announced that for the past year Franklin Business and Industrial Development Corporation has been working closely with the New Hampshire Business Finance Authority to find a new occupant for the Freudenberg building. He advised that last week they consummated a sale on that building and the new corporate citizen is Big Cat Coffee and will move in about mid-April. They have about 25 employees and have plans to expand their business.

Mrs. Traci Fowler, Coordinator for the Mayor's Drug Task Force advised that on April 30th 10:00 a.m. to 2:00 p.m., will be take-back day and the Franklin and Tilton Police Departments will work together and hold a drop-off whereby anyone can drop off their old prescription drugs or drugs they simply do not need anymore. Work is also being done on an on-going take-back program for Franklin. April 21st is the next Task Force Meeting, 6:00 p.m. at Franklin Regional Hospital. The Police Chief from Pittsfield will be the guest speaker and he will speak on the take-back program in Pittsfield which has been highly successful.

Legislative Comments

Representatives Palfrey and Rago were in attendance. Representative Rago brought the State budget (HB1 and HB2). April 19th a meeting will be held at the Franklin Public Library and the Greater Franklin Republican Committee will be

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attending along with Representatives Rago and Palfrey and Representative Rago advised she will have the State budget at the meeting for anyone to look at and ask questions. This meeting will be held April 19th at 6:30 p.m. Representative Rago provided the Mayor and Council with a printed legislative update. She commented on CACR 6 which passed and concerns a constitutional amendment that will require a 2/3 vote in the House to pass any legislation that imposes new or increased taxes or fees. HB 375, an education bill passed which gives immunity to school personnel when using reasonable force towards a violent or disruptive student. SB 133 pass and would re-establish an exemption that expired in 2010 for taxation for poles and conduits. It has been laid on the table (on hold) for now. HB 648 passed. This bill prohibits public utilities from petitioning the PUC for permission to take private land for construction of an electric transmission facility. Representative Rago stated she voted against this bill and stated it was written solely in an effort to kill the Northern Pass project. HB 580 passed and concerns changes to the NH Retirement System. The Merrimack County budget has an increase in property taxes of 6/10th of 1%. The Nursing Home was 5.7 million in the red.

Representative Palfrey stated he voted for the budget and they wanted to get it over to the Senate and the Senate can make adjustments. Next week the House will begin hearing the bills coming over from the Senate.

Manager Dragon commented that on HB 580, there is a piece of that bill that talks about a prohibition hiring of retirees for even part-time and she stated she understands what it is intending to do but it could have some unintended consequences as well. Manager Dragon stated HB 457 concerns reducing interest rates on delinquent taxes, that would be an issue for many communities including Franklin and she stated she is concerned about that as if the interest rates are lower than on other obligations such as credit cards, people will pay those first and taxes last.

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Mayor Merrifield advised that one of the issues that was raised at the recent Joint Finance Committee meeting was the raising of pension funding that would be required in the School District and the increase would be about \$450,000 for the Franklin School District. The Mayor advised that was under the governor's budget and he asked the representatives if they have seen a spreadsheet or some hard numbers that indicate what the contribution from the State will be against retirement. Representative Rago stated it was zeroed out of the Governor's budget and she stated she thinks it went back to 35%. Representative Palfrey stated it will have to be dealt with in the Senate.

City Council Acknowledgement

None

Mayor's Update

Mayor Merrifield announced that Mr. Bob Dickerson and Mr. Fred Bassett with the Municipal Services Department have achieved Roads Scholar One. Mayor Merrifield advised that he has received a letter from Rep. Paul Mirski, Chairman of the Special Committee on Redistricting and as a result of the recent census and the numbers being published, the committee is asking questions concerning the realignment of wards in the City. The Mayor advised from the census materials he has been able to determine that Ward I and Ward III are very close in numbers but Ward II is about 300 people less than the other two wards. Mayor Merrifield requested that the Legislative Committee look into whether the City needs to redistrict the City for more equal ward representation. This opportunity only presents itself every 10 years and Mayor Merrifield commented that last time he does not think any changes were made.

Minutes

Motion made by Councilor Bowers that the Franklin City Council approves the minutes of the March 7, 2011 City Council meeting, motion seconded by Council Feener.

City Manager Dragon advised that there was some difficulty with the tape recording and she requested that the Manager's update be attached to the approved copy of the minutes.

All in favor. minutes approved.

