

Approved as amended by City Council on February 6, 2017



## **City Council Inaugural Meeting January 3, 2017**

### **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, Councilor-elect Moquin, Councilor-elect Ribas, Mayor Merrifield, and City Manager Dragon.

### **Absent**

Councilor Boyd

Presentation of the Color Guard was done by the Franklin Fire Department.

Salute to the Flag was led by Boys Scouts of America.

Sydney Moquin presented the National Anthem with Jo Brown on piano.

The Serendipity Singers sang God Bless America.

Invocation was given by Reverend Glen Carter.

### **Citizen of the Year 2016**

Mayor Merrifield presented Mr. Stephen Donahue with Citizen of the Year and a copy of the Mayor's Citizen of the Year speech is attached.

## **2016 City Council Meeting**

### **Public Hearings**

**Payment in Lieu of Taxes (PILOT) agreements for seven solar projects being developed by NH Solar Gardens throughout the City on both private and public property.**

This public hearing was cancelled and not heard.

**Agenda Item I.**

**City Council to consider the minutes of the November 28, 2016 City Council Special Workshop Meeting and the December 5, 2015 City Council Meeting.**

***Motion: Councilor Zink moved that the Franklin City Council consider the minutes of the November 28, 2016 City Council Special Workshop Meeting and the December 5, 2016 City Council Meeting. Motion seconded by Councilor Dzujna.***

***All in favor; motion passes.***

**Agenda Item II.**

**City Council to consider Payment in Lieu of Taxes (PILOT) agreements for seven solar projects being developed by NH Solar Gardens throughout the City on both private and public property.**

Public Hearing was cancelled so this item was skipped.

**Agenda Item III.**

**City Council to consider approving and adopting the revised Franklin Falls Mixed Use Tax Increment Financing (TIF) Plan.**

***Motion: Councilor Desrochers moved that the Franklin City Council approve and adopt the 2017 Franklin Falls Mixed Use Tax Increment Finance District Plan. Motion seconded by Councilor Starkweather.***

Councilor Barton stated a TIF plan for Upper Central Street was talked about and what is the process to do that and how long does that process take. City Manager Dragon explained that at the last meeting there was a comment made to add Upper Central St. That is a possibility as the combined TIF districts are well below the limits for property and total dollars. The Planning Director would start drafting another TIF document and public hearing to do that. If the Council wanted to create another district Councilor Barton asked that it can be no more than 5% and City Manager Dragon stated it is 5% total, all TIFs together. Councilor Barton asked if we were at 3% now and City Manager Dragon stated she thought it was lower than that. Planning Director Lewis stated that for the size of the district we are much less than the 5% maximum and for all taxable property we are at 3% of the 8% maximum. Councilor Barton asked if it could be added to this or does it have to be voted on later. City Manager Dragon stated you would need to expand the properties, determine which fall into that district, draw up a plan similar to this one, have another public hearing and vote on that plan.

Councilor Wells stated he is confused as to why the river property is going into the TIF plan. That property to be included is already owned by the City so there are no tax dollars coming from that, so why is it included. It would take away from the properties in the downtown that are investing or would like to invest in their property and then spend it elsewhere with no ability to recover the money. He stated he has also received calls about eminent domain which is in the current State Legislation and it would or could be included in this as this plan follows that legislation. Councilor Wells stated he is opposed to it as he doesn't see any future in it. City Manager Dragon stated that the riverfront City property may not have a tax value but as it is part of the overall redevelopment plan as a whole. Any increase in the tax revenue increment could be used in that area of City property to build infrastructure or other things that would be used for future economic development projects. It keeps the TIF funds in the district but allows the possibility of other development in the district to bring that economic development project forward.

Councilor Desrochers stated that on page 8 item 10 it talks about proposed use of private property. He stated he is not comfortable with the language "or taking of private property" as it keeps the door wide open for someone who wants to do something for their property. Councilor Desrochers feels that he can't negotiate properly knowing that he can just take the property because the other person doesn't want to sell for the price they are willing to pay. He stated on page 12 item 20 already has an item in there under number 5. Eminent domain he feels is to do public good and not to build strip malls or parking garages. He would feel more comfortable if the language on page 8 is removed. City Manager Dragon stated that Councilor Wells spoke about this and the use of eminent domain is outlined in the State Statute whether there is a TIF district or not. You can use eminent domain and follow all the rules outlined in the Statute. It doesn't change the use of public funds for eminent domain purposes.

Mayor Merrifield stated that language can be removed from this TIF document without it changing the plan and no eminent domain is being proposed by adopting this plan. Any decision of any case would have to come before the Council. City Manager added that a lot of the language in the TIF plan is straight from the State Statute. State Statute on TIF districts and has language on eminent domain so the language that was used in this plan mirrored the Statute language.

