

CITY COUNCIL MEETING

AGENDA ITEM II



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

October 7, 2013, City Council Meeting

Subject: Approval of Minutes

Motion: *"I move that the Franklin City Council approves the minutes of the September 9, 2013 City Council Meeting."*

Mayor calls for a second, discussion and the vote.

**CITY COUNCIL MEETING
SEPTEMBER 9, 2013**

Call to Order

Mayor Merrifield called the meeting to order at 6:00 p.m. in the Council Chambers, Franklin City Hall. Salute to the Flag was said led by Councilor Giunta.

In Attendance

Councilor Dzujna, Councilor Giunta, Councilor Cournoyer, Councilor Desrochers, Councilor Feener, Councilor Trudel, Councilor Starkweather, Councilor Boyd, Councilor Clarenbach, City Manager Dragon, and Mayor Merrifield.

Comments from the Public

Mrs. Elizabeth Toby spoke on excessive speeding going by her house doing 60 /70 miles per hour and the lack of signage all along Route 3 to Boscawen. She commented walking on Route 3 is very dangerous. She said there are no speed signs from the one at Route 127 stating 50 miles per hour all the way down. She stated if you live on that road and have to back out onto Route 3, it is a chore. She stated more than once someone has tailgated her and then gone right into the opposing lane to keep from hitting her. She also stated Smith Hill Road is very dangerous to get on or off of.

Mrs. Antrim on Smith Hill Road stated Smith Hill Road is very dangerous and on one side there is a hill that you cannot see around it and about the time you think you can get out someone comes flying by. There are no signs saying slow, she stated they did have a mirror but it kept falling down so there is a need to have something more permanent that can tell people when there is something coming around the bend.

Mr. Antrim stated his grandchildren are afraid to go out, they can't see the traffic, you can see headlights coming when it is dark otherwise you can't see anything coming around that bend. He stated one morning he almost got hit by a tractor trailer. He stated something needs to be done.

Resident of Ward I Marty Russo stated he has received a letter from the Attorney General's Office which he read into the record concerning the City and the Franklin School Board. (Letter is attached to these minutes) Mr. Russo stated he is under no illusion that this closes this matter as the torch and pitchfork gang is still quite active in the community. He stated they will be making this letter public both on the internet and in the print media and he stated he expects some responsible replies from the City Council. In view of the uproar that the Council helped instigate against standing school board members and especially their chairs, he stated it is despicable, it is disgraceful and rightfully so has earned Franklin a tremendous amount of ill will in the community and the community surrounding it. He stated he will address very briefly the letter dated August 27, 2013 from the Attorney General's Office addressed to Mrs. Burbank and Mrs. Feener concerning the investigation of the election held in October 2012. There will be as stated in this letter pending criminal charges filed. They found that four of the five allegations that we alleged actually happened and are demonstrated and clearly noted in that letter of August 27th. He advised they have additional testimony and evidence which will substantiate the fifth one and he advised they intend to prosecute all of them to the full extent of the law.

Mr. Jim Aberg, Director of FBIDC stated he just wants to comment about the speed limit mentioned earlier down by Watts and the Industrial Park entrance. There have been comments/complaints from Watts as their big trucks are pulling out of the driveway and making a right hand turn they need to go into the other lane to do that and with the speed limit and the speed that folks travel along there, it is a dangerous situation. Also he stated out of the Industrial Park we have the same problem and that will be eliminated when the entrance is redone which is scheduled to be done in 2014. He stated he feels that it would be prudent that the City try to reduce the speed.

Mr. Larry Lindsey, resident on Sanger Street which is a dead end street and has no parking but there has been parking on the street for the last year and half. He stated he has been fighting the parking on the street because they excessively park in front of driveway, they block right-of-ways and because of this he has

been verbally abused by his neighbors. He stated they trespass and ignore his signs, ignore what he asks them not to do which is encroachment on his property. They don't want to talk about the situation, he has talked to DOT, the Mayor, the Police Chief and he stated just wants to see it stop. He stated there is no way he can pull in or out of his driveway without asking someone to move. He stated he appreciates the time and hopes this will be looked into.