Franklin School Board Monthly Report

Mr. Al Warner, member of the School Board advised that the budget is now on line and is sorted by budget and function codes. It is not the expanded version but is 29 pages. The graduation dates have been set, Franklin High School will be June 17th and the Middle School will be June 20th. The June School Board meeting has been moved to June 27th. Mr. Warner handed out copies of an email from School Board Chair Ray Yonaitis requesting to be put on the May City Council agenda.

Councilor Bowers thanked the school for the budget on line. He commented that at the Joint Finance Committee meeting it was discussed what would happen if the Bessie Rowell School was not closed and Councilor Bowers stated he has never seen a budget that would reflect what would happen if the school was not closed, so there is nothing to compare it to. Mr. Warner did advise that at one point they were looking at between 50 or 60 job cuts.

Councilor Bowers asked Mr. Warner if he knows what the population is at Bessie Rowell School including teachers/staff or at Paul Smith including teachers/staff. Mr. Warner stated he does not know. Councilor Bowers stated he would like to have that information and stated the reason he is asking it could be a safety

issue. Councilor Bowers stated he has talked with the Deputy Fire Chief concerning the capacity of the buildings and we would need to know the actual numbers to know if this could be a safety issue. Mr. Warner stated the last budget was based on student enrollments but teachers and staff need to be counted. Mr. Warner questioned then this is a safety issue and Councilor Bowers stated yes. Mr. Warner stated that has not really been looked into.

Councilor Bowers asked Mr. Warner if he has seen the information on the website concerning the restructuring of Franklin Schools. Mr. Warner stated he has not seen that document. According to the date this took place in October, 2010. Finance Chair Karen Grzelak advised that was a discussion concerning about the NECAP scores reorganizing because of the scores and it was decided that the principals would switch around. Councilor Andreozzi advised she attended one of these meetings and there were great numbers of parents, faculty and staff as well as others and it was discussed possibilities for improving the NECAP scores and what the State would do if Franklin didn't do something. At that time the decision had then gone back to the School Board that they would move principals.

Mr. Warner inquired as to when the School might get a date for the budget presentation. Manager Dragon has proposed a budget schedule that will be discussed tonight and the City Council will also look at setting 5 budget work sessions and a public hearing.

Ordinance #05-11

Motion made by Councilor Bowers that the Franklin City Council approves Ordinance #05-11, an amendment to Section 233-2 of the City Code, adding to the Property Maintenance Code a new paragraph "I" which outlines procedures and timeframes for the boarding up of buildings following damage or through the issuance of a building permit. Motion seconded by Councilor Feener.

Councilor Clarenbach commented his concern is that the change is being made to a 2003 document and there has been two revisions since 2003 and there is a 2006

and a 2009 edition. He questioned if the two revisions (2006 and 2009) have been looked at. Mr. Lewis commented he has not looked at those revisions but would imagine the Code Enforcement Officer is aware of them. Councilor Clarenbach stated he has no problem with the amendment but putting it on a document that is 8 years old is a concern. He suggested that perhaps the two revisions should be looked at to see if they meet the City's needs and if not make changes to them at the same time this amendment is made.

Amendment offered by Councilor Andreozzi to strike from paragraph b. and paragraph e. the words "or the abutting structures". Amendment seconded by Councilor Clarenbach. All in favor, amendment passes.

Mayor Merrifield asked if there has been any discussion about penalties. Mr. Lewis advised that the code has enforcement language in another section.

Roll Call on Ordinance #05-11 as amended:

Councilor Clarenbach – Yes

Councilor Sharon – Yes

Councilor Boyd – Yes

Councilor Bowers – Yes

Councilor Starkweather – Absent

Councilor Audet – Yes

Councilor Andreozzi – Yes

Councilor Feener – Yes

Councilor Trudel – Yes

Ordinance #05-11, as amended, passes.

Ordinance #06-11

Motion made by Councilor Feener that the Franklin City Council approves Ordinance #06-11 that removes Section 305-29.2, Disorderly Residence, from the Zoning Ordinance and creates a revised and separate Chapter in the City Code that outlines new definitions and progressive enforcement procedures for the control and management of disorderly residences throughout the City in order

to protect the health and general welfare of the residents of the City and its neighborhoods. Motion seconded by Councilor Bowers.

Councilor Clarenbach questioned the 12-hour wait period between could be one way or the other as is referenced to multiple responses in a single period that occur within a 12-hour period may be deemed a single disorderly event.

Councilor Clarenbach stated his concern is if it is a tenant who is having a domestic and things are going on, easily you could get over the maximum allowed. He stated he feels what this document is about is those habitual offenders and not for a

couple who is no longer together and having an ugly divorce. His second concern is that every building in the City is being treated the same; a single family dwelling all the way up to a multiple-family, 32 unit apartment building.