Councilor Giunta asked, since legal council is present, if language was stricken from the plan would that make any difference. City Attorney Fitzgerald stated that without going through the plan and comparing it to the statute he wouldn't be able to answer the question.

***Amendment: Councilor Desrochers moved that the Franklin City Council strike language of "or taking" from page 8 section 10 of the 2017 Franklin Falls Mixed Use Tax Increment Finance District Plan. Motion seconded by Councilor Barton.***

Councilor Zink asked if the whole sentence should be stricken as it doesn't make sense in context. Councilor Desrochers stated if you just take out that language the sentence is fine.

***All in favor; motion as amended passes.***

There was no other discussion. Mayor Merrifield called for a vote on this plan as amended.

***Councilor Wells opposed, All others in favor; plan as amended passes.***

#### **Agenda Item IV.**

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

Mayor Merrifield stated there is new information from the school district regarding the CBA's. Superintendent LeGallo stated he sensed there was some confusion regarding the Support Staff agreement. The contract has two components, changes in insurance and raises for employees. For changes in insurance for the 1<sup>st</sup> year yields a \$63K savings and raises for the 1<sup>st</sup> year yields \$42K leaving a \$21K in savings. The 2<sup>nd</sup> year used a guaranteed 8.9% maximum for insurance which yields \$36,554 in savings and raises yields \$56,399 costing the school \$19,845. For the first two (2) years of the contract there is no new money used as they offset each other. For the third (3) year the raises total \$43K and you can't predict the guaranteed max rate of the insurance but there is \$36K to work with so you hope there is a savings. The only new money would be in the third (3) year.

Councilor Desrochers asked Superintendent LeGallo where the \$43K is for the third year coming from. Superintendent LeGallo stated there are many factors that go into that but with student enrollment reducing there could be a reduction in personnel if things keeping heading in that direction. The \$43K is for the personnel that the school currently has but that could change in three (3) years.

Mayor Merrifield asked Superintendent LeGallo that addresses Support Staff contracts and he stated that it doesn't address Custodial contracts.

Superintendent LeGallo stated the custodial contract has only eleven (11) members is different. The 1<sup>st</sup> year has \$19K in raises and only \$12K in savings from insurance. There is new money that needs to be outlaid. The second (2) year \$9,271 and the third (3) year is \$13,677.

Mayor Merrifield stated that the Council received legal advice since the last meeting. Councilor Clarenbach stated that he was unsure if the school board knows what that advice is but they negotiated a good faith contract with each union that wasn't voted on by the Council which is the funding authority for contracts. The challenge is that each union is receiving the first year funds through the school district's budget and there is a shortfall of \$1.2 M in next year's budget. He stated he has a hard time ratifying a three contract that wasn't brought to the Council before the final signing of the document. The parties believe they have a valid contract and are being paid the first year of that contract. The City Council now getting this 6-7 months

later are now looking at how is this going to be paid for and to approve it. The staff believed in good faith that this was a valid agreement and signed contract. The legal advice is that is not the case as it is not a legal contract until ratified by the City Council. Councilor Clarenbach stated the challenge is how does the Council move forward on these contracts. The school has already engaged in year one of the contracts and are meeting those obligations.

Councilor Desrochers stated he agrees with Councilor Clarenbach and how can the City Council can approve an illegal contract as it just makes it wrong all around. He feels the only way to fix this is the school board rescind their vote and then bring the contracts to the City Council to vote on would make it a legal document. There is also the issue of how this will be paid.

Mayor Merrifield asked City Attorney Fitzgerald could the school board bring back a package that includes the retroactive wages that have already been paid. City Attorney Fitzgerald stated yes. Mayor Merrifield asked as long as it was a new package and City Attorney Fitzgerald stated yes.

Mayor Merrifield stated there is no motion for Agenda Item IV or Agenda Item V.

#### **Agenda Item V.**

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

See discussion in Agenda Item IV.

#### **Presentation to Councilor Arthur "Ted" Starkweather**

Mayor Merrifield presented an award to outgoing Councilor Starkweather who has served on the City Council since 2004 and has a remarkable record of service to the City Council and as a member of the Planning Board and other committees. He has a lot of selfless devotion to the City of Franklin. Mayor Merrifield expressed his personal thanks for his friendship and service. Councilor Starkweather has been appointed to the Planning Board so he will continue his service to the City of Franklin.

