

November 6, 2017 meeting,

The regular meeting of the Franklin Town Council was held on Monday November 6, 2017 at 7 p.m. in the Town Hall Board Room. Mayor Robert S. Scott presided. Vice-Mayor Patti Abel, Council Members Joe Collins, Adam Kimsey, Brandon McMahan and Barbara McRae were present.

Council Member Joe Collins discussed the passing of Council Member Billy Mashburn and spoke words of remembrance.

A moment of silence was held in Council Member Mashburn's honor.

The Pledge of Allegiance was done by Vice-Mayor Patti Abel.

Adoption of the November 6, 2017 Town Council Agenda

Town Attorney John Henning Jr. – There's some procedural matters that I would like to talk about. I know there are some people here to speak about the matter on Hillcrest so I would like to add an update as 9(B).

Motion was made by McRae, seconded by McMahan to add Hillcrest follow up discussion to the agenda as item 9(B) and to approve the agenda as amended. Motion carried. Vote: 5 to 0.

Approval of the October 2, 2017 Town Council minutes

Motion was made by McMahan seconded by Kimsey to approve the October 2, 2017 meeting minutes. Motion carried. Vote: 5 to 0.

Public Hearing 7:05 p.m. – Events Venue Ordinance

John Henning Jr. – Town Attorney – Apparently there has been some confusion about the procedure so I have provided you each with the statute. 168-387 is the basic statement about the adoption of a zoning ordinance. What it says is that before adopting an ordinance like this the board has to wait until the planning board has had time to consider it. You can't even hold a public hearing on it until after that. What the statute says is that if you don't get a recommendation from the planning board in 30 days then you can proceed with the idea that nothing stalls out forever. It doesn't say anything like you have to wait 30 days, you just have to have a response from the planning board within 30 days. It doesn't say you have to have a recommendation from them though we don't recommend doing that and in fact we do have recommendations on both of these.

Angela Moore – I have some concerns about the language of an event venue and the zoning allowances. I want to make sure that the board is aware that that the way it is described, they would be restricting anybody who may have an estate in town and every once in a while wanted to host weddings or small parties, those types of things. They would no longer be allowed because they are in a residential zoning. While we want to be considerate to the neighbors we may be shutting out business opportunities for occasional usage of residential property for profit making events. In addition to this I did have some concerns with restricting the maximum number of guests. The maximum number of guests shall be in accordance with the maximum number of occupancy of a physical structure determined by the fire marshal and fire chief.

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Angela Moore – This is assuming that a venue is primarily indoors and that all of the people would be indoors all at once so again we may be restricting potential business by keeping people from allowing guests past the number that they have the ability to occupy inside the structure. A final remark on the hours of operation. While people should most certainly not be causing certain hardship to their neighbors in the middle of the night, what businesses do inside their structure without disturbance to the people around them really isn't any of our business. So I would encourage you to reconsider the items in this ordinance before passing it.

Public Hearing 7:10 p.m. – Apartment/Two Family Dwelling Ordinance

Angela Moore – I have some concerns at the speed with which this was pushed through and it certainly raises the flag of whether there are other motivations. I am also very concerned about the language here. This language may actually allow some small measure of freedom being given to the people but at the same time take away even more. As far as this being pro forma, I recall when we passed the UDO raising that specific question, do we really want to outlaw apartments? One unit above another, someone turning their basement into an apartment. I brought it up with a board member then who is also a board member now and both them and the current town planner assured me that that was intentional. It was not by accident and I would encourage the board to relax these laws but I would encourage them to do it with intention and to be careful of what the language is turning the law to and to know exactly what you're passing. Don't pass it just because it sounds good. Do your homework, do your research. Make sure you know what you're voting for.

Public Session

Rick Westerman – I sent a letter to the Mayor about a project that Habitat for Humanity is working on called Operation Christmas. We are taking care of 10 families in Texas that were devastated by the hurricane between Beaumont and Fort Arthur and then we have 10 families in Florida that were devastated. What we've done is we've got trees and lights and they are going to be delivered to them so they don't have to worry about anything like that. We have asked the aldermen in both Sylva and Franklin and the Commissioners of both towns, on December 1 at the new Chamber building we are going to have the trees there and decorated, and we wanted to extend an invitation to this board to come vote on them. Normally we would run our disaster team down there but there's so much devastation down there. Five of the families in Florida lost everything but the shirts on their backs and the other five won't be in their homes for two to five years. The last thing we want them to do is worry about Christmas so we wanted to give them a little relief. It's only 20 families but we thought it was the most we could do. Every time I have talked to these families they have been in tears because nobody else has even thought about these little towns. Again, it's going to represent Franklin and Sylva. This is our little part of giving back.

