

**CITY COUNCIL MEETING**

**AGENDA ITEM VIII**



**CITY OF FRANKLIN  
COUNCIL AGENDA REPORT**

*City Council Meeting October 2012*

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**From:** Elizabeth Dragon– City Manager

**Subject:** City Council to consider scheduling a work session to discuss a proposed revision to the industrial park TIF plan and a proposed Downtown Revitalization Tax Relief (Chapter 79-E)

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**Discussion:**

There has been discussion about creating a new Tax Increment Plan for the Industrial park. This change if done now could be accomplished in time to take advantage of the new development happening with Watts/Webster Valve. Director Lewis has prepared the documents and we are looking for a work session to discuss this item further with the council and get guidance.

In addition, we have discussed briefly incentives to encourage development in the downtown area. One incentive available to the council is the adoption of RSA 79-E. Director Lewis has prepared a brief memo attached and again we are seeking support/guidance from the council.

Both of these economic tools require public hearings which could potentially be held the same evening if supported by the council.

The last Monday of the month is reserved for council work sessions therefore that is one possible date for a work session-however if the council wanted to meet sooner- **Tuesdays** would allow for easier participation of Director Lewis.

**Attachments/Exhibits:**

1. Sept 18, 2012 Memo regarding revisions to Industrial Park TIF Plan
2. July 25, 2012 Memo regarding Downtown Revitalization Tax Relief & Chapter 79-E Community Revitalization Tax Relief Incentive

To: Elizabeth Dragon, City Manager  
From: Dick Lewis, Planning and Zoning Administrator  
Date: September 18, 2012  
Re: Proposed Revision to the Industrial Park TIF Plan

We have talked recently about the idea of creating a new Tax Increment Financing [TIF] Plan for the Franklin Industrial Park area. Below is an outline of the important key issues that could be considered when evaluating this proposal:

1. With the development of the new addition to the Watts / Webster Valve facility, we will see the first significant development in the industrial park for many years. This new building will be adding value that could contribute to the TIF account. For example, the new Watts building could overall bring in an additional \$107,600 in tax revenues to the City [assuming a value of \$5 million]. If 50% of this added revenue was directed towards the TIF account, \$53,800 could be used for improvements in the park.
2. Since the TIF plan was created for the Industrial Park back in 2002, I do not believe that any "added value" funds have been set aside into the TIF account for improvements in and around the industrial park area.
3. With the state DOT moving ahead with plans for the intersection improvements, this might be a good opportunity to integrate city funded work with the DOT funded work. For example, maybe we could create some improved connections between Route 3 drainage and drainage from the upper levels of Industrial Park Drive.
4. With the positive steps being taken by some of the firms in the Industrial Park for new manufacturing activities, the City would do well by undertaking some roadway improvements to Industrial Park Drive as a way to draw new firms and help retain existing firms. The funds in the TIF account can be directed to the necessary infrastructure improvements.
5. If the Council was so inclined, the TIF fund account could be supplemented with some funds from the Municipal Transportation Account.
6. It is my understanding that the former Polyclad building will be purchased by a new buyer in the near future. New infrastructure improvements to the park might well help with the creation of positive re-development options and the marketability of this property.

The Council did vote in 2009 to support the preparation of a new TIF for the Industrial Park; this work was put on hold due to the general economic turn-down and other industrial oriented work, such as the brownfields projects. I think now is an excellent time to get this project back on track. Reviewing this issue with the City Council and getting a 2012 consensus vote would a great step in this important process.

One last note – it would be beneficial to get the new Industrial Park TIF in place this fall or early winter. This would allow us to use the April 1, 2012 building/property values to form the base value starting point for which all added value calculations are done to determine the funds available to the TIF account. Waiting till after April of 2013 could result in the added value from the Watts / Webster project not being available to the TIF program.

Please call or email with any questions. Thank you.



## CITY OF FRANKLIN, NEW HAMPSHIRE

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To: Elizabeth Dragon, City Manager  
From: Dick Lewis  
Date: July 25, 2012  
Re: Downtown Revitalization; Tax Relief and TIF Issues

As a follow-up to conversations we have had on overall downtown redevelopment issues, I want to present a short outline of the provisions of RSA 79-E, and how it relates to the existing downtown TIF District.

