

Approved by City Council on January 3, 2017



City Council Meeting December 5, 2016

Call to Order

Mayor Merrifield called the meeting to order in the Council Chambers, Franklin City Hall at 6:00 p.m.

In Attendance

Councilor Clarenbach, Councilor Starkweather, Councilor Barton, Councilor Giunta, Councilor Desrochers, Councilor Wells, Councilor Zink, Councilor Dzujna, City Manager Dragon and Mayor Merrifield.

Absent

Councilor Boyd.

Salute to the Flag was led by Councilor Giunta.

Mayor Merrifield acknowledged that Chantal Sisco from the school district passed away recently and asked for a moment of silence.

Public Hearings

Franklin Falls Mixed Use Tax Increment Financing (TIF) Plan

Planning Director Lewis spoke about the revision and update to the 2008 plan. He stated it is a critical piece to the economic plan for the City of Franklin. It doesn't require any taxpayer or business to pay more taxes. On page 9 of the plan the language allows the Council to have more flexibility to use the funds and gives protection to the City. The plan calls for consideration on any project through the public hearing process. Mayor Merrifield pointed out that the City Council cannot decide this issue tonight this is just the public hearing as they cannot make a decision for 15 days per law. The Council will take this up for consideration in January.

Mr. Brassard stated that it would be an insult not to include upper Central St. from Kendall all the way to the City line. He stated more money is made up there than anywhere else in town and to ignore them and include places that may never be developed is an insult. He feels that upper Central St. is the forgotten stepchild and it would be behoove the City to include Upper Central.

Todd Workman spoke on behalf of PermaCity Life and wanted to express the importance of a TIF committee. He asked if an organization itself can hold a seat. Councilor Clarenbach stated there are specific requirements as stated to the individual so he didn't believe so. Mr. Workman asked how many on the committee and he was told 7 and then he asked how many have to be business

owners/tenants and how many have to reside in Franklin and Councilor Clarenbach stated it has to be at least 50% of each of the two categories. Mayor Merrifield interjected and stated it can be adjacent owners.

Ron Lagoon from Franklin Savings Bank spoke in support of the TIF. He stated that this is another way to create businesses.

Comments from the Public

Persons wishing to address the Council may speak for a maximum of three minutes. No more than thirty minutes will be devoted to public commentary.

Representative Horn stated that the SAU withdrawal was a 5/3 vote and was disappointed as all the people who came out didn't express that and the tax cap wasn't addressed at all. 194C clearly states that four (4) members of the public at large are to be included to form the committee. There were four (4) applications and after three (3) members of the public were appointed a councilor was then appointed putting two (2) Councilors on the committee which was disappointing. He stated that the Council has made it harder for Hill to return.

Jo Brown stated that we have heard a lot about Council, school and Superintendent issues but the more the school can do to help themselves it would be greatly appreciated. The school not submitting documents timely costs the City but it potentially costs the taxpayers. She stated that when it comes to issues it seems that the perception is that only bad can come from the City Council and good from the school.

Choose Franklin

Jo Brown stated they had a wonderful December meeting hosted by Chief LaChappelle. There will be the grand opening of ONE on Jan. 1 and we will also have the kayakers at 11am. The February meeting will have Jule Finley with the Arts, March meeting will have business partnerships. Attendance at the meetings continues to grow. Our meetings are the 1st Thursday of the month at 8am at the Library.

Legislative Comments

Representative Horn stated he filed six (6) bills with two (2) of them being filed this past Friday. The county has put out a proposed budget with a 5% increase due to health care increases and felonies first. Mayor Merrifield asked if one of the bills submitted had anything to do with stabilization for the schools. Rep. Horn stated that one of the bills he submitted this past Friday was on stabilization. Councilor Desrochers stated that Merrimack Valley, which is made up of five (5) towns, has the same issues as Franklin Schools and asked Rep. Horn if he had been in contact with any Representatives from Merrimack Valley. Rep. Horn stated he has not and he agrees with the Mayor that it is not adequate aid but it needs to be a bigger conversation. Councilor Desrochers then asked that according to the paper they are proposing a \$3.2M or \$3.6M bailout for the farmers and where does the State plan on getting that money. Rep. Horn stated that Councilor Desrochers should contact the person who sponsored the bill. Councilor Desrochers stated that the State is looking at all these

programs all the time but if you don't help the schools and the kids there will be no programs. Rep. Horn stated he will try to help Franklin as much as he can and he has ideas on where to get money. The State needs to look at restoring a fund to help municipalities that are in distress and define inadequacies and help the other towns that are in financial distress. Rep. Horn reminded Councilors to reach out to him.