Carolyn Diamond – I think I have proven to be a valuable asset to this community. I bought a home on Hillcrest that was in need of repair. I spent many months and money renovating the house. By doing so, the value of the house increased as did the tax value. The neighborhood benefited as did the Town of Franklin. Now I put that house on the market for sale and purchased another older house in town that has been neglected and requires a great deal of renovation therefore benefiting that neighborhood as well. I've actually had a few neighbors stop by to thank me for fixing what they considered an eye sore.

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Carolyn Diamond – I listed my house on Hillcrest for sale about two months ago and I've been disappointed that very few people have asked to see it. There have been drive-bys and interest on the phone but when they come out to actually see the property, I've had a real hard time with it. Just two days ago there was a couple that looked at my house. They were very interested but told their agent that they would not consider making an offer because of the hoarder house down the street. Clearly this is affecting me financially. I'm forced to carry two houses, one of which should sale quickly because it's a real nice house. I called Justin Setser a few weeks ago to ask if the town would at least replace the gate that now lies on the ground so that anyone who passes can look in at the shameful property inside. I explained to him that it was having a negative impact on my house. He said he would look into it but nothing ever came of it. He also said the issue was still being reviewed by the courts but I was assured earlier that the courts had approved the removal of the occupant and the demolition of the property. At this point I'm not sure that any of the residents affected by this issue has been given a complete and accurate account of the status of the property which concerns me greatly. Since my efforts to have this property remediated, I have been advised to seek legal help because I have been affected so negatively by this situation financially. I prefer to settle this amicably with the Town of Franklin. I have been a good steward of my properties. I implore you to correct this situation for all residents of this community.

Sissy Pattillo – I'm talking about the same thing that she was. I'm here on behalf of several of our neighbors in our neighborhood. We have a situation in our neighborhood that is just deplorable. It's uninhabitable, it's a health hazard, and we really need help getting something done. I was fortunate to talk to Justin Setser today and I'm pleased with what he has done. I hope that you will all get behind him to fix the situation. None of you have to live beside it. It's an eyesore. It's going to have to be up to the town because the owner will not do anything with it. The house has been condemned and it needs to be fumigated first because none of us want those little creatures coming to our yards. I hope you will be serious about this and really do something about it soon. I was on the board for eight years and we discussed it then and nothing was ever done and I can blame myself for that but enough is enough. There's trash everywhere, the gate is down, there's rodents, there's everything. I have never seen another house like this in the neighborhood and I grew up in that neighborhood.

Gwen Taylor – I'm here representing the Streets of Franklin Heritage Association which is the merchants here in Franklin on Main Street and back street. I want to thank you as the town for the fall decorations. They were beautiful. The next thing we're here for is the street parking. We understand that there are parking issues here on Main Street, that's undeniable, but we want to let you know that whatever is decided will affect the merchants on Main Street. We want to support the town and we want you to support us. By doing so we want you to keep us informed of what's going on. We want to hear first-hand. As long as parking is on the agenda you will be seeing merchants here because we are very concerned and we're very interested.

Jerry Hock – I'm here tonight to speak on the noise ordinance. I know it's not on the agenda but we're in a situation. I know it's not exactly alike, but it's similar to what Sissy is dealing with. I own a rental property on Town Mountain. It's an investment property. I felt good about it when I bought it but now across the street from my property, the situation has deteriorated. The situation has gone into the gutter. The property itself isn't a hoarding situation or rodent situation, its noise. The noise goes on until 2 a.m. or 3 a.m., especially on the weekends. It just really goes on until I guess maybe they pass out. We've noticed that there's several cars that just come and go. It's typical or maybe you could say stereotypical of maybe drug activity. It goes on until 3 a.m.

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Jerry Hock – The neighbors call the police and they can't do anything about it. There's no noise ordinance. I think one benefit of a noise ordinance is that if the police come to a situation and they actually see drug activity then they can act. I think that's what everybody around the house is really concerned about. Not only is it always loud around there but there's always traffic. I haven't been to a lot of these meetings but I assume a noise ordinance is something that has been kicked down the road a little bit. We're not breaking new ground here. I would urge the board to vote on a noise ordinance so that our police will have something to act upon.

