



## Town of Franklin Board of Aldermen

### Agenda

March 2, 2015

7:00 p.m.

1. Call to Order- Mayor Bob Scott
2. Pledge of Allegiance- Vice Mayor Verlin Curtis
3. Adoption of March 2, 2015 Proposed Agenda
4. Approval of the February 2 and February 23, 2015 Board Minutes
5. Public Session
6. New Business
  - A.) Street Closing Request for the Arts Council- Town Manager Summer Woodard
  - B.) Discussion on Banners- Mayor Bob Scott
  - C.) Set Public Hearing for Re-Zoning Petition for three (3) parcels on Siler Road- Land Use Administrator Justin Setser
  - D.) Forward Special Use Permit Application to the Town Planning Board- Land Use Administrator Justin Setser
  - E.) Update on Various North Carolina Department of Transportation Projects- Land Use Administrator Justin Setser
  - F.) Update on Town Bridge Design- Town Manager Summer Woodard & Land Use Administrator Justin Setser
  - G.) Re-Appointment of Candy Presley to the Tourism Development Authority Board- Town Manager Summer Woodard
  - H.) Set Fiscal Year 2015-2016 Town Budget Schedule- Town Manager Summer Woodard
  - I.) Water Line Easement for Industrial Park Road- Town Manager Summer Woodard
7. Legal
  - A.) Resolution to Appoint Town Manager to the Tourism Development Authority Board- Town Attorney John Henning Jr
  - B.) Annexation Policy- Town Attorney John Henning Jr
  - C.) North Carolina Department of Transportation Deed for Highway Right of Way- Town Attorney John Henning Jr.
  - D.) Minimum Housing Code Violation at 14 Brittany Lane- Town Attorney John Henning Jr
8. Announcements
  - A.) Town Hall Offices will be closed Friday April 3, 2015 in observance of Good Friday
9. Adjourn

### **March 2, 2015 meeting,**

The regular meeting of the Town of Franklin Board of Aldermen was held on Monday March 2, 2015 at 7 p.m. in the Town Hall Board Room. Mayor Robert S. Scott presided. Aldermen Patti Abel, Verlin Curtis, Joyce Handley, Farrell Jamison, Billy Mashburn and Barbara McRae were present.

The Pledge of Allegiance was done.

### **Adoption of March 2, 2015 Agenda**

Summer Woodard – Town Manager – I would like to ask the board, under new business, to remove the water line easement for Industrial Park Road from the agenda. The paperwork on the other end has not been completed, so they requested that we move that to the April meeting.

**Motion was made by Curtis, seconded by McRae to remove Item I. (Water Line Easement for Industrial Park Road) from the Proposed Agenda. Motion carried. Vote: 6 to 0.**

**Motion was made by Jamison, seconded by Handley to adopt the March 2, 2015 Proposed Agenda. Motion carried. Vote: 6 to 0.**

### **Approval of the February 2 and February 23, 2015 Board Minutes**

**Motion was made by Handley, seconded by Curtis to approve the February 2 and February 23, 2015 Board Minutes as presented. Motion carried. Vote: 6 to 0.**

### **Public Session**

Nobody spoke during the public session.

### **New Business: Street Closing Request for the Arts Council**

Summer Woodard – Town Manager – Bobbie Contino with the Macon County Arts Council has requested a street closure on Friday May 22, 2015 from 5 p.m. until 9 p.m. for the “Freedom Rocks the Square Event.” That would be strictly on Lotla Street. The second closure would be Friday October 2, 2015 from 5 p.m. until 9 p.m. Again, that would only be for Lotla Street and it’s for “Motown Downtown.”