City Council Acknowledgements

Councilor Dzujna wanted to thank Three Rivers Wreath Co for the two (2) big wreaths on the wheel and Tim Morrill for putting them up. He also wanted to recognize Councilor Clarenbach for getting the Good Scout Award last month.

Mayor's Update

Mayor Merrifield mentioned three (3) events that took place in Franklin this past weekend. Christmas Tree Lighting at Marceau Park in downtown on Friday night, lights In of Memory at Franklin Hospital on Saturday, Festival of Trees at the Opera House. Mayor Merrifield also mentioned if Councilors had desires for committee assignments to let him know what they are. He will do his best but you may not get what you want and the ordinance only allows three (3) Councilors per committee and if he could get that information before January when assignments will be made.

Agenda Item I.

City Council to consider the minutes of the October 24 & November 9 City Council Special Meetings and November 7, 2016 City Council Meeting.

Motion: Councilor Clarenbach moved that the Franklin City Council consider the minutes of the October 24 & November 9 City Council Special Meetings and November 7, 2016 City Council Meeting. Motion seconded by Councilor Desrochers.

Councilor Starkweather stated that on page 7 paragraph 4 of the October 24 minutes the last sentence after plan followed yes is missing some words. City Manager Dragon stated that it should say "if they follow the plan but"...

All in favor as corrected; motion passes.

Agenda Item II.

School Board Report – School Board Member Dow stated that they had the company they talked about at the Joint Finance Committee meeting come in and do an electrical audit and hopefully they will check the panel at the Paul Smith School before the school board meeting in December as the panel is estimated to cost \$10K to replace. They will go to all the schools and show them how they can save on electricity. The wall in the library that is separating is cosmetic and not structural and they are waiting on the report.

School Board Member Dow stated the Council has the CBA contracts and he wanted to apologize for the delay as he just became chair this year and he was not aware it needed to be brought before the Council. Mayor Merrifield asked if the school board approved these. School Board Member Dow stated yes they approved them in June and negotiations were started in March.

School Board Member Dow stated they are waiting on a quote for the roof from a company in Bow, who also did the firehouse roof. Councilor Starkweather asked if they have a contractor to do snow removal. School Board Member Dow stated no they do it themselves.

Agenda Item III.

City Council to consider changes to the PILOT agreements expiring for the NH Solar Garden projects.

City Manager Dragon explained that last December the Council approved agreements for seven (7) solar projects, five (5) which are City property and two (2) which are private property and those agreements expire this month and not much has happened with these projects. City Manager Dragon is proposing looking at tying the projects together. There are lease agreements for five (5) properties and PILOT agreements and one (1) purchase power agreement for the City buildings as these were all evaluated together. The power purchase agreement is based on estimated energy costs that could be higher and were to be using the revenue from the projects to offset the power purchase agreement. We are still making money at the end of the agreement even with one site if energy costs escalate at 5.5% a year over the twenty (20) years. If energy doesn't increase at the 5.5% exaction rate by year eight (8) we will not be in the positive. City Manager Dragon is suggesting that they have an opportunity to amend the PILOT agreements and tie some of these projects together. NH Solar Gardens state they are still planning on building all seven (7) and most likely all within the same year. In case that doesn't happen City Manager Dragon had Atty. Fitzgerald prepare some language for all agreements and she read the language. If the sites are not built by Dec 31, 2019 the City Council has the opportunity to tax the sites at full value rather than PILOT. On the large printed excel sheet it shows different scenarios with the sites and revenues. Tying all four (4) sites together puts the City in a safe and secure position while still generating revenue. There is an RSA for PILOT agreements and there was a public hearing held so City Manager Dragon feels another public hearing should be held before approving an amendment PILOT agreement under the statute. Mayor Merrifield clarified that all the City Manager Dragon is looking for the Council to do is set a public hearing. City Manager Dragon stated yes and for any amendments to the agreement so that language can be added or changed.

Councilor Giunta mentioned that City Manager Dragon stated that if these are not built they go back to full value, what is that value. City Manager Dragon stated she does not what the full value is but the PILOT is setting an amount for the improvements. You would need the assessor or someone specialized in solar utilities to assess their value which she was sure to be more than \$3,500. Councilor Giunta stated solar is \$1.60 a lot more. Mayor Merrifield stated that value isn't necessarily what it costs to build something or market value. He stated there are Supreme Court cases that have

argued the cost of utilities. Councilor Barton asked if the Council did nothing what would happen. City Manager Dragon stated the City still has lease agreements and power purchase agreement with them and by default it would then go to assessing to be taxed at full value.