Ms. Sara Tracy, Welfare Director and Resident gave a presentation concerning the Lion's Club and the benefits the Lion's Club offers including projects that are helpful to students in Franklin. She also advised to celebrate her twenty years in Franklin as a business owner she is going to hold a room open the week of October 1st through October 6th where in food can be donated for the Twin River's Food Pantry which supports nearly 1,000 residents monthly. She encouraged the Council to support the benefits offered by the Lion's Club.

Mrs. Sarah Stanley, resident stated she is the marketing officer of the Franklin Savings Bank, the bank is happy to promote their 20th annual charity softball tournament (13 teams) that will take place September 18 at Odell Park. She handed out T-shirts to the Council and on the back of the shirts the 20 charities that they have benefited over the years is listed and this year's recipient is the Chem-Free After-Prom and Graduation Celebrations. She also announced as Co-Chair for the Business and Professional Women of Achievement Celebration. This year Franklin Savings Bank is sponsoring the Woman of Achievement recognition and we seeking nominations.

City Clerk Burbank advised the City Election will be October 1st from 8:00 AM to 7:00 PM and it is hoped councilors will be able to be at each ward. She also advised the Canvas of the Votes will be on the October 7th agenda.

Mayor Merrifield read a letter addressed to the Franklin City Council and the he stated the authors want to express their opinion about the speed on Highway Route 3 that they have lived on for about 10 years. "It states his wife grew up in Franklin in the same house so the experience has been many more years that just

the last 10 years. 50 miles per hour is just right. At every Department of Transportation hearing that has taken place in Franklin the last being the Industrial Park intersection the DOT has made the comments that the speed of the traffic has been monitored and has been within the speed limit and is normal. We admit that the early morning traffic can be a little bit faster than that speed limit but we also want to thank the Franklin Police Department for coming out early in the morning and monitoring the traffic. That is the key to a safe highway; it's the enforcement of the laws of the road." From Nita Tomaszewski and Lee Hammond.

Choose Franklin

Co-Chair Andreozzi advised the tent that Choose Franklin has been using for many years is getting frail and they are in the process of writing some grants to try to replace the tent. They no longer allow other organizations to use it so it will hold up for the First Day event. She stated prior to the Election Choose Franklin holds candidates night which will be September 23rd in the Council Chambers and will begin at 7:00 p.m.

Legislative Comments

Representative Webb advised there were two proposals submitted to be potential LSRs, one was submitted by Director Lewis and with continuing conservation the decision may be that it would be more prudent to wait until becomes a specific policy item for the New Hampshire Municipal Association and have them behind it 100% so that is on hold for now. The other proposal was from Chief Goldstein and he advised he will probably be initiating that this week as a LSR which is in regard to domestic violence and the use of pets as leverage in those kinds of cases to the detriment of the pets. Representative Webb stated he is hoping the City Council will get behind just drafting a letter to the Department of Transportation and in particular Mr. William Lambert to request a speed limit review and there is no cost to the City for this. Representative Webb

Councilor Dzujna had received a letter from CASA wanting to be placed in the City 2015 budget and he asked is that something that the State use to fund or has it always been done through the towns and cities? Representative Webb stated they have different avenues for funding and stated he does know they do private fund raising.

City Council Acknowledgements

Councilor Dzujna stated this past week the hanging baskets of flowers had to come down so he contacted Mrs. Finley and she sent some of the members of the Honor Society to assist in the removal of the baskets. These guys and gals were great help and he announced their names:

Dillon Sylvester, Sadie Kaplan, Lucas Gagne, Kim Gerlarneau, Mallorie Hall, Josh Bradley, Brooke Sweet, Katarina Lindskog and Nadine Lindskog. Councilor Dzujna commented just working with these young people you can see that Franklin will be in good hands.