Angela Moore – I know that tonight the board will hear from the people requesting street closings for the Christmas parade and I just want to get the board's attention that for those living on the north side of town as well as in the Cowee area, the current parade route creates access difficulty for anybody trying to get to town. There's just not a good solution coming in from 28 North to get into town. It's not just a matter of avoiding downtown, it's an issue of getting south of town as well. It does create a decent hardship. I don't know if it's set in stone yet or if it has to be changed for next year but I hope the town will look at a more accessible route.

Mayor Scott – Are you aware that that's not a town event?

Angela Moore – But the town are the ones who close the roads. I'm asking you to consider road closings that would allow access from the northern part of town.

David Culpepper – I've been enjoying the new Ingles like I think everybody else has. I think that's a nice thing to come into Franklin. I know the bridge on Belden Circle is slated to be replaced. I don't know if there is plan out or if you have seen the plan but all of the people who were walking to the Ingles when it was in Westgate Plaza are still walking to the new Ingles. They're using Roller Mill Road to get there. I would like to encourage someone from the Board or Mr. Mayor to encourage someone from the DOT to incorporate a walkway or bike path on that new bridge. Right now they are coming from Orchard View or the new apartments and they are crossing a one-lane bridge. I know it's going to be replaced to two-lane but if we had some forward thinking we could put a walk way on that bridge. Maybe even eventually sidewalks on that side of town. It would just be safer. Is there a plan out?

Summer Woodard – Town Manager – On behalf of management, I would be glad to look at this. I've not seen a plan but I do know there are talks within NCDOT about this bridge.

David Culpepper – Does the town have influence over these sorts of things?

Mayor Scott – We do get to have input in it and I think it's pretty high up on their project list.

New Business: Board Action on Events Venue Ordinance

Council Member Collins – So it's for commercial zones only? So it's not designed to affect a residential zone correct?

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John Henning Jr. – Town Attorney – This defines a use and it says it belongs in C-1 or higher. So if the council recalls when we first started looking at this we looked at our options to either make this a police power ordinance that says this is a danger to health, safety and welfare and approach it from that perspective. Now, if you pass this that's not to say you can't look at passing a nuisance ordinance as well to approach it that way. This is an attempt to define the use and remove it from a residential zone.

Council Member Collins – Is this not an attempt to regulate noise without it being a noise ordinance?

John Henning Jr. – Town Attorney – There are several ordinances that this is based on and all of them had a noise component in it that said if you have this use in this place part of the way we know you're out of compliance is if you have this amount of noise. With that we're back to some sort of noise ordinance.

Council Member Kimsey – How would this impact outdoor space?

John Henning Jr. – Town Attorney – This is something we could certainly look at but I think its safe to say at some point that people are going to be concentrating into a building and this says don't have more than what is safe to occupy that building.

Council Member Collins – Who feels comfortable with this?

Mayor Scott – I do. I feel like it's a start to trying to overcome a serious problem in town.

Council Member Collins – It's a noise problem without the noise part.

Mayor Scott – Well you've got the gathering problems too when you have people flooding the town streets and they have already exceeded the fire marshal's permitted numbers for a building. I'd say we've got a problem.

Council Member Collins – Isn't the fire marshal already able to enforce that?

Mayor Scott – There's really nothing else we can do except for what the fire marshal says.

Council Member McRae – Is this the problem that we have? Overcapacity?

Mayor Scott – It is a problem. Chief, we really can't do a whole lot can we unless we call the fire marshal?

David Adams – Police Chief – That falls under county guidance.

Vice-Mayor Abel – My concern is that this is trying to fix the issue but not that it will fix it. To me it sounds like we need to regroup and fix it to where it does take care of the issue. If it is just a try and attempt then we're going to be right back here again.

Council Member Collins – Did we first see this Friday?

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Summer Woodard – Town Manager – It was sent out Thursday.

John Henning Jr. – Town Attorney – It was forwarded to the planning board a long time ago.

Mayor Scott – And we referred it to them. It's been out there for quite some time.

John Henning Jr. – Town Attorney – If we don't find a solution by ordinance then we may have to look at making a police power.

Council Member McRae – I think it's a good idea, I'm just trying to wrap my hand around how it would work. I like this better than a police power.

John Henning Jr. – Town Attorney – What I would propose doing then is letting me come back to you with a draft and then you could put this side by side with that and weigh out the pros and cons. Also I would like to do a more in-depth study if we're heading towards a noise ordinance. From my understanding they are notoriously difficult to enforce so I would like to do more studying.