Councilor Clarenbach clarified that City Manager Dragon just stated that purchasing the electricity is a separate agreement so the City is bound to that contract for the next twenty (20) years at 5.5% a year which puts the City in an unfortunate position because we have to buy the electricity at their rate without any protection until a new arrangement for the solar. He is not sure why the Council would want to go back to a PILOT deal at \$3,500 when the City will be paying .28 a kilowatt in twenty (20) years. He stated unless you can get the 5.5% taken away the City is in a bad position. City Manager Dragon stated excel sheet shows the 5.5% original cost and 2.5% increase estimate which is what we are using now to evaluate the sites. In the motion there were some contingencies so she doesn't feel the City is in a bad place like it being contingent on building at least one solar site. Councilor Clarenbach stated since these expire Dec 31 doesn't that take out the power agreement and if they don't do the sites how is the City still liable for the power purchase. City Manager Dragon stated if they do not move forward with any of the City projects then we have an out with the way the motion was written and it was contingent on that. Councilor Clarenbach asked for a legal opinion on that as that is an important step. City Manager Dragon stated she wants to rewrite the PILOT deal as all they wanted was an extension. Councilor Clarenbach wants to know if the City can legally get rid of the power piece. City Manager Dragon stated she doesn't want the Council to lose sight that if they are built they are generating revenue in the first year of \$64,794 so you will be getting solar power and revenue that is tied to all three (3) agreements (lease, PILOT and power purchase agreements).

Mayor Merrifield asked that if they don't build the projects where are they getting the power to sell the City. Councilor Clarenbach states they will sell our contracts and they will keep the difference and that is the problem he has. Mayor Merrifield stated 5.5% a year on a historical perspective is half of what we have actually experienced. City Manager Dragon stated that over the past fifteen (15) years it has been 12-13% and 5.5% is lower and we are always trying to make sure it stays positive. Councilor Giunta stated as there are other things going on with solar like tax credits and other benefits that we don't see.

Motion: Councilor Dzujna moved that the Franklin City Council set a public hearing on January 3, 2016 at 6:05 pm regarding payment in lieu of Tax Agreements for solar projects for City owned land. Councilor Starkweather moved to amend the motion to January 3, 2017 at 6:05 pm. Motion seconded by Councilor Desrochers.

All in favor; motion passes.

Agenda Item IV.

City Council to consider the School CBA for the Custodial Agreement.

Councilor Clarenbach asked about the 2% first year, 2% second year and the 3% third year are those actual cost increases for each contract. School Board Member Dow stated they did not agree to the contract in the beginning so he asked them to go back as the school board wanted them all on the same insurance. They did come back and agreed with the insurance. Councilor Clarenbach stated that there is a savings of \$11,675 and an increase of \$19,000.28 so there really is an increase of \$8K. School Board Member Dow interjected and stated that was put back into the budget this year. He mentioned the support staff had a savings. City Manager Dragon stated that it is not actually a savings because the difference between the two is actually an increase. Councilor Clarenbach asked how many custodians are there actually. School Board Member Dow stated there are eleven (11) district wide.

Mayor Merrifield asked how did this come to the Council now and not beforehand. Did Greg participate in these discussions as he was on the Council for six (6) years? School Board Member Dow stated he was part of the negotiation discussions but not on the committee. They waited for the Support Staff Agreement and then they approved both. Councilor Clarenbach asked if there were any comparisons or studies to other janitors in the area as this is a three (3) year \$40K labor for eleven (11) employees, do we know if we are below market and is there a reason to justify such a large increase over a three (3) period. School Board Member Dow stated he does not have any comparisons but he does know that they are under Winnisquam. Councilor Clarenbach stated going forward in the environment we are in to give a 2/2/3 and not show any comparisons, other than Winnisquam, to other school districts is going to prove difficult going forward. He appreciates the savings on health care and getting them all on the same insurance and if they are that below market then create a plan to get them to market but there is not a lot of information on this one (1) sheet of paper. Councilor Clarenbach stated that you cannot engage in long term contracts because you don't know where the revenues are going and going forward some difficult choices will have to be made. He stated that the Council may be better to not vote on this tonight and get Atty. Fitzgerald's opinion. City Manager Dragon stated she will be happy to get that clarified with Atty. Fitzgerald as she feels the Council's vote has to ratify the contracts and is not sure what would happen if the Council didn't ratify them. Councilor Clarenbach stated that with the budget negotiations coming up that these two agreements puts some serious burden on the school district budget. He doesn't want to take this out on the janitors or support staff.