Councilor Starkweather commented that it is a time for change and Heather Moquin is going to take over his seat. He stated he has all the confidence in the world in her and the biggest challenges she is facing, as well as the rest of the Council, is what is the State doing to us rather than for us. He stated that it is not anything new as if you look at the City seal you see Daniel Webster very patiently sitting under a tree waiting for good news to come from Concord and he had not realized that on the State seal it is a ship on the rocks so that tells you what you can expect from Concord. He wished Heather good luck.

Battle Hymn of the Republic was sung by the Serendipity Singers.

**Adjournment**

***Motion to adjourn made by Councilor Starkweather and seconded by Councilor Desrochers. All in favor; meeting for 2016 business adjourned.***

**2017 INAUGURAL**

**City Council**

Term of Office Three Years:            Councilor Moquin, Ward I  
   Councilor Ribas, Ward II  
   Councilor Barton, Ward III

**School Board**

Term of Office Three Years:            Anya Twarog, Ward I  
   Timothy Dow, Ward III  
  
Term of Office Two Years:               Susan Hallett Cook, Ward II

**State of the City Address**

A copy of Mayor Merrifield's State of the City address is attached to these minutes.

Recess was taken for reception and refreshments.

**2017 City Council Meeting**

**Agenda Item I.**

**City Council to consider authorizing Municipal Services Director to sell or dispose of items from the Macosko Foundry on Chance Pond Rd.**

***Motion:            Councilor Dzujna moved that the Franklin City Council authorize Municipal Services Director to sell or otherwise dispose of all tools, machinery, and related items which are now City property as a result of the tax deeding of the Macosko Foundry parcels on Chance Pond Road. Motion seconded by Councilor Desrochers.***

Councilor Dzujna asked if there are any items that the school could use in their industrial arts program. Planning Director Lewis stated MSD Director Sullivan stated that School Board Member Burns has already taken some items and MSD Deputy Director Barry has also spoken to the school about some other items.

Councilor Desrochers stated to give him a call and he can go over to see what is good and what isn't and what can be salvaged for the school as he has been in the business for 50 years.

*All in favor; motion passes.*

**Agenda Item II.**

**City Council to consider setting a public hearing on Resolution #07-17 to authorize a trade-in and payoff of current equipment lease and enter into a new lease agreement for downsized equipment.**

***Motion: Councilor Desrochers moved that the Franklin City Council set a Public Hearing for Resolution #07-17 on February 6, 2017 at 6:05 p.m. at the Franklin City Hall, city Council Chambers. Motion seconded by Councilor Giunta.***

Mayor Merrifield read Resolution #07-17:

**A Resolution Relating to trade in of a Rubber Tired Excavator, pay off of its current lease and enter into a new lease schedule for the purchase of a smaller Track Propelled Excavator with financing derived from the Existing Sewer Fund,**

**In the year of our Lord, Two Thousand Seventeen,**

**WHEREAS**, the City of Franklin, New Hampshire entered into a master lease agreement with Kansas State Bank for the purchase of a 2015 Volvo EW160 Wheeled Excavator (schedule 1) at an interest rate of 2.72%, and;

**WHEREAS**, as a result of specific personnel changes and subsequent work flow evaluation, management has determined that a smaller sized track propelled excavator will now serve as a more versatile machine in light of the type of maintenance work to suit the needs in the sewer department, and;

**WHEREAS**, Chadwick-BaRoss will pay the City \$160,000 for the Volvo EW160, the schedule 1 lease payoff for the Rubber Tired Excavator is approximately \$136,000, leaving approximately \$24,000 to reduce the cost of the smaller Track Propelled Excavator, and;

**WHEREAS**, the recommended new excavator, 2017 VOLVO ECR88D, costs \$129,750 less the trade in of \$24,000 from the Rubber Tired Excavator leaving approximately \$105,750 to finance through Kansas State Bank master lease agreement schedule 2 at an interest rate of 2.69% over the same remaining period as lease schedule 1 (4 years), Now,

**THEREFORE BE IT RESOLVED** that at the scheduled meeting of the City Council on Monday, February 6, 2017 the City Council of the City of Franklin, New Hampshire does hereby adopt resolution 07-17 authorizing the trade in of the 2015 Volvo EW160 Excavator, pay off of related Kansas State Bank master lease schedule 1, purchase of 2017 Volvo ECR88D under Kansas State Bank master lease schedule 2 and further authorizing the City Manager to sign all necessary documents.

