

CITY COUNCIL MEETING

AGENDA ITEM IV



CITY OF FRANKLIN
COUNCIL AGENDA REPORT

City Council Meeting, March 4, 2013

From: Kevin LaChapelle, Fire Chief

KPL

Subject: For the Franklin City Council to consider entering into agreement with the Towns of Boscawen and Salisbury through a MOU (Memorandum of Understanding) in regards to the sharing of building inspection resources.

Recommending motion:

1. Councilor moves: "I move the Franklin City Council authorize the City's Fire Chief to sign the said agreement with the Towns of Boscawen and Salisbury for the purposes of sharing building inspection resources.
2. Mayor asks a second, discussion, and calls the vote.

Background:

The City currently has one Building Inspector that works in the Inspection Division of the Fire Department, Captain Bodien. Captain Bodien also serves as the Building Inspector for the Town of Salisbury. He has established a strong working relationship with the Town of Boscawen Building Inspector. Both inspectors have voiced strong concern that in their absence there is no mechanism or qualified inspectors in the local area that can perform their duties. With this relationship as a catalyst, the drafting of this MOU is believed to be positive movement in the arena of shared resources for communities such as Franklin, Salisbury and Boscawen who manage thin resources.

This MOU was drafted by Attorney Fitzgerald.

Fiscal Impact:

There will be no fiscal impact as these resources will be paid by their respective communities.

Alternatives:

The sole Building Inspector for the City of Franklin currently has no qualified resource that can step in, in his absence. The alternative to declining this MOU is to remain as is during the absence of our Building Inspector.

Attachments/Exhibits:

MOU drafted by Attorney Fitzgerald and reviewed by both Boscawen and Salisbury legal counsel along with Boards of Selectman.

INTERMUNICIPAL AGREEMENT

CITY OF FRANKLIN

316 Central Street
Franklin, NH 03235

AND

TOWN OF BOSCAWEN

116 North Main Street
Boscawen, NH 03303

AND

TOWN OF SALISBURY

9 Old Coach Road
Salisbury, NH 03268

INTERMUNICIPAL AGREEMENT entered in to and effective on the date last indicated below by and between the CITY OF FRANKLIN, a New Hampshire municipality, with a place of business at Memorial Hall, 316 Central Street, Franklin, New Hampshire, 03235 (hereinafter referred to as “Franklin”), the TOWN OF BOSCAWEN, a New Hampshire municipality with a place of business at 116 North Main Street, Boscawen, New Hampshire 03303 (hereinafter “Boscawen”) and the TOWN OF SALISBURY a New Hampshire municipality with a place of business at 9 Old Coach Road, Salisbury, New Hampshire 03268 (hereinafter “Salisbury”). Collectively the entities shall be referred to as the “Municipalities”.

1. **Purpose.** The purpose of this Agreement shall be to allow any of the cooperating Municipalities to provide building inspection services for the other Municipalities in accordance with the terms and conditions contained herein. “Building inspection services” shall mean the inspection and preparation of a report in reference to any building or structure located within any of the Municipalities for the purposes of determining compliance or any other related issues in reference to applicable local or state building code, fire code, life safety code, electrical code, plumbing code or any other similar document or regulation. Services capable of being provided pursuant to this Agreement include but are not necessarily limited to, those commonly referred to as “building inspector”, “code enforcement officer” and/or “health officer”. In addition to supplying services as outlined in

this Agreement, both in this section and elsewhere, any of the Municipalities may request services in the event that any individual Municipality or its subdivisions or agents would potentially encounter a conflict of interest by investigating or providing inspection services or reports as provided herein.