**Motion was made by McRae, seconded by Abel to approve the requested street closures on Lotla Street for the Macon County Arts Council on May 22, 2015 and October 2, 2015 on Lotla Street from 5 p.m. until 9 p.m. Motion carried. Vote: 6 to 0.**

**March 2, 2015 meeting continued,**

**New Business: Discussion on Banners**

Larry Hollifield – I know I attempted to bring this up last month, but I was unable to be here. I appreciate you putting it on the agenda. Some of the concerns that I have heard over the last month are over insurance questions and dangers. First of all, I believe the insurance that covers the Town should be more than sufficient to cover a banner across a thoroughfare. The second issue on the dangers of banners. Most banners are made out of weather proof mesh. A lot of towns have that set up in their ordinances and guidelines in order to put up a banner. A banner rolls up in order to ship in a 3x25 foot dimension, which I do believe is a little larger than the ordinance allows. But we can look at that later on. But it weighs about four pounds. So that would make them about thirteen (13) ounces per square yard of material, so I really don't believe there is a hazard on those. I agree that banners being directly at the top of Town Hill can cause distractions from the ingress and egress on Main Street. So let's entertain putting it on the first crosswalk on Wells Fargo. I'm not asking for a vote, but I'm asking that we can put this back on the table and look at the guidelines so not-for-profits can use it. It's an effective way of advertising, to reach people that don't get the paper and helps to eliminate expensive advertising. You can have generic banners that we can use each year to advertise. For example, Taste of Scotland is always Father's Day weekend. It will go up thirty (30) days before the event and come down at least three (3) days later. That's the discussion I want to open up, and maybe Mr. Setser can setup those guidelines. If two organizations want to have the same event, they can chip in together. There are ways around things without saying no. That's basically what I want to say about banners advertising our community and Town events.

John Henning Jr. – Town Attorney – Mr. Mayor, just to review for the board about the nature of our regulations concerning banners. All of you probably recall when this came up four (4) years ago. It came up during a situation when the Land-Use Administrator at the time checked the sign ordinance and said banners were allowed, regulated and were good to go. He did that without realizing that there was also authority that the Town can regulate streets and sidewalks. The streets and sidewalks ordinance features a regulation that states banners can be hung up across streets, but only approved by the Town and not otherwise. There was also some language about how that came to be, and that was when banners were being placed on Duke Power poles without permission. But we struck out the portion of that ordinance to simply state that no banners can be hung across the street, period. If the Board wanted to entertain banners in that ordinance again, we would just have to change the language. I would caution, however, about how the Town is involved in the process. We adopted a policy for this area of Town property that has a banner on it so we don't get into First Amendment Issues.

Larry Hollifield – Doesn't the sign ordinance also have a stipulation that banners are exempt, and private citizens can't put up a banner on Main Street. But a non-profit promoting an event can. And I think that is in the sign ordinance, in 155.10.

John Henning Jr. – Banners are allowed. A banner under the sign ordinance is defined as any sign of lighted fabric or material that is mounted to a pole or a building by a frame or ties at one or more edges not exceeding thirty-six (36) square feet. National flags are not considered banners. So it does permit the hanging of banners. What is not allowed is hanging them over streets.

**March 2, 2015 meeting continued,**

Larry Hollifield – So we could come up with some text language to work around that to set up a guideline. It's not that you are restricting freedom of speech. You're basically providing a form of advertisement that has been around for a long time. Main Street Programs putting on Pumpkin fest, or Angel Hospital advertising for a pancake breakfast to raise money for cancer. That's what we are talking about. If groups or businesses want to get together, like we are trying to do for St. Patrick's Day, and not one individual is promoting themselves. We are just trying to get together to have a good time to show that we can come together and do this as a community. We are not asking for handouts, we are just asking for an avenue. It frees up advertising dollars too. I'm not asking for a vote, just a dialogue. Don't put it on Town Hill. We can put it at the next crosswalk and it won't distract people.

John Henning Jr – Town Attorney – My only point is this. Here is what the ordinance says now. "It shall be unlawful to place constructed banners or signs over a street or roadway in Town.

Larry Hollifield – Doesn't the Department of Transportation have to approve that because it's going across their roadway. If we picked out one spot, they would have to okay that. So wouldn't that cover that? You want it in one centralized location. Once you train the person to look up and see that, they won't be distracted.

John Henning Jr. – Town Attorney – My point is that I don't want the Town to have to exercise any authority over who can put up a banner and when. It's going to be approval under the sign ordinance and that would be it.

Larry Hollifield – I understand that. They don't want to have everybody come to them say they want to put up a banner. The ordinance should say it has to be a non-profit organization, a special event or a church group. But you shouldn't be able to advertise a private Super Bowl Party.

Alderman McRae – Who do you visualize putting it up?

