

CITY COUNCIL MEETING

AGENDA ITEM IV



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**
City Council Meeting April 2014

From: Elizabeth Dragon – City Manager

Subject: To consider Ordinance #05-14 Amendment of Chapter 61 Article I (Removal of Municipal Officials) and Article II (Defense & Indemnification).

Mayor reads proposed Ordinance #05-14

Councilor moves:

April 2014 Recommended Motion: “I move the Franklin City Council schedule a public hearing for May 5, 2014 at 6:06 pm to consider adoption of Ordinance #05-14, a proposed Amendment to Chapter 61 Article I (Removal of Municipal Official) and Article II (Defense and Indemnification) of the Franklin City code .”

May 2014 Recommended Motion: “I move the Franklin City Council approves ordinance #05-14 amending Chapter 61 of the Franklin City Code by a roll call vote”

Discussion: The legislative committee met on March 10, 2014- at which time they discussed revisions to Chapter 61 Removal process for municipal officials and indemnification language.

The intent of the legislative committee was to address the matter of removal proceedings- as a good faith gesture between the city and the newly appointed school board in hopes of preventing future legal battles around this topic. RSA 673:13 is available to deal with removal of appointed members of local land use boards. Therefore, it was recommended by the committee that the City rely on state laws for any removal proceedings and delete this section in its entirety.

Additionally, the committee wished to clarify the indemnification language in Chapter 61 Article II is intended for municipal employees and officers (which does not include school board officials). The school offers its own indemnification policies for school board actions and therefore they would not be covered under this section of the city code.

Proposed Amendments are:

- A. Sections 61-1 through 61-4, inclusive shall be stricken in their entirety.
- B. Article II (Defense and Indemnification) shall be amended by the deletion of the designation “Article II” and Section 61-5 through 61-8, inclusive, shall be renumbered as Sections 61-1 through 61-4.
- C. The title “Removal of Municipal Officials” shall be stricken and replaced with “Defense and Indemnification of Municipal Employees and Officers.”

Attachments/Exhibits: 1. Ordinance #05-14



CITY OF FRANKLIN, NEW HAMPSHIRE

"The Three Rivers City"

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Ordinance 05-14

AN AMENDMENT TO THE FRANKLIN MUNICIPAL CODE:

In the Year of our Lord, Two Thousand Thirteen

Be it ordained by the City Council of the City of Franklin that the following changes shall be initiated to Chapter 61 of the City Code:

ARTICLE I

~~Removal of Municipal Officials~~ Defense and Indemnification of Municipal Officials

NOTE: Article 61-1 through 61-4 are deleted and replaced with 61-5 through 61-8 and Article II is eliminated.

~~§ 61-1~~

~~Purpose. Unless otherwise provided for by ordinance or statute, this article shall control the removal of a municipal official of the City of Franklin from his or her position.~~

~~§ 61-2~~

~~Definitions. As used in this article, the following terms shall have the meanings indicated:~~

~~MUNICIPAL OFFICIAL~~

~~An elected or appointed individual, but shall not refer to the full-time or part-time employees of the city and its departments, whose discipline and dismissal are covered by Chapter 347, Personnel. The term "municipal official" shall include, among others, the Mayor and members of the City Council, Zoning Board of Adjustment, Planning Board, Conservation Commission and Highway Safety Commission. The term shall also be construed to mean the members of all other boards and commissions which are political subdivisions of the city.~~

~~§ 61-3~~

~~Motion for removal; hearing. Removal shall be for just cause and by majority vote of the City Council. Any member of the City Council may move the removal of a municipal official. Upon such motion being seconded, the Council shall take no other action except to schedule a hearing with regard to said motion. Said hearing shall be public or private, at the request of the individual involved. At the hearing the Council shall take testimony as may be appropriate from interested parties and from the municipal official whose removal has been requested. The hearing may be recessed as justice or convenience may require, and, upon its conclusion, the Council shall vote in regard to the motion for removal. Neither the Mayor nor any member of the Council shall vote on~~

~~the question of his or her own removal. The Mayor shall not have a veto over the question of the removal of any municipal official.~~

~~§ 61-4~~

~~Petition for removal. Upon the receipt of a verified petition for the removal of the municipal official signed by 100 residents of the city over the age of 18, the Council shall consider the question of holding removal proceedings as outlined above. The Council shall, at a minimum, hear the grievances of the petitioners, and, after the presentation of said grievances, if removal of the municipal official is moved and seconded, proceedings shall be scheduled as provided above.~~

ARTICLE II

§ 61-1

Definitions. For the purposes of this article, the following words shall have the meanings indicated:

EMPLOYEE

All employees of the city, whether employed on a full-time or part-time basis.

OFFICER

Any elected or appointed official of the City of Franklin.

§ 61-2

Indemnification policy; exception. Any officer or employee who is held liable for the payment of any claims or damages by way of judgment or settlement shall be entitled to full indemnification by the city where the acts resulting in such liability arose in the course of the individual's capacity as a municipal officer or employee. The sole exception to this policy of indemnification shall be in the event that said liability was incurred in the commission of a criminal act.

§ 61-3

Defense to be provided. In the event that any such claim, suit or action is brought against a municipal officer or employee, the administration of the city shall arrange for the appropriate defense of that action at no cost to the official or employee, such defense being coordinated with any carrier or provider of applicable municipal insurance.

§ 61-4

Applicability; repeal of article; when effective. This article shall apply to all claims brought or formalized prior to or during the effective period of this article, and such indemnification shall continue in full force and effect until the repeal of this article, if ever. The repeal of this article shall not affect the indemnification of any claims brought or formalized prior to the date of repeal. This article shall become effective immediately upon its passage.

Roll Call Vote:

Councilor Clarenbach _____

Councilor Dzujna _____

Councilor Giunta _____

Councilor Cournoyer _____

Councilor Boyd _____

Councilor Feener _____

Councilor Desrochers _____

Councilor Barton _____

Councilor Starkweather _____

A True Copy Attested _____
City Clerk

Passed: _____
Date

Approved: _____
Mayor



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CITY OF FRANKLIN NOTICE OF PUBLIC HEARING & MEETING

In accordance with the provision of Chapter 31, Division 2 of the Franklin Municipal Code, notice is hereby given that the City of Franklin will hold a Public Hearings on Monday, May 5, 2014 at 6:06 p.m. in the Council Chambers, Franklin City Hall concerning Ordinance #05-14 which makes changes to Chapter 61, Article I (Removal of Municipal Officials) and Article II (Defense and Indemnification) of the Municipal Code.