2. **Enforcement/Prosecution Excluded.** Nothing in this Agreement shall confer upon the representatives or employees of any cooperating Municipality, the duty, obligation or right to enforce the applicable codes and/or regulations in another cooperating Municipality, that power being reserved to the appropriate officials of that town or city. The powers conferred upon the cooperating Municipalities hereto are only those of inspection and providing a report as may be requested from time to time and it is understood that enforcement and/or prosecution of reported violations shall remain the sole province of the Municipality in which the inspected property is located. However, nothing in this section shall prevent a cooperating Municipality assisting a requesting Municipality in enforcement or prosecution actions when specifically authorized by the appropriate town or city manager of the requesting Municipality.
3. **Cooperation with Enforcement/Prosecution.** The inspecting Municipality shall, to the extent reasonable, allow and supply its inspecting official to assist in the enforcement or prosecution of violations through the furnishing of reports and, if requested, to supply testimony supporting the prosecution, but all prosecutions shall, as stated above, be initiated in the name of the prosecuting Municipality by the appropriate officials of that Municipality.
4. **Request for Services.** Requests for services shall be made by any convenient means and scheduling of inspections shall be coordinated to ensure a proper response.
5. **Police Stand-by.** If requested by the responding Municipality, the requesting Municipality shall provide police stand-by/escort services to the officials of the responding Municipality.
6. **Precedence.** All Municipalities agree and understand that services provided under this Agreement shall be processed by a responding Municipality in the

normal course of business (excepting emergency circumstances) and that duties of responding officials to their employing Municipality shall have priority over requests from the other parties hereto.

7. **Compensation.** Consideration for this Agreement shall be the mutual covenants, promises and obligations recited herein. No financial compensation shall be paid for any of the services provided hereunder but requesting Municipalities shall reimburse cooperating Municipalities for direct expenses incurred, excluding personnel expenses.
8. **Best Efforts/Liability.** The obligation of the responding Municipality pursuant to this Agreement shall be to utilize its best efforts in providing the described services to a requesting Municipality and for such services to be provided in good faith and in a timely fashion subject to the other provisions of this Agreement. Each requesting Municipality does hereby indemnify and save harmless for loss or damage occurring as the result of activities undertaken or services provided pursuant to this Agreement except to the extent that any such loss or damage occurred as a result of wanton, malicious or bad faith actions on the part of the responding Municipality or its employees or agents.
9. **Term.** This Agreement shall be indefinite in term. Any party hereto may terminate this Agreement upon thirty (30) days notice to the remaining parties. Upon termination of this Agreement, the remaining parties may, but shall not have an obligation to, enter into a subsequent agreement.
10. **Amendment.** No term or provision of this Agreement shall be altered, amended or changed in any way except in writing, with such amendment being executed by the parties hereto.
11. **Entire Agreement.** It is agreed that all understandings and representations heretofore between the parties are merged into this Agreement, which alone fully and completely expresses their agreement and that the same is entered into after full investigation, neither party relying upon any statement or representation not embodied in this Agreement.

12. **Agreement Binding.** This Agreement shall be binding upon and be to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties.
13. **Assignment.** No party shall assign any obligation under this Agreement without the written consent of the other party.
14. **Governing Law.** This contract shall be governed by, and interpreted in accordance with, the laws of the State of New Hampshire. It is specifically agreed that the Courts of the State of New Hampshire shall have jurisdiction over any dispute arising herefrom.
15. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes but all of which shall constitute one in the same Agreement.
16. **Effective Date.** This Agreement shall be effective upon receipt of approval from the New Hampshire Department of Justice pursuant to RSA 53-A:3, V or thirty (30) days after submission of this Agreement to that office for approval, whichever occurs first.

This Agreement is entered into pursuant to action of the Franklin City Council on _____, 2013, the Boscawen Board of Selectmen on _____, 2013 and the Salisbury Board of Selectmen on _____, 2013.

IN WITNESS WHEREOF, we have hereunto signed and executed this Agreement on the day and year first written above.

Date

Ken Merrifield, Mayor,
City of Franklin
Duly Authorized

Date

Craig Saltmarsh, Chair
Boscawen Board of Selectmen
Duly Authorized

Date

Kenneth Ross-Raymond, Chairman
Salisbury Board of Selectmen
Duly Authorized