Larry Hollifield – I know six different businesses in town that have bucket trucks that if you give us the time frame to do it, and we want to do it, we will find a way to do it. If we have to pay them, we will do it. We don't have permission from business owners right now. I didn't want to get the cart before the horse.

Mayor Scott – Any questions from the Board? Is there a consensus from the Board to rethink our current ordinance, and work with folks that are interested in the banner situation and develop a plan? Larry, you spent seventeen (17) years on the planning board, so I think you can take this and run with it. Mr. Henning, how are we going about this?

John Henning Jr. – Town Attorney – Sure. I don't see a problem with what you explained. I would just want to see it before; I mean, I don't know how involved I need to be.

Mayor Scott – I know we have a lot of interested people out there in the audience regarding this issue with banners, and the Mayor can appoint you to serve on this committee. What's the pledge of the Board?

**March 2, 2015 meeting continued,**

Alderman Handley – I think we should reopen the discussion and let's see if we can find common ground.

Alderman McRae – I like the idea of having one place where it will be put, with cut and dry guidelines.

Larry Hollifield – Right. We want to show community support to get information out. It's our downtown. We don't want any friction with banners, where we end up looking like Tijuana, Mexico.

Mayor Scott – Would you be willing to sign up some folks to work on this issue? And I know our Police Chief would be happy to help.

Larry Hollifield – Should we involve the Planning Board with a text change?

John Henning Jr. – I don't think you are required to bring it before the Planning Board, because this involves a police power. I don't think it's that complicated of an issue.

Alderman Jamison – I think we should do that, to work something up to make sure we cover everything.

Mayor Scott – Do we need a vote or just a consensus?

John Henning Jr. – Town Attorney – No. You do not need a vote.

Mayor Scott – So you have your work cut out for you, but we are here to help out. Thank you for your excellent presentation.

**New Business: Set Public Hearing for Re-zoning Petition for Three (3) Parcels on Siler Road**

Justin Setser - Land-Use Administrator – In your packets you will see the petition application from the Town of Franklin for the three (3) parcels currently zoned R-1 Residential and Medical, Institutional, Cultural and Residential (MICR). The original request was for C-2 Commercial and C-2 Special Use Commercial. Since then we met with the Planning Board and they recommended to have all sixty-one (61) acres to be rezoned C-2 Commercial Special Use. Their view is that it would give the Town Board more control over the parcels with future development; increasing buffers, requiring sidewalks, etc. So that was their recommendation. And it also makes it uniform. And you will see that in the staff report as well. And also their findings of facts along with recommendations highlighted in red.

**Motion was made by Curtis, seconded by Handley to set a public hearing for Re-Zoning Petition for Three (3) Parcels on Siler Road for Monday April 6, 2015 at 7:05 p.m. in the Town Hall Board Room. Motion carried. Vote: 6 to 0.**

**March 2, 2015 meeting continued,**

**New Business: Forward Special Use Permit Application to the Town Planning Board**

Justin Setser – Land-Use Administrator – In your packets you will see an application for Workforce Homestead Incorporated. They are out of Tryon, North Carolina. They are requesting to have a five (5) acre parcel on Siler Road go through the special use process for a sixty unit housing development. This is required to go through our special use permitting process.

Alderman Jamison – Is this in the same area that we just set the public hearing for?

Justin Setser – Land-Use Administrator – Yes.

John Henning Jr. – Town Attorney – This is a unique use of a special use area. In that special use zone there are no uses of right. There are permitted uses, but all of those are required to go through the special use process so this Board and the Planning Board can place additional conditions if you thought the use was too intense. So if you thought they needed an additional buffer for example, you could require that.

Alderman Jamison – Do we have sufficient use of water and sewer through that area?

Alderman Curtis - There is water there.

Alderman Mashburn – I believe so. With the campus and library out there.

John Henning Jr. Town Attorney – Let me just remind the Board that we really don't have a choice but to forward this to the Planning Board because the property owner has a legal right to have this thing heard by whatever entity that decides whether or not they get to obtain a special use permit. It's similar to a right to be heard in court. For that same reason, you will sit as findings of fact when that hearing happens. You can't really go investigate it on your own, or talk about it outside of the hearing either. And yes, part of the special use application requires them to show sufficient placement of utilities.