Councilor Giunta stated that he agrees with Councilor Clarenbach and he appreciated School Board Member Dow's apology for not knowing that this needed to come before the Council but the fact is a lot of others should have known that this needed to come before the Council to be ratified before implemented. Councilor Giunta stated he's worried about the precedence it sets that the school implements something before it's ratified by the Council and he is frustrated by it. He stated that City Manager Dragon goes before the Council for contracts to be ratified and they question her that she needs to answer just like Councilor Clarenbach asked you. Where do these numbers come from and where are the studies that were done. Questions mean nothing because this is done but that doesn't mean he has to vote for it. Councilor Clarenbach stated that a legal opinion is what is needed for the Council to have options for the precedence it sets.

Councilor Starkweather stated that contracts need to be settled before the budget year is settled as people are counting on that money. Another question he had was there are eleven (11) custodians are these people doing the cleaning of the buildings and School Board Member Dow stated yes. What is the maintenance staff considered support or custodians? School Board Member Dow stated custodians. Councilor Starkweather asked if they do minor maintenance and snow removal and School Board Member Dow stated yes.

Councilor Dzujna stated he would be happy to see a legal opinion as what will happen as we move forward. Councilor Zink asked if this could be delayed until next month and asked for the fair market study and also the summary has typos and if we could spell them correctly. In the past when approving contracts the Council has seen the whole contract and not just a summary and if we could delay the vote so we can see the whole contract so when approving it we are approving the whole contract and not just a summary sheet. Mayor Merrifield stated if we can get the CBAs as public employees information is public information so that is something the Council can have.

Councilor Desrochers stated that \$19,000.38 for the custodial contract and \$41,976.18 for the support staff contract that is about \$61K a year. Councilor Desrochers asked if that money is in the budget for this year and School Board Member Dow stated they do have it in their budget. He stated he did more research on the support staff with MVSS, Belmont, Winnisquam and Franklin is drastically lower. The last contract he negotiated by 3% raises with 2 steps and this one is .5% raises with steps. He understands it is hard to do multi-year contracts but was following what the City does as they have three (3) year contracts. City Manager Dragon stated that they should use the City's strategy which is they get a raise the first year and then all subsequent years they get what all other City employee's get which isn't always a 2% or 3% or even a step sometimes it's nothing. School Board Member Dow stated that they brought back all support staff but two (2) this year. They were able to keep them with a small increase and with the changes in health insurance. Councilor Desrochers asked what is the plan to get the \$62K to pay for this next year's budget and the following year. School Board Member Dow stated with the health insurance savings and line item savings.

Councilor Giunta stated that this reminds him about the Federal Government that you have a lot of money in spending and you reduce it by a little bit but you actually increased it. He stated what bothers him is that we are going in the wrong direction and as we sit together in the Joint Finance looking for money and here is \$61K that is being spent when the school is \$1.3M in the hole. He stated that City Manager Dragon came to the Council last year for a position that was going to cost \$30K and she was asked how are you going to pay for it and she showed the Council and they approved it. The fact was that she stayed within the tax cap budget and within the City budget. He stated that he feels that isn't happening on the school side before decisions like these are made, especially when it is to come before the Council, and when he hasn't seen any dollars from the school to reduce the \$1.3M deficit.

Councilor Zink asked how many support staff does the school have. School Board Member Dow stated 30 but there really are 70 but the others are covered under the Title I grant. She asked about

the Labor Day Holiday and Service Day is there an additional cost. School Board Member Dow stated no they are included in the budget.

Motion: Councilor Clarenbach moved that the Franklin City Council send both contracts to legal for an opinion and what options are before the Council legally. Motion seconded by Councilor Barton.

Councilor Giunta asked Councilor Clarenbach to clarify if he was motioning to table. Councilor Clarenbach stated there was never a motion to table and that this will allow these two items to go and get a legal opinion and options. School Board Member Dow stated that the original contract with the support staff was \$230,771 and they were able to bring that down to \$41K in the first year. Councilor Giunta stated he appreciated that but on the City side there have been times when the employees had no interest in taking a raise when the City was in trouble and there are times when you say there are no raises or benefit increases when you are \$1M in the hole.

All in favor; motion passes.

Agenda Item V.

City Council to consider the School CBA for the Support Staff Agreement.

See Agenda Item IV.

Agenda Item VI.

Other Business

- 1. Committee Reports** – None
- 2. Mayor's Appointments**

Planning Board

Mayor Merrifield acknowledged Powell Glenn's resignation from the Planning Board (seat PB7), Term of Service was to January 2018.

Mayor Merrifield appointed Ted Starkweather to the Planning Board (PB7), Term of Service January 2018.

Mayor Merrifield reappointed Jo Brown to the Planning Board (PB5), Term of Service January 2020.