Mayor's Update

Mayor Merrifield advised that this past week he had the great honor of speaking to Mayor Joseph Fisona of Elkton, Maryland who reached out to him to talk about the drug problem that he has in his community. He had done an internet search and discovered the activities of the Mayor's Drug Task Force here in Franklin and was very interested in what we do. He stated the Elkton community is an excellent candidate for a sister City. Mayor Fisona seems to have a lot of the same challenges in his community that we have here in Franklin.

Mayor Merrifield also mentioned the fund raising tribute September 21st at the Franklin Elks Club for Councilor Bob Sharon who served on the Council for many years. The receipts from this tribute to Councilor Sharon will go towards a canine unit for the City of Franklin. He also thanked Councilor Dzujna for all his work and efforts in organizing this event.

Mayor Merrifield recalled that at the last City Council Meeting there was a discussion concerning the new unit that is being established at Franklin Regional Hospital and he asked if the Council would like to request a meeting with the leadership from the hospital to talk about some of the issues involved. Councilor Dzujna stated he thinks it is a great idea as everyone should be involved. There was no objection; therefore, a meeting will be requested on behalf of the City Council.

Approval of Minutes

Motion made by Councilor Feener that the Franklin City Council approves the minutes of the June 24, 2013 City Council Budget Workshop Meeting, the July 17, 2013 City Council/School Board Joint Meeting, the July 29 and August 5, 2013 City Council Meetings. Motion seconded by Councilor Desrochers. All in favor; minutes approved.

School Board Report

There was no school board report; however, School Board Member Al Warner addressed the Mayor and Council stating that he noticed later on the agenda the recommendation for joint meetings between the School Board and the City Council and he stated he feels that is an excellent idea.

Request by John and Cindy Krauz for the Restoration of Involuntarily Merged Lots

Mayor Merrifield advised the Council received information on this request from Director Lewis last month and delayed any action so that Mr. Kraus could be notified that the Council would be considering his request. Mr. Kraus commented that it should be posted in accordance with the law. Director Lewis advised that it is posted in the Planning & Zoning Office. Manager Dragon advised it is on the agenda and the agenda and the packet are posted on the City's website. Director Lewis stated that one of the statutorily assigned requirements of this statute when

it was approved by the Legislature a couple of years ago is that the unmerging process and the steps for it get posted in City Halls for communities that have annual reports and it is suppose to be in the annual report. One is posted in the Planning/Zoning Office. Director Lewis commented this issues was reviewed at the last Council meeting, and in a nut shell Director Lewis stated he has a contrary opinion on the request and the basis for his contrary opinion is the fact that when Mr. Kraus came to the Zoning Board in 1988 for a special exception for the second unit in the dwelling that constituted an over action or conduct indicates that the owners' lots were merged and the basis for that was the plan that Mr. Kraus submitted and a copy which was provided to the Board where the structure is shown and the proposed driveway, parking area and was labeled as 6.6 acres. The only conclusion stated Director Lewis that can be reached is that the Zoning Board took that special exception request and considered it in light of the 6.6 acres. If you look at this overt action clause that is contained within the statue, then the request for the unmerging of those lots should not be approved and Director Lewis stated that is the position of his office. Director Lewis also mentioned there was a State Supreme Court ruling on an unmerging and the Supreme Court indicated that all such requests need to be considered on a request basis and a more recent case in the Town of Newbury indicating that the conduct of the person seeking the approval to unmerge the lots can potentially erase the initial lot lines through the overt action. Director Lewis stated his recommendation is to not approve the request for the unmerging. Councilor Desrochers commented it is his understanding that when Mr. Kraus went to the Zoning Board he had built an additional structure on the lot and asked if that is correct. Director Lewis responded the Special Exception back in 1988 was for a second unit in that structure, it did come up in 2011 that there was a studio apartment in that and Director Lewis stated he has not dealt with any enforcement action on that to learn what takes place with the unmerging request. Right now there are two full apartments and then one studio apartment. Councilor Desrochers clarified that would be the red building on New Hampton Road plus Mr. Kraus' residence further back. Director Lewis commented the property further back on Lepage Road is not part of this unmerging. Mr. Kraus stated one unit is now only used for storage. Mayor Merrifield commented last