1. RSA 79-E is the Community Revitalization Tax Relief Incentive program. One of the declared public benefits is the enhancements of *"downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality"*.
2. The statute applies to, in the case of Franklin, to the core downtown center, which is basically the area encompassed by Central, Smith, Memorial, Franklin, and Canal Streets. For all intents and purposes it overlaps with the Downtown Revitalization Overlay District and the federally identified historic district. The structures within this area would be *"qualifying structures"* under the provisions of the statute. The Council could limit the definition of a qualifying structure to only include buildings of a certain age, condition, or other criteria.
3. The tax relief would be granted for the replacement or the substantial rehabilitation of a qualifying structure. The rehab work must be at least 15% of the pre-rehab assessed value or cost at least \$75,000.
4. The statute outlines a process for the utilization of the program. In summary, the basic steps in the process are:
  - a. The City Council would schedule a public hearing for the acceptance of the provisions of the statute. The hearing and acceptance process would be the same as any ordinance or resolution.
  - b. Once the acceptance process is complete, the owner of a qualifying structure could apply to the Council for tax relief. The application package must include a description of the intended work and any changes to the property [for example, with the use of the building], an application fee, and specific historical resource inventory and analysis information. The applicant should also describe the public benefits of the proposed work and project outcomes. Lastly, the applicant must be prepared to grant a covenant to the City to ensure that the work and the maintenance and use of the building are consistent with the public benefit.
  - c. After receipt of the application a public hearing is scheduled, to be followed by a decision by the Council. If the tax relief is granted, the covenant must be recorded and it runs concurrent with the years of the tax relief. The Council can grant the tax relief for up to 5 years, with provisions for additional years for certain projects [for example, residential units, affordable housing, and properties on the National register of Historic Places].
  - d. The granted tax relief allows the owner to be taxed on the pre-replacement or the pre-rehabilitation values instead of the new values of the completed project. Upon the expiration of the tax relief period, the owner is responsible for all of the taxes on the new or rehabbed structure.
5. There is a section of this statute that discusses the overlap / potential conflict between this tax relief program and the operations of a TIF District. This is an issue that the City must consider when thinking about whether or not to accept the provisions of RSA 79-E. The City is not obligated to approve tax relief for a property if such action would adversely impact the development program of financing plans for a TIF district.

I think that a 79-E program might serve the interests of the City for these reasons:

- a. Since the downtown TIF was established we have only lost values in most if not all of the subject properties.
  - b. Given the overall economic times, I believe that there might be more incentives for property owners to undertake certain improvements if some level of tax relief were available.
  - c. With the downtown improvements which were funded by the federal earmark, the number of tasks that might be paid for by the accumulated funds in a TIF account became limited. Thus, the funds in a TIF account might not be targeted for a project within the foreseeable future.
6. The tax relief program does not apply to certain projects made possible by state or federal grants or funds that do not need to be repaid. This provision might impact the number of qualifying projects, but it is impossible to determine the impact of this provision at this time.

I think there is value in discussing this economic revitalization program. I would be happy to discuss this with you, the Mayor, Council members, or FBIDC members at any point in time.

Please call or email with any questions you might have. Thank you.

Attachment: Copy of RSA 79-E

## **CHAPTER 79-E**

### **COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE**

#### **79-E:1 Declaration of Public Benefit. –**

I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B.

II-a. In instances where a qualifying structure is determined to possess no significant historical, cultural, or architectural value and for which the governing body makes a specific finding that rehabilitation would not achieve one or more of the public benefits established in RSA 79-E:7 to the same degree as the replacement of the underutilized structure with a new structure, the tax relief incentives provided under this chapter may be extended to the replacement of an underutilized structure in accordance with the provisions of this chapter.

III. Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this chapter are considered to provide a demonstrated public benefit if they encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of a qualifying structure, as defined in this chapter.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:3, 4, eff. July 15, 2009.