*All in favor; motion passes.*

**Agenda Item III.**

**City Council to consider the adoption of tax deed property.**

***Motion: Councilor Desrochers moved that the Franklin City Council accept the tax deeds on the following parcel Map/Lot: 097/046/000. Motion seconded by Councilor Dzujna.***

Councilor Clarenbach asked that the left part of the column talks about partial payments so it appears they have been making payments and now they have stopped and are due that money back by State Statute. City Manager Dragon stated that is correct. They were originally up for tax deeding with the other properties and came to the City to make payment arrangements but they have not keep the terms of that arrangement. They made a few payments and then stopped. We have tried to contact them via certified mail and other ways but have had no further contact so by State Statute we will need to return those funds. Councilor Clarenbach stated that the Statute states if they don't pay the arrangement then you take the property and return the money. City Manager Dragon stated no the Statue is based on the year which you take the property. You take the property if three (3) years behind and if they pay in the year which you are taking then you return that and the tax year is taken on the oldest year. Councilor Clarenbach asked since they have paid money we are tax deeding the property in this tax year we are allowed to keep the money. City Manager Dragon stated that is correct. Councilor Clarenbach then asked if we waited until the next tax year could we keep that money. City Manager Dragon stated her only concern she has is likely they don't pay, our policy could be that we wait when someone defaults on their property tax arrangement but that is our only tool to enforce the property tax arrangements. We were supposed to take it months ago and didn't. We could take it in the next tax deeding but they would owe more. City Clerk Gargano explained the process and in March we would not have to return the money. City Manager Dragon explained that the City has been successful in getting rid of all properties taken in tax deeding. Councilor Clarenbach asked if it was worth waiting two (2) more months rather than returning the money and are we sure of that.

Councilor Giunta stated that we are only looking at a month to get the answer so he made a motion to table the item and seconded by Councilor Ribas.



***All in favor of tabling the item; motion passes.***

**Agenda Item IV.**

**Other Business**

**City Council Appointments - Zoning Board**

***Motion made by Councilor Desrochers to appoint Debbie Davis to a regular member from and alternate member of the Zoning Board of Adjustment (Seat ZBA2); term of service to January 2018. Seconded by Councilor Dzujna. All in favor, motion passes.***

1. **City Manager's Update** - City Manager Dragon advised that the City received the following contingent grant line amount: \$100 for the book club and \$4,650.24 for the Step Grant.

City Manager Dragon explained, for the new councilors, that she includes all grants received that do not require a match. The Council adopted a policy several years ago that this money can go through contingent grant line and is reported each month as long as it didn't require a match.

City Manager Dragon also reported that she has been officially approved for ICMA credentialing through the International City Manager's Association. It is quite an honor as you have to be a Manager for a number of years, certain education and training regimen.

Mayor Merrifield stated that he has not opened the envelope in front of him. City Manager Dragon stated that it is confidential information and there is no meeting needed at this time.

**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.**

Leigh Webb stated he was sorry that all the seats that were filled at the end of 2016 are now empty for 2017 and wish the public was here more often and participate. He would like to thank the City for the plastering that was done in the Opera House ceiling. He also wanted to mention about article HB174 brought by Rep. Greg Hill and that the Council look into that bill very seriously as it will have a negative impact for all educational funding. He also stated he is more than happy to testify in Concord about it as having no court oversight and leaving it just up to the legislature leaves the checks and balances out of the system.

Tina Thurber stated that she and others are in the process of bringing a teen center to Franklin. They have partnered with the Pemi Youth Center in Plymouth and it will service 13-17 year olds.

They are working hard to find a location that is within walking distance from the high school. If the Council had any ideas or locations they could work with as this is not funded by the taxpayers so there is no cost to the City. City Manager Dragon stated she has been working with the Recreation Director and they have suggested some possible locations in the City.

There were no further public comments, Mayor Merrifield closed public comment.

## **LEGISLATIVE COMMENTS**

State Rep. Horn welcomed the new Councilors. He stated they have the final language on LSR 725. It is the LSR to halt the stabilization cut so it will be level funded next year. The biggest challenge is to find the funding. He also has an LSR in for the State to stop censuses three (3) times a year which is where they get their numbers for adequacy funding. It is a touch out of base with municipal budgets as municipalities don't budget (3) times a year so they should be paying in thirds. Push back he has gotten is students moving from district to district and it helps them keep a better track and award adequacy better. City Manager Dragon thanked Rep. Horn for taking LSR 725 and running with it and they know there will be challenges along the way but they will reach out to all the participants of the forum that the Mayor held to help with that. Rep. Horn stated that class picture day for the legislature will be tomorrow and they will also find out who is on what committee. Rep. Horn stated he is on the transportation committee again so that will allow him more time for other things.

Councilor Dzujna asked if we are still meeting on January 23 at 6:00 pm for a workshop. City Manager Dragon stated yes.

### **Adjournment**

***Motion to adjourn made by Councilor Giunta and seconded by Councilor Clarenbach. All in favor; meeting adjourned at 7:37 p.m.***

Respectfully Submitted,

Lauraine G. Paquin