month he raised the question about the timing of ownership as it does appear from what he reads that Mr. Kraus was not actually the owner when he went before the Zoning Board and the property actually changed hands about eight days later and in the statute it states the overt action has to come from the owner. Director Lewis stated the application that was presented to the Zoning Board there is a space for the applicant and there is a space for the owner and both the applicant/owner were both indicated as Mr. Kraus. Mayor Merrifield stated he is not clear on the posting. Director Lewis stated in Paragraph 6 municipalities shall post a notice informing residence that any involuntary merged lots maybe restored to a pre-merged status upon the owners request. Such notice shall be placed in a public place no later than January 1, 2012 and shall remain posted through December 31, 2016. The notice has been posted in the Planning Office.

Motion made by Councilor Desrochers that the Franklin City Council approves the restoration, per RSA 674:39-aa.11, of the involuntarily merged lots owned by John and Cindy Kraus based on the evidence presented by the owners. Motion seconded by Councilor Boyd. 8 yes votes, 1 no vote. Motion passes.

City Council/School Board Joint Meetings

Motion made by Councilor Trudel that the Franklin City Council approves the recommendation from the Liaison Committee to have two joint City Council/School Board meetings each year. Motion seconded by Councilor Cournoyer.

Councilor Feener commented he would be in favor of these joint meetings and offered an amendment to the motion.

Amendment made by Councilor Feener that the first joint City Council/School Board meeting does not take place until at least January, 2014. Amendment seconded by Councilor Desrochers. All in favor of the amendment.

Councilor Giunta asked if the intent is to have only two or a minimum of two. Councilor Trudel responded the intent is to have at least two if not more.

All in favor of the motion as amended.

City Council Appointment to the Lakes Region Planning Board

Councilor Starkweather asked if it must be a member of the City Council and Manager Dragon stated she does not know but she would look into that. It was suggested maybe someone from the Planning Board would be a good appointment. Councilor Boyd stated he feels Director Lewis would be a good choice. Councilor Feener requested we find out the day and time that the Board meets. Mayor Merrifield suggested the staff find out the questions to these questions. Councilor Desrochers asked if Director Lewis could be appointed as the interim Commissioner so the City would have representation.

Motion made by Councilor Desrochers that the City Council appoint Dick Lewis as interim Commissioner to the Lakes Region Planning Board until clarification is made as to whether it has to be a City Councilor or not. Motion seconded by Councilor Boyd. All in favor of the appointment.

Acceptance of Tax Deed for 6 Ring Street (Mobile Home)

Motion made by Councilor Desrochers and seconded by Councilor Feener that the Franklin City Council take from the table the motion to accept the tax deed on 6 Ring Street, Map 078, Lot 006-02 (Mobile Home). All in favor, motion passes.

Other Business

Committee Reports

Councilor Trudel advised copies of the approved minutes for the Liaison Committee for July, June and July 2013 and he thanked the Council for approving the motion to hold joint meetings with the School Board.

Councilor Feener announced there will be a Legislative Committee Meeting on Thursday, September 19th at 5:30 pm in City Hall.

Councilor Desrochers commented he has received several phone calls regarding vandalism that has been ongoing throughout the City; tires being slashed, windows being broken in cars, above ground swimming pools be slashed, etc. Councilor Desrochers asked Chief Goldstein to give the Council an update on these issues. Chief Goldstein stated they have arrested one juvenile but he has not given up the names of his accomplices but it is hoped he will when he goes to court.

Manager's Update

Manager Dragon advised that \$11.72 Highway Safety DWI/DUI Grant and \$64.68 Highway Safety Enforcement have been received in the Contingency Grant Line. She also advised that FEMA is reimbursing the City \$40,846.27 for the February snowstorm and these funds are part of the FY2013 revenues.