Mayor Scott – So if I understand this correctly, this has been vetted by the planning board that we appointed. By tabling it, we're telling them that we're sending it back to you because we're overriding you.

Council Member Collins – No we're telling them we need some additional time to consider it.

Motion was made by Collins, seconded by McMahan to table the Event Venue Ordinance and send it back to the planning board. Vote: 5 to 0. Ordinance is attached.

New Business: Board Action on Apartment/Two Family Dwelling Ordinance

Motion was made by McRae, seconded by Collins to adopt the ordinance as presented along with the consistency statement. Motion carried. Vote: 5 to 0. Ordinance is attached.

New Business: Presentation of Town of Franklin Audit for Fiscal Year 2016-2017

Martin Starnes Associate Kelly Gooderham presented this item.

Motion was made by Abel, seconded by Kimsey to accept the Town of Franklin Audit for Fiscal Year 2016-2017. Motion carried. Vote: 5 to 0.

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New Business: Presentation on Whitmire Property Event Venue

Jimbo Ledford presented this item. Presentation is attached.

Mayor Scott – Mr. Ledford have you looked at any other properties that have the facilities already in place where the Whitmire Property has none?

Jimbo Ledford – There really aren't any facilities that aren't brought in on trailers like stages, seating. Most structures need to be brought in.

Mayor Scott – Have you come up with any sort of estimate for costs as far as what the town would have to do with your request?

Jimbo Ledford – We have an estimate of somewhere between \$20,000 to \$30,000.

Mayor Scott – Where do you think we would get this money?

Jimbo Ledford – If the town didn't want to or couldn't take this on then we would ask to have that included in the lease agreement and let us do the cleanup.

Mayor Scott – Have you looked at Parker Meadows or anywhere like that that would be able to handle this kind of crowd?

Jimbo Ledford – We have looked at different venues but they aren't really designed for this type of festival and our goal for this festival is to bring visitors to downtown Franklin and show that this piece of property could be used for a park and a benefit to the town the way it is. It doesn't need to be sold, it can be used the way it is and the town could make some money with it with very little work.

John Henning Jr. – Town Attorney – There is an ordinance in place that says consumption of alcohol on town property is banned except for in a lease to own type situation like with the Lazy Hiker. You would have to consider some sort of change to that. I'm more concerned though, if you were to move forward there would have to be a lot of site prep. As the owner of that property the town would be liable for injury. You would want to be heavily insured if you got there. I'm also very skeptical of the \$20-30,000 of work. It looks like a lot more than that to me.

Mayor Scott – Have you gotten a bond?

Jimbo Ledford – I have had no reason to yet, sir. I have talked to an insurance agent because I know that is a concern. It's something that is very feasible.

Council Member Collins – John, what you said resonates with me. We're going to hear in December about best uses for this property. It may be the will of the board to turn it into park space and if so something like this could possibly fit. I'm not comfortable with doing this at least for this upcoming year. I want to hear from Martin and look at the best uses.

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Council Member McRae – I think it's a really neat idea but I would like to have firmer figures before I commit the town. I think you've done a terrific job.

Jimbo Ledford – No matter what you decide to do with that property, it's going to have to be cleaned up. You're not going to be losing because it will have to be done whether it is used or sold.

Council Member McMahan – That's kind of what I was thinking. Wouldn't it be beneficial to have it cleaned up already? I have my concerns, don't get me wrong but I was thinking as far as the process of having it cleaned up it seems like whether we use it or sell it, it would be beneficial to clean it up.

Council Member Abel – I like the idea of bringing commerce in, I love the idea of the Whitmire Property being used, but I'm concerned about the liability issue, the town's cost on it. We've already put \$13,000 out there so we need to at least see that study before anything is done. My other concern with 2018 is that we have a bridge that isn't finished and I doubt that it will be finished by spring of 2018. I'm concerned with the traffic congestion in that area at that time. I think there are a lot of concerns.

Jimbo Ledford – I understand what you're saying but we looked at that area during the eclipse and everything seemed to flow fine. We're not asking the town for money, we're wanting to lease this property and pay for it. At this point, we will probably seek some funding from the infrastructure budget. We would ask for money from the TDA and TDC but we're not asking the town for anything except to let us see if this is feasible.

Council Member Collins – It's our job to take care of the town's property. I just don't see it. I love the energy and the planning but I don't think it's in the cards for this coming spring.