#### **79-E:2 Definitions. –** In this chapter:

I. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter. Cities or towns may further limit "qualifying structure" according to the procedure in RSA 79-E:3 as meaning only a structure located within such districts that meet certain age, occupancy, condition, size, or other similar criteria consistent with local economic conditions, community character, and local planning and development goals. Cities or towns may further modify "qualifying structure" to include buildings that have been destroyed by fire or act of nature, including where such destruction occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town.

I-a. "Replacement" means the demolition or removal of a qualifying structure and the construction of a new structure on the same lot.

II. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less. Cities or towns may further limit "substantial rehabilitation" according to the procedure in RSA 79-E:3 as meaning rehabilitation which costs a percentage greater than 15 percent of pre-rehabilitation assessed valuation or an amount greater than \$75,000 based on local economic conditions,

community character, and local planning and development goals.

II-a. "Tax increment finance district" means any district established in accordance with the provisions of RSA 162-K.

III. "Tax relief" means:

(a) For a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

(b) For the replacement of a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a replacement structure shall not exceed the property tax on the replaced qualifying structure as a result of the replacement thereof.

(c) For a qualifying structure which is a building destroyed by fire or act of nature, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on such qualifying structure shall not exceed the tax on the assessed value of the structure that would have existed had the structure not been destroyed.

IV. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:5-7, eff. July 15, 2009. 2010, 329:1, 2, eff. July 20, 2010. 2011, 237:1, 2, eff. July 5, 2011.

#### **79-E:3 Adoption of Community Revitalization Tax Relief Incentive Program –**

I. Any city or town may adopt or modify the provisions of this chapter by voting whether to accept for consideration or modify requirements for requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote "yes," applications for community revitalization tax relief incentives may be accepted and considered by the local governing body at any time thereafter, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. The local governing body of any town or city that has adopted this program may consider rescinding its action in the manner described in paragraph II or III of this section, whichever applies. A vote terminating the acceptance and consideration of such applications shall have no effect on incentives previously granted by the city or town, nor shall it terminate consideration of applications submitted prior to the date of such vote.

**Source.** 2006, 167:1, eff. April 1, 2006. 2010, 329:3, eff. July 20, 2010.

#### **79-E:4 Community Revitalization Tax Relief Incentive. –**

I. An owner of a qualifying structure who intends to substantially rehabilitate or replace such

structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and an application fee.

I-a. In order to assist the governing body with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the governing body as part of the application, a New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian and a letter issued by the local heritage commission and if the qualifying structure is located within a designated historic district established in accordance with RSA 674:46, a letter from the historic district commission or, if such local commissions are not established, a letter issued by the New Hampshire division of historical resources that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted.

II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.

III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

IV. (a) The governing body may grant the tax relief, provided:

(1) The governing body finds a public benefit under RSA 79-E:7; and

(2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and

(3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and

(4) In the case of a replacement, the governing body specifically finds that the local heritage commission or historic district commission or, if such local commissions are not established, the New Hampshire division of historical resources has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of the qualifying structure will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement. In connection with these findings, the governing body may request that the division of historical resources conduct a technical evaluation in order to satisfy the governing body that historical resources will not be adversely affected.

(b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.

V. If the governing body, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and shall not be set aside by the board of tax and land appeals or the



superior court except for bad faith or discrimination.

VI. Municipalities shall have no obligation to grant an application for tax relief for properties located within tax increment finance districts when the governing body determines, in its sole discretion, that the granting of tax relief will impede, reduce, or negatively affect:

- (a) The development program or financing plans for such tax increment finance districts; or
- (b) The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment financing district; or
- (c) The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:8-11, eff. July 15, 2009.

**79-E:5 Duration of Tax Relief Period. –**

I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

IV. The governing body may adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:12, eff. July 15, 2009. 2010, 329:4, eff. July 20, 2010.