Manager Dragon commented the speed limit issue on State roads has been addressed earlier; however, she stated she would like to know if there is any action to be taken from that request. She stated she is looking for direction as to whether the Council could like her to write a letter to the DOT.

Motion made by Councilor Dzujna that the Franklin City Council authorize the City Manager to write a letter to the State Department of Transportation initiating an engineering and safety investigation, at no cost to the City, to identify safety concerns along State Route 3 between the National Guard Amory and Fife Farm, with an eye to reducing the speed limit to 40 mph. Motion seconded by Councilor Feener. All in favor, motion passes.

Manager Dragon commented that there has been talk several times about providing educational services which tie into the manufacturing we have in Franklin and NHTI is now offering advanced manufacturing processes certificate programs.

Manager Dragon advised the City is in the process of doing a Reval and we are a little bit behind schedule and are anticipating to have the values for the October 7, 2013 Council Meeting. As expected the property values are dropping significantly and in return the tax rate will increase. If we have the values on October 7th, there probably will be some informal hearings that would be held the week of the 7th and then have the MS1 complete and into the Department of Revenue by the end of October.

Manager Dragon stated she has been receiving some information from Northern Pass in regards to their Open House schedules and they are scheduled to hold several Open Houses across the area, one of the closer ones is happening on September 17th in Campton 5:30 pm to 7:30 pm at the Campton Days Inn and one on September 18th in Ashland. What they are attempting to do is to go to the various regions and combine several of the communities in the area and talk about the specifics of the project for that region. They are also starting the scoping process and if you recall a scoping hearing was held here in City Hall about two years ago. Now that the route has been announced for Northern Pass they are beginning those scoping hearings. There will be one September 24th at the Plymouth Silver Cultural Arts Center at 5:00 p.m. and she stated they are looking for people to go to the hearing and testify.

Manager Dragon advised she has met with the people working on the Energy Savings Project and they are working on finalizing their numbers. Director Milner has met with them to go over some of the financing options. She stated they intend to have a proposal for the Council at the October 7th meeting. She stated she would also like to plan for a public hearing for October 7th and in that way if you were to approve any of the projects to move forward a public hearing would be required for the financing of them and a supplemental appropriation

and they are wanting to do the work before winter unless the Council would prefer to carry it over to the spring. Manager Dragon stated that if the Council did not want to schedule a public hearing for October 7th, then perhaps one could be scheduled for another night. Councilor Feener commented if we don't have audited statements by the time of the public hearing it could be questionable as to the financing and he stated he wants to make sure we have audited statements before we do anything with this project. Manager Dragon stated we have been waiting for the school district to provide the information to conclude the audit. We have decided to move forward without the school district's information and the auditors are intending to meet with both the school and the city to talk about what that means because we are not getting timely information which likely means an adverse opinion but we are getting a lot of pressure from financing sources, from the City's Credit Card company looking the City's audited financial statements. The City's information has been done and is ready to go but we are a few years behind because we have been waiting for the school and since they are a dependent school district their information has to be incorporated with the City's information in order to complete the financial statements for the City as a whole. The auditor contacted us and the City is moving forward even though we do not have the school's information which will likely mean the City will get an adverse opinion.

Councilor Giunta stated with regard to the energy upgrades he would be uncomfortable scheduling anything so quickly. He stated his business went through the exact same thing and even though it sounds great, for them it was not a pleasant experience. Also he commented that by the time you pay off for the improvements, it is time to replace them again. The City Council decided not to schedule a public hearing now and to wait for more information.

Councilor Starkweather stated he has talked to the City Manager concerning the basketball hoops around the City that are sitting on the curb and the hoop is hanging out in the street and in one case the fire truck hit one and it appears somewhere we are missing something in our ordinances to get something done about this. He requested the Legislative Committee have a look at this issue.

Motion made by Councilor Feener that the Franklin City Council go into non-public session under RSA 91-A: 3 II a, the dismissal, promotion or compensation of any public employee by a roll call vote. Motion seconded by Councilor Desrochers.