Justin Setser – Land-Use Administrator – You also have to have a neighborhood compatibility meeting as part of this process, for adjoining properties and other properties within four-hundred (400) feet of the home. We had that last week. That's been met. We had to do that before we could send it on.

**Motion was made by Abel, seconded by Curtis to forward Special-Use Permit Application to the Town Planning Board. Motion carried. Vote: 6 to 0. The application is attached.**

**March 2, 2015 meeting continued,**

**New Business: Updates on Various North Carolina Department of Transportation Projects**

Justin Setser – Land-Use Administrator – One project that has been fully funded is on Depot Street near Hot Spot Gas Station. When you get heavy rain, a huge puddle builds up there. There is also some sidewalk problems. There is a crosswalk to a curb. There is no ramp. It's not compliant with the American Disabilities Act. The project has been fully funded to add the drain and the crosswalk area. It's scheduled to start in July. Second is the Cat Creek Project turnaround. It has been awarded and tasked to begin construction on March 23, 2015 and is scheduled to go through October of 2015. Third, repaving on Lakeside Drive all the way through and the same with Womack Street. A section on Dowdle Mountain will be repaved as well. Those are set to begin in April and they are supposed to be completed by June 30, 2015. The fourth one, and this could change because it hasn't went to bid, but Highlands Road, East Palmer, East Main and Northeast Main are going to be repaved as well. Paving will start this fall. Hopefully this will go through. That's all I have for the coming year.

**New Business: Update on Town Bridge Design**

Summer Woodard – Town Manager – Mr. Setser and I held a phone conference with officials from the Department of Transportation on the Town Bridge Proposal, and I distributed pictures of the proposal in each of your packets. I also have copies for the media. Two things to consider. The first photo is what they are referring to a stack brick look. The second one is a simulated rock look. The Board needs to consider which style you prefer, and the color pallet will have to be decided upon by the Board as well. This is something for you to consider in the upcoming months.

**New Business: Re-Appointment of Candy Presley to the Tourism Development Authority Board**

Summer Woodard – Town Manager – The Tourism Development Authority Board voted unanimously at their February 9, 2015 regular meeting to recommend the reappointment of Ms. Candy Presley to serve as chairman of the Board for a three year term, which would begin March 2, 2015 and would end on March 2, 2018.

**Motion was made by Handley, seconded by McRae to re-appoint Ms. Candy Presley as chairman to the Tourism Development Authority Board for a three (3) year term beginning March 2, 2015. Motion carried. Vote: 6 to 0.**

**New Business: Set Fiscal Year 2015-2016 Town Budget Schedule**

Summer Woodard – Town Manager – What you have before you is a proposed budget calendar for the upcoming fiscal year 2015-2016. March 20, 2015 would be when we present the budget details to department heads. April 10, 2015 would be when department head budgets are submitted to the Town Manager. April 14 through April 17 would be the budget review process with department heads. And on May 4, 2015 we would like to submit the proposed budget to the Town Board. And then we would like to have a proposed work session on May 16, 2015. We also allotted for some room in there in case you needed two work sessions. There would be ample time after the May 16<sup>th</sup> meeting to have another work session.

**March 2, 2015 meeting continued,**

Mayor Scott – Good. If I can editorialize for a little bit on that. We hope some members of the public will come and see how we wrestle with setting the budget. We invite everyone to come out and see what we do here.

**Motion was made by McRae, seconded by Curtis to approve the Fiscal Year 2015-2016 Town Budget Schedule. Motion carried. Vote: 6 to 0. A copy of the schedule is attached.**

**Legal: Resolution to appoint Town Manager to the Tourism Development Authority Board**

John Henning Jr. – Town Attorney – Mr. Mayor, the Town Board is the appointing authority for the Tourism Development Authority Board. As you know, a number of years ago the Town Manager was appointed to serve on that board. The purpose of the board at that time, I think, was to make it an ex-officio appointment to that board permanent. That whoever the manager is, we find it better to have the manager sit on the board. This makes that clear and permanent.

Alderman Handley – Do I understand it right that the manager, if for some reason is out of town or is sick, she can appoint someone to sit in her place?

John Henning Jr. – Town Attorney – Yes. That's correct.

Alderman McRae – Is she also the secretary to the Board?