Mayor Merrifield reappointed Tim Stangroom to the Planning Board (PB8), Term of Service January 2020.

Heritage Commission

Mayor Merrifield reappointed Paul Trudel to the Heritage Commission (HC2), Term of Service January 2020.

Mayor Merrifield reappointed Jeff Whitney to the Heritage Commission (HC5), Term of Service January 2020.

3. City Council Appointments

Zoning Board

Motion made by Councilor Clarenbach to reappoint Jeffrey Dickinson to the Franklin Zoning Board (Seat ZBA5); term of service to January 2020. Seconded by Councilor Giunta. All in favor, motion passes.

Motion made by Councilor Clarenbach to appoint Cecile M. Cormier to the Franklin Zoning Board (Seat ZBA7) as an alternate; term of service to January 2019. Seconded by Councilor Giunta. All in favor, motion passes.

Library Board of Trustees

Motion made by Councilor Dzujna to reappoint Stephen Pascucci to the Library Board of Trustees (Seat LT6); term of service to January 2020. Seconded by Councilor Giunta. All in favor, motion passes.

Motion made by Councilor Zink to reappoint Angela Swett to the Library Board of Trustees (Seat LT5); term of service to January 2020. Seconded by Councilor Desrochers. All in favor, motion passes.

Planning Board

Mayor Merrifield mentioned that Councilor Starkweather is leaving the board so there will be a vacancy of the Representative from the Council to the Planning Board and Councilor Giunta has an interest as he is currently an alternate. The appointment would match his term on Council.

Motion made by Councilor Clarenbach to appoint Councilor Giunta to the Franklin Planning Board (Seat PB3) from alternate Council member to Council Representative; term of service

to January 2019 to match his term of office. Seconded by Councilor Starkweather. All in favor, motion passes.

Mayor Merrifield stated that has now created a vacancy in the alternate seat so one of the Councilors will need to step up.

Motion made by Councilor Giunta to appoint Councilor Clarenbach to the Franklin Planning Board (Seat PB12) as alternate Council member; term of service to January 2019 to match his term of office. Seconded by Councilor Desrochers. All in favor, motion passes.

- 4. City Manager's Update** – City Manager Dragon advised that the City received the following contingent grant line amount: \$450 from Al's Village Pizza for field improvements and \$250 from the Lion's Club for the book club.

City Manager Dragon stated she completed her Economic Development Academy with UNH and her project was on the Whitewater Park and Play. She would like to schedule another work session to talk about economic projects in general. She would like to bring the Council up to speed on current initiatives. She provided two dates to consider Dec. 19 and Jan. 23. Mayor Merrifield asked if Jan. 23 at 6 pm would work for everyone and that date was selected.

City Manager Dragon wanted to give an update on the CDBG application for the \$12K as the City has withdrawn from that request because CDBG looked into the work that has been done already and an engineer, McLaughlin, had been hired and because they have already engaged with McLaughlin CDBG thought that might cloud the request for proposals. City Manager Dragon stated she could have made a strong case but she withdrew at their request as she didn't want to upset the situation or anything going forward.

City Manager Dragon passed out two (2) photos so she could highlight the Code Enforcement office. Chief LaChapelle spoke about burnt buildings and one (1) picture is a fifteen (15) year project and it is voluntary compliance. Rowell's Auction House is now gone on 98 W. Bow St.

Burnt out buildings are in the City Code and Capt. Bodien met with Atty. Fitzgerald and letters are going out soon. They hosted Berlin and Claremont Fire Chiefs and showed them code compliance. Chief LaChapelle stated you will continue to see progress.

Councilor Dzujna asked what are the biggest challenges with the burnt out buildings with getting them taken down. Chief LaChappelle stated some are tied up in legal and that can take a long time. Councilor Desrochers asked what is happening with the house on Elkins St. are they tearing it down or rebuilding it. Chief LaChappelle stated both as the owner is reassessing the building.

Chief LaChappelle stated that this day in history in 1974 the Hancock School burnt.

5. Late Items – The late item was done under Council Appointments.

Councilor Zink asked if there was a hearing on the County budget. City Manager Dragon stated that each Councilor should have gotten a packet on the County budget and the public hearing is on Friday, December 9 at 9:00 am. Mayor Merrifield stated turn out is normally very sparse and he encourages Councilors to go as it does affect us directly. There will be another hearing before final adoption. State Representative Horn stated they will have the public hearing then the Delegation will meet and then they will break out into Executive Committees.

***Motion to adjourn made by Councilor Clarenbach and seconded by Councilor Zink.
All in favor; meeting adjourned at 7:42 p.m.***

Respectfully Submitted,

Lauraine G. Paquin