Councilor Andreozzi stated Councilor Clarenbach has a point concerning a 32 unit apartment building. Councilor Andreozzi commented it is her understanding the City Attorney reviewed this ordinance so in his opinion he must have felt that the ordinance does not go against any State law.

Councilor Boyd commented that this ordinance is going to assist some of the present laws that are in place that the Police Department has to deal with on a daily basis. Councilor Boyd stated you have to remember if someone commits an offense and it is a criminal offense, the Police Department will do a investigation and they will arrest that person and if that person pleads not guilty there is a period of time that the court has to determine if the person is guilty or not and during that time Councilor Boyd questioned whether this ordinance could do anything to that individual.

Manager Dragon clarified that the City does not have the authority to evict anyone from a home, the ordinance holds the landlord/property owner accountable for the tenant they have in their building. It is the responsibility of the landlord to come up with a plan concerning the tenant which could be

eviction but it could involve other things as well. Once this ordinance is put in place the landlord could use it as part of the lease agreement.

Roll Call on Ordinance #06-11:

Councilor Clarenbach – Yes

Councilor Sharon – Yes

Councilor Boyd – Yes

Councilor Bowers – Yes

Councilor Starkweather – Absent

Councilor Audet – Yes

Councilor Andreozzi – Yes

Councilor Feener – Yes

Councilor Trudel – Yes

Ordinance #06-11 passes.

Councilor Andreozzi advised that recently the State law has changed that stated that if someone owns 3 properties in the State of New Hampshire and is a resident outside the State of New Hampshire, they must register at the municipality of those properties a local person that can take charge.

Draft Memo of Understanding between the Department of Environmental Services on behalf of the Winnepesaukee River Basin Program and all participating Towns/Cities

Motion made by Councilor Bowers that the Franklin City Council approve the Memorandum of Understanding between New Hampshire Department of Environmental Services and all Winnepesaukee River Basin member communities and authorize the Franklin City Manager to sign such an agreement with the understanding that minor language changes (that do not greatly alter content) may be necessary in the final document. Motion seconded by Councilor Feener.

Manager Dragon advised that the River Basin Program is now funded through the rate payers and there has been an ongoing discussion about governing and how to change or address how decisions are being made. She advised there are several very expensive projects on the books that are moving forward and there needs to be an agreement as to how decisions related to those projects will be

made. She advised they are looking for some kind of an interim policy to be put in place instead of waiting for the Commissioner to draft out a policy, the managers took a stab at it and the memo is the end result. The draft has been reviewed by several communities, some advisory board members as well as a City Attorney for one of the communities. She stated the Commissioner could possibly make changes and if major changes are made she would bring it back to the Council for reconsideration.

All in favor, motion passes.

Other Business

Committee Reports

Councilor Bowers advised the MSD Committee met April 1st and advised concerning the Water Treatment Plant, the two river crossings are complete and work on the last one will begin shortly, ground breaking for the main building should begin sometime in late April, 2011. The Memorial Street Water Main Project plans and specs are complete and going out for bid in April. Concerning burning wood waste, the State has pushed that back to 2014, so wood can still be burned at the Transfer Station. Councilor Bowers noted that in reviewing minutes from 2007, the goals listed have been followed right along and one of the last sections of those goals was to replace the water main on Chance Pond Road to Kimball Street and Lawndale to Route 11 and because of the favorable bid process with the Water Treatment Plant, 1.1 million dollars has been saved on that construction and the saved funds will be able to be applied to complete that replacement. The Drinking Water State Revolving Loan Program has indicated the possibility of Franklin being awarded a 40% grant towards replacement of the water tank located on Cross Street, the water pressure does not meet standards and this would be an opportunity to get 40% of the cost and a low interest rate for the balance.

Councilor Bowers advised Friday, April 22nd will be the MSD Budget meeting at Municipal Services at 8:30 a.m.

City Manager's Update

A copy of the City Manager's update is attached to these minutes.

Manager Dragon requested 5 budget workshop dates be scheduled. Councilor Andreozzi inquired if Manager Dragon had a preference as to having 1 or 2 a week or every night. Manager Dragon responded that personally she likes one or two meetings a week because in that way if something comes up in one meeting, there is time to get prepared for the next meeting.

Motion made by Councilor Feener that the Franklin City Council meets with the School on Tuesday, June 7, 2011 at 7:00 p.m. Motion seconded by Councilor Bowers. Motion passes, Councilor Andreozzi opposed.