John Henning Jr. – Town Attorney – Yes. We may need to ask the Tourism development Authority Board to look at some changes to their bylaws, and to look at that as well.

**Motion was made by Jamison, seconded by Abel to adopt the Resolution to appoint the Town Manager of Franklin to the Tourism Development Authority Board. Motion carried. Vote: 6 to 0. A copy of the Resolution is attached.**

**Legal: Annexation Policy**

John Henning Jr. – Town Attorney – As the Board remembers from last month's meeting. We looked at the proposed annexation of the Henry Te property on Highway 441 South. In working with Mr. Simons we found that it did not meet the annexation requirements for a satellite annexation because it is in a subdivision. I'm not clear if I ever got the board a direct answer on this, but this property is still a satellite annexation. Among the requirements it has to meet is that it can't be part of a subdivision, or all of the subdivision has to be included. I don't think this is the kind of situation that this law was written to handle. I think it was supposed to keep true residential subdivisions from being split. I don't think that subdivision has operated as such for a very long time. It's commercial on each side of the street. I think it's unfortunate that there isn't any recognition of such in the law. As it stands, we cannot consider it without a change in the law. So what has been proposed is this. There are local acts that will lax certain requirements in this case. The General Assembly does this all the time. You have three options. You can do nothing. Remember, this is voluntary annexation. I did not find any case of a Town being forced to take in an annexation.

**March 2, 2015 meeting continued,**

John Henning Jr. – Town Attorney - If you are interested in considering annexing it, ask the General Assembly to lax the subdivision requirement. They did this for the Village of Foxfire during the last session. There are advantages of that, because we know Highway 441 is dotted with commercial properties that are probably parts of old subdivisions. The third option is to relax both the subdivision requirement and the ten (10) percent requirement. The latter means that you can annex satellite properties that would exceed ten (10) percent of your current corporate limits. I have no idea where we stand on that. But we were not close to ten (10) percent.

Justin Setser – Town Planner – Nowhere close. It was probably about one (1) percent.

John Henning Jr. – Town Attorney – I think one reason for that is we took in a lot of satellite properties and brought them into our corporate limits before the state did away with involuntary annexation. But my advice would be this. If you are interested in future annexations, and I think this is the only way for municipalities to grow anymore because involuntary annexations no longer exists, this is the way to go. It's also very common. Waynesville has done this. About thirty (30) towns have done this. I think this would be wise to do. Also, if you take that option we need to look at the voluntary annexation policy again. We talked about this last month. We probably need to look at this at a future board retreat.

Alderman Curtis – How would this impact other people in the subdivision that may not want to do this?

Steve Philo – Attorney representing Henry Te – Mr. Mayor and members of the Board. I am representing Mr. Henry Te and other petitioners on this property. I would point out, first of all, that the Board either intentionally or unintentionally, accepted that there is no subdivision any longer because the Board annexed the property across the highway – the Mexican Restaurant – you took the property that was in Longview Subdivision. But in doing that, you recognized that it no longer had the characteristics of a subdivision. If you read the statute of what a subdivision is, it basically is anything that was divided into two or more parcels for sale. That fits virtually anything under the statute. As far as the other people are concerned, since the last meeting I drafted a petition to do three (3) things. One was a petition for everyone to support the petition for annexation. Basically, the statement from all of the owners is that it is no longer a subdivision. There is a street within what was a subdivision that was actually moved. It's an agreement that where it's been moved will be the street. We have secured the signatures of everyone within the subdivision with the exception of two (2) landowners. I understand one of those are deceased and we haven't found the heirs yet. The other is an absentee owner in Florida and we simply have not gotten hold of them yet. But we have all of the other owners of property in that subdivision, or what used to a subdivision, that have signed that. We will be able to get the other two. After the meeting last month, Sen. Jim Davis contacted some of the people involved and said he could seek some legislation to get this annexed, a private resolution. We told him we wanted to do what we needed to do and go to the Board to get their approval. Because every once in a while people have a complaint about government. So we wanted to eliminate one of those complaints. So we basically have the approval of everyone in there. The nature of the subdivision, there was restricted covenants in the subdivision that ran out in 1988. So the property now is unrestricted. The property has changed when the highway was widened. It took a good section of that subdivision when that happened. Only one primary residence is left, and the others are owned and rented out. So it's basically become commercial. And like I said, the property across the highway is in the Longview Subdivision and was already annexed into the Town. The statutes were the same then. But there wasn't a subdivision at that time.