Roll Call:

***Councilor Clarenbach – Yes
Councilor Starkweather – Yes
Councilor Trudel – Yes
Councilor Giunta – Yes
Councilor Cournoyer – Yes***

***Councilor Boyd – Yes
Councilor Feener – Yes
Councilor Dzujna – Yes
Councilor Desrochers – Yes***

Motion passes.

The Council took a five minutes recess and then entered into non-public at 7:45 p.m. The Council came out of non-public at 8:10 p.m.

Motion made by Councilor Feener and seconded by seconded by Councilor Desrochers that the Franklin City Council seal the minutes of the non-public session by a roll call vote because releasing them would make the action taken ineffectual.

Roll Call:

***Councilor Clarenbach – Yes
Councilor Starkweather – Yes
Councilor Trudel – Yes
Councilor Giunta – Yes
Councilor Cournoyer - Yes***

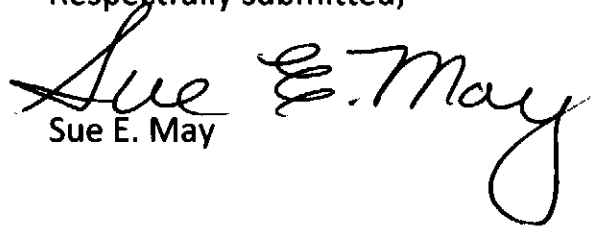
***Councilor Boyd – Yes
Councilor Feener – Yes
Councilor Dzujna – Yes
Councilor Desrochers – Yes***

Motion passes.

City Council Meeting
September 9, 2013
Page 14

Motion to adjourn made by Councilor Desrochers and seconded by Councilor Trudel. All in favor; meeting was adjourned at 8:15 p.m.

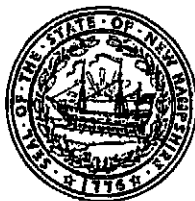
Respectfully submitted,


Sue E. May

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

September 5, 2013

Paul Fitzgerald, Esq.
Wescott, Dyer, Fitzgerald & Nichols, PA
28 Bowman Street
Laconia, NH 03246

Re: City of Franklin/Franklin School Board

Dear Attorney Fitzgerald:

I am writing on behalf of Attorney General Foster in response to your letter dated August 23, 2013 and the accompanying binder of documents. In your letter, you stated that the materials were being sent to this office for "independent and impartial review and such further action, if any, as may be deemed appropriate."

I have reviewed the extensive materials you provided and do not see any role for the Attorney General's Office in this matter. In order to assure myself that I was not missing something, I called Mayor Merrifield, as you suggested. He explained that in light of the superior court order stating that the Franklin City Council did not have the authority to remove school board members, the Attorney General's Office was being asked to pursue the removal. He said that this office had investigated Franklin public officials in the past and assumed that we could do the same with respect to the school board members.

As I explained to Mayor Merrifield, this office does not have authority to take action against locally elected public officials, such as school board members. The Criminal Justice Bureau investigates allegations of criminal conduct undertaken by public officials in their official capacity. However, none of the allegations raised against the school board members appear to rise to that level.

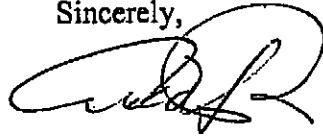
As a general matter, the Attorney General does not have legal authority over municipal or county government matters. The Attorney General's Office serves as legal counsel for the State. We provide legal advice and guidance to state agencies and state officials, defend the State and state officials in litigation, enforce state environmental and consumer protection laws, prosecute criminal actions, and oversee charitable trusts.

Paul Fitzgerald, Esq.
Page 2

For the reasons discussed, this office will not be taking any action with respect to the Franklin City Council and School Board. I will be returning the binder of documents to you under separate cover.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ann M. Rice', written in a cursive style.

Ann M. Rice
Deputy Attorney General
(603) 271-4900

AMR/k

pc: Kenneth Merrifield, Franklin Mayor
Elizabeth Dragon, Franklin City Manager
Attorney Katherine Miller

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