Motion made by Councilor Bowers that the Franklin City Council hold budget workshops Tuesday, June 14th, Tuesday, June 21st and Tuesday, June 28th at 6:00 p.m. Motion seconded by Councilor Feener. All in favor, motion passes.

Motion made by Councilor Andreozzi that the Franklin City Council hold a budget workshop on Monday, June 27th at 7:00 p.m. Motion seconded by Councilor Bowers. All in favor, motion passes.

Manager Dragon advised that the Council Meeting in July (first Monday) falls on the July 4th Holiday and she asked if that meeting could be rescheduled now.

Motion made by Councilor Andreozzi that the July City Council meeting be scheduled for Monday, July 11, 2011 at 7:00 p.m. Motion seconded by Councilor Clarenbach. All in favor, motion passes.

Zoning Board Appointment

Motion made by Councilor Feener that the Franklin City Council appoint Ms. Donna Tully as a regular voting member to the Zoning Board. Term of Service to January, 2014. Ms. Tully is currently serving as an Alternate on the Zoning Board. Motion seconded by Councilor Feener. Motion passes, 7-1. Councilor Andreozzi abstained.

Late Item

Resolution #04-11

Mayor Merrifield advised that this resolution was drafted by City Attorney Fitzgerald concerning the outstanding motion by the Franklin School Board.

Motion made by Councilor Feener that the Franklin City Council adopts Resolution #04-11 and authorize the Mayor sign said resolution, motion seconded by Councilor Bowers.

Councilor Clarenbach questioned doing the resolution and stated that after all the communications from the Mayor, City Attorney and City Manager if they don't understand the message he stated he does not see the need for a resolution. Mayor Merrifield commented that the chair of the School Board asked for the Council's view on the matter in writing.

Councilor Audet commented that he understood nothing definite had never been determined by both attorneys and only had one definition from Attorney Fitzgerald. He stated he has never seen anything from the school's attorney as to what the two attorneys offered. Mayor Merrifield commented that he could only offer what he heard and saw when the two attorneys were in the room together. Attorney Fitzgerald explained at length the relationship between a dependent school district and the City Council. He explained that there is only one fund

balance for the City of Franklin and it is under the control of the City Council to which their attorney agreed entirely.

Councilor Feener commented that the Chair of the School Board has requested something in writing and it is about time this goes public. Councilor Feener stated he felt the meeting with the attorneys should have been public with all the members of the School Board in attendance and this resolution should make it clear that the Council wants the motion rescinded. Councilor Bowers commented that he can't believe that this issue is still being discussed. Councilor Andreozzi stated she has been at the last couple of school board meetings and this issue was not discussed in public anyway so she would assume this is a request from the Ray Yonaitis and not as the chair of the school board as he does not have the authority to act as the chair without the school board's direction and she stated we cannot assume that the school board has requested this.

Resolution #04-11 passes by a vote of 5 in favor, 3 against.

Mayor Merrifield read Resolution #04-11 into the record:

**CITY OF FRANKLIN, NEW HAMPSHIRE
FRANKLIN CITY COUNCIL
RESOLUTION #04-11**

WHEREAS, the Franklin City Council has been made aware of a motion dated November 1, 2010 passed by the Franklin School Board purporting to "expend a total of \$186,000.00 unexpended funds from the 2009-2010 school year..."(motion attached) and;

WHEREAS, the Franklin City Administration and Mayor have engaged in discussions with the Franklin School Board and School District Administration regarding that issue and;

WHEREAS, the Franklin City Council is of the opinion that the Franklin School District is lacking legal authority to take the action contemplated by the motion and;

WHEREAS, the Council is in receipt of a request to provide direction in writing to the School Board in reference to the proposed expenditure and;

WHEREAS, the Council does not believe it has legal authority to “direct” the School District or School Board to take such action but does believe that it can provide a “sense of the Council” in order to provide both guidance and the Council’s view of this issue;

NOW, WHEREFORE, be it resolved:

- A. That the Council declines to provide written direction to the Franklin School District or Franklin School Board on this action; but**
- B. That the Council provides the School Board and School District with its view, through this Resolution, that the contemplated expenditure of November 1, 2010 would be improper and illegal for reasons previously stated and made known to the School Board and School District and;**
- C. That the Council urges the School Board, in the strongest possible terms, to retract and otherwise render void the vote of November 1, 2010 in reference to this issue.**

Motion to adjourn made by Councilor Feener, seconded by Councilor Audet. All in favor, meeting adjourned at 9:00 p.m.

Respectfully submitted,

Sue E. May