**March 2, 2015 meeting continued,**

Alderman Jamison – Well I'm all for requesting the local legislation. I'm just not too sure about the ten percent (10). Is there any negatives associated with that?

John Henning Jr. – Town Attorney – I guess the purpose of that was to prevent towns from over extending themselves. Or taking into many properties and not being able to provide services.

Alderman Jamison – Now there is only voluntary annexation, so the Board still controls what it annexes in. Who else but the Board and Town knows if we don't have the availability to extend and supply utilities?

John Henning Jr. – Town Attorney – And that's what is in the current annexation policy. It may be a good idea to adopt some kind of point system. To answer Alderman Curtis' question, it is the result of growth in any municipality that some properties develop into commercial over time. I think we are simply recognizing that this is already happening.

Alderman Jamison – I think we are already seeing it on the bypass, the continuous development there.

**Motion was made by Jamison, seconded by McRae to adopt a resolution to remove the ten (10) percent and subdivision requirements associated with voluntary annexing a satellite property. Motion carried. Vote: 6 to 0. A copy of the resolution is attached.**

**Legal: North Carolina Department of Transportation Deed for Highway Right of Way**

John Henning Jr. – Town Attorney – Mr. Mayor and Board Members, you have in front of you a large plat that should show you a lot of details. This is the replacement of Town Bridge. The Department of Transportation has offered to buy the green area inside of that red box, and that small tract has a pump station and pump house owned by the Town. They have offered to buy this property for easement purposes. We have developed a resolution to do that. Our suggestion though, is to table that for tonight and allow the Town Manager and me to go back to the Department of Transportation. What would work much better for the Town is relocating all of this. I don't know why all of this wouldn't work for them, if they need just a small area. We are looking to move this anyway.

Summer Woodard – Town Manager – Mr. Jay Gibson, our Public Works Director, also thought this would be the best option.

Mayor Scott – Do we need to make a motion to do anything?

John Henning Jr. – Town Attorney – No.

**Legal: Minimum Housing Code Violation at 14 Brittany Lane**

John Henning Jr. – Town Attorney – Mr. Mayor I think all of us are familiar with this process. This is an action to compel compliance with the minimum housing code. When your land-use administrator has to go through this process, they have to give the owner an opportunity to be heard. You can start a lawsuit with them to compel compliance, or you can condemn? The property.

**March 2, 2015 meeting continued,**

John Henning Jr. – Town Attorney – I wouldn't recommend the second option, because it is risky. The resolution before you tonight is to instruct me to pursue a court order to compel compliance.

Justin Setser – Land-Use Administrator – This was complaint driven. All of these are. I did an inspection on July 30, 2014. I took these photos. This home off Gaston Street had a fire back in 2010. It left the home unlivable. These photos are from last July.

Mr. Setser presented several photos to the Board. A copy of the photos are attached.

Justin Setser – Land-Use Administrator – As you can see, there is no flooring. If you walk in there, you will go directly to the basement. It's dangerous. I sent my first violation letter on August 1, 2014 to all thirteen (13) heirs. Only one of them lives in Franklin. We had a hearing on September 30, 2014 with the estate administrator. That was part of the process, and she lived in Town. It was the easiest thing to do. I met with her so she could inform the owners. After that determination letter, we determined that the house needed to be removed or demolished. That was sent on October 6, 2014. They had ninety (90) days to comply. We didn't hear anything back from them. No-one called. I talked to the administrator of the estate and got the phone numbers of the heirs. I talked to about five or six, and I did that back on January 12, 2015. I haven't heard anything since. That's why I come before you tonight.

**Motion was made by Jamison, seconded by Handley to enforce the minimum housing code for 14 Brittany Lane Property. Motion carried. Vote: 6 to 0.**

**Announcements**

Town Hall Offices will be closed Friday April 3, 2015 in observance of Good Friday.

**Adjourn**

**Motion was made by Jamison, seconded by Handley to adjourn the meeting at approximately 8:30 p.m. Motion carried. Vote: 6 to 0.**

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Chad B. Simons, Town Clerk

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Robert S. Scott, Mayor