Council Member McRae – Could we put off a decision until he brings more information to us?

Mayor Scott – I don't think so. He has a lot of work to do to get this underway and I think he needs an answer.

Motion made by McRae, seconded by Collins to deny the request to use the Whitmire Property for Springtopia 2018. Motion carried. Vote: 3 to 2. Opposing votes: McMahan, Kimsey.

Legal: Update on Hillcrest Avenue Property

Item was moved up at request from attendees. Land Use Administrator Justin Setser and Town Attorney John Henning Jr. presented this item. Presentation is attached.

New Business: Street Closing Request for Chamber of Commerce Christmas Parade

Rick Westerman presented this request on behalf of the Chamber of Commerce.

Motion was made by Collins, seconded by McMahan to close streets and place police officers during the Christmas Parade on November 26, 2017. Full list of closings is attached. Motion carried. Vote: 5 to 0.

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New Business: Budget Amendment

Finance Officer Kyra Doster presented this item.

Motion made by Kimsey, seconded by Abel to decrease the construction and engineering fees line items by \$16,652, appropriate funds from PumpkinFest totaling \$5,117 to the Special Events line item, and to appropriate \$1,931 from an insurance settlement into the vehicle maintenance line item of the Police Department. Motion carried. Vote: 5 to 0.

New Business: NCDOT Sidewalk Project for US 23/441 South

Town Manager Summer Woodard presented this item.

Motion made by McRae, seconded by McMahan to match \$42,040 from the Powell Bill Fund for the NCDOT Sidewalk Project on US 23/441 South. Motion carried. Vote: 5 to 0.

New Business: Discussion on Stop Sign at Curtis Street

Town Manager Summer Woodard presented this item.

Motion made by Abel, seconded by McRae to place a stop sign at the intersection of Curtis Street and Lyle Street. Motion carried. Vote: 5 to 0.

New Business: Approval of Maturity Schedule and Promissory Note for Water Treatment Plant

Town Manager Summer Woodard presented this item.

Motion made by Kimsey, seconded by McMahan to approve Maturity Schedule and give permission to sign the Promissory Note for the Water Treatment Plant. Motion carried. Vote: 5 to 0.

New Business: Update on Town of Franklin Online Utility Payment and Credit Card Payment

Town Manager Summer Woodard and Finance Officer Kyra Doster presented this item.

New Business: Tax Release

Town Manager Summer Woodard presented this item.

Motion made by McRae, seconded by McMahan to release \$173.26. Motion carried. Vote: 5 to 0.

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New Business: Discussion on Main Street Parking

Town Engineer Nathanael Moore and Town Planner Justin Setser presented this item. Presentation is attached.

Council Member Collins – I don't want to put an artificially short time on this when we try this. I would say a minimum of 90 days.

Summer Woodard – Town Manager – If we could get a vote on this we could take funding out of our Streets budget from the improvements line item. I would round up to maybe \$4,000 and then if the board would direct staff on the time frame that you would like to see this implemented.

Gwen Taylor – This is the start of our busiest time of year. I think this is going to affect people coming downtown.

Council Member Collins – Let's do it just as soon as we can after January 1.

Motion made by Collins, seconded by McMahan to implement the plan as presented using funds up to \$5,000 with a minimum time from of 90 days and the project to begin after January 1 as weather permits. Motion carried. Vote: 5 to 0.

Legal: Minimum Housing Code Violation at 373 West Main Street

Town Attorney John Henning Jr. presented this item.

Motion made by McRae, seconded by Kimsey to pass resolution instructing the Town Attorney to obtain an order from the Superior Court to enforce the Minimum Housing Code. Motion carried. Vote: 5 to 0.

Announcements

Town Hall Offices will be closed Friday November 10, 2017 in observance of Veterans Day.

Veterans Day Parade and Ceremony will be Saturday November 11, 2017 at 10:30 a.m.

Town Hall Offices will be closed Thursday November 23 and Friday November 24, 2017 for Thanksgiving.

Winter Wonderland will be Saturday November 25 and Saturday December 2, 2017.

Joint Meeting with Macon County, Town of Franklin and Town of Highlands will be Tuesday November 28, 2017 at 6:00 p.m. in the Robert C. Carpenter Building.

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Adjournment

**Motion made by Abel, seconded by McMahan to adjourn the Town Council meeting at 9:30 p.m.
Motion carried. Vote: 5 to 0.**

Robert S. Scott, Mayor

Travis Tallent, Town Clerk