**79-E:6 Resumption of Full Tax Liability. –** Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 75:1.

**Source.** 2006, 167:1, eff. April 1, 2006.

**79-E:7 Public Benefit.** – In order to qualify for tax relief under this chapter, the proposed substantial rehabilitation must provide at least one of the public benefits, and the proposed replacement must provide one or more of the public benefits to a greater degree than would a substantial rehabilitation of the same qualifying structure, as follows:

- I. It enhances the economic vitality of the downtown;
- II. It enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located;
- III. It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
- IV. It increases residential housing in urban or town centers.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:13, eff. July 15, 2009.

**79-E:7-a Public Benefit Determinations.** – Cities or towns may adopt according to the procedure in RSA 79-E:3 provisions that further define the public benefits enumerated in RSA 79-E:7 to assist the governing body in evaluating applications made under this chapter based on local economic conditions, community character, and local planning and development goals.

**Source.** 2010, 329:5, eff. July 20, 2010.

**79-E:8 Covenant to Protect Public Benefit.** –

I. Tax relief for the substantial rehabilitation or replacement of a qualifying structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and as otherwise provided in this chapter.

II. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the governing body, be effective for a period of time up to twice the duration of the tax relief period.

III. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the governing body's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition or damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in RSA 79-E:9, I.

IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.

V. The applicant shall pay any reasonable expenses incurred by the municipality in the drafting, review, and/or execution of the covenant. The applicant also shall be responsible for the cost of recording the covenant.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:14, eff. July 15, 2009.

**79-E:9 Termination of Covenant; Reduction of Tax Relief; Penalty.** –

- I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or

fails to restore, rebuild, or demolish the structure following damage or destruction as provided in RSA 79-E:8, III, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II.

II. Any tax payment required under paragraph I shall be payable according to the following procedure:

(a) The commissioner of the department of revenue administration shall prescribe and issue forms to the local assessing officials for the payment due, which shall provide a description of the property, the market value assessment according to RSA 75:1, and the amount payable.

(b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the payment along with a special tax warrant authorizing the collector to collect the payment under the warrant. The quadruplicate copy of the form shall be retained by the local assessing officials for their records.

(c) Upon receipt of the special tax warrant and prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice of payment.

(d) Payment shall be due not later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any amount not paid within the 30-day period. Interest at 12 percent per annum shall be charged upon all taxes that would have been due and payable on or before December 1 of each tax year as if no tax relief had been granted.

**Source.** 2006, 167:1, eff. April 1, 2006. 2009, 200:15, eff. July 15, 2009.

**79-E:10 Lien for Unpaid Taxes.** – The real estate of every person shall be held for the taxes levied pursuant to RSA 79-E:9.

**Source.** 2006, 167:1, eff. April 1, 2006.

**79-E:11 Enforcement.** – All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80.

**Source.** 2006, 167:1, eff. April 1, 2006. 2007, 42:3, eff. July 20, 2007.

**79-E:12 Rulemaking.** – The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the payment and collection procedures under RSA 79-E:9.

**Source.** 2006, 167:1, eff. April 1, 2006.

**79-E:13 Extent of Tax Relief.** –

I. (a) Tax relief granted under this chapter shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the governing body and not to those increases attributable to other factors including but not limited to market forces; or

(b) Tax relief granted under this chapter shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the qualifying structure assessed at the time the governing body approves the application for tax relief and the owner grants to the

municipality the covenant to protect public benefit as required in this chapter, provided that for a qualifying structure which is a building destroyed by fire or act of nature, original assessed value shall mean the value as of the date of approval of the application for tax relief of the qualifying structure that would have existed had the structure not been destroyed.

II. The tax relief granted under this chapter shall only apply to substantial rehabilitation or replacement that commences after the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect the public benefit as required in this chapter, provided that in the case of a qualifying structure which is a building destroyed by fire or act of nature, and which occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town, the tax relief may apply to such qualifying structure for which replacement has begun, but which has not been completed, on the date the application for relief under this chapter is approved.

**Source.** 2006, 167:1, eff. April 1, 2006. 2010, 329:6, eff. July 20, 2010. 2011, 237:3, eff. July 5, 2011.

**79-E:14 Other Programs.** – The provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs.

**Source.** 2006, 167:1, eff. April 1, 2006.