



Town of Franklin Board of Aldermen

Agenda

July 6, 2015

7:00 p.m.

1. Call to Order- Mayor Bob Scott
2. Pledge of Allegiance- Vice Mayor Verlin Curtis
3. Adoption of July 6, 2015 Proposed Agenda
4. Approval of the June 1, 2015 Board Minutes
5. Public Session
6. New Business
 - A.) Presentation on Macon County Department of Social Services- Macon County Department of Social Services Director Patrick Betancourt
 - B.) Re-Appointment of Pat Pattillo to Alcohol Beverage Control Board- Town Manager Summer Woodard
 - C.) Re-Appointment of Town Tax Collector- Town Manager Summer Woodard
 - D.) Re-Appointment of Town Clerk- Town Manager Summer Woodard
 - E.) Authorize Town Manager to send a Letter to the National Flood Insurance Program- Town Manager Summer Woodard
 - F.) Applications for Fiscal Year 2015-2016 Non-Profit Funding Pool-Town Manager Summer Woodard
 - G.) Update on various NCDOT Projects- Town Manager Summer Woodard and Land Use Administrator Justin Setser
 - H.) Budget Amendments- Town Finance Officer Kyra Doster and Financial Consultant Evelyn Southard
 - I.) Eligible Facilities Request for T-Mobile at 90 Cunningham Road- Land Use Administrator Justin Setser
 - J.) Order of Abatement of a Nuisance Violation at 185 First Street- Land Use Administrator Justin Setser
 - K.) Forward Text Amendment Regarding Indoor Gun Range to Town Planning Board- Land Use Administrator Justin Setser
 - L.) Requests to be Forwarded to the Town Planning Board- Land Use Administrator Justin Setser
 - 1.) Off-Site Parking
 - 2.) Mobile Food Vending
 - 3.) Construction Standards for Curb and Guttering
 - 4.) Multi-Tenant Sign Ordinance
7. Legal
 - A.) Update on Brittany Lane- Town Attorney John Henning Jr
 - B.) Bid Proposal for Property Located at 381 East Main Street- Town Attorney John Henning Jr and Town Manager Summer Woodard
 - C.) Presentation of Sufficiency Notification for 44 Lowery Lane- Town Clerk Chad Simons and Town Attorney John Henning Jr
 - D.) Set Public Hearing for Annexation Petition for 44 Lowery Lane- Town Attorney John Henning Jr
 - E.) Tax Discoveries- Town Attorney John Henning Jr
8. Announcements
 - A.) The Town of Franklin will be hosting the joint meeting with Macon County and the Town of Highlands on Thursday July 23, 2015 at 6:00 p.m. at the Lazy Hiker
9. Adjourn

July 6, 2015 meeting

The regular meeting of the Town of Franklin Board of Aldermen was held on Monday July 6, 2015 at 7 p.m. in the Town Hall Board Room. Mayor Robert S. Scott presided. Aldermen Verlin Curtis, Joyce Handley, Farrell Jamison, Billy Mashburn, and Barbara McRae were present.

The pledge of allegiance was done.

Motion was made by Handley, seconded by Jamison to excuse Alderman Patti Abel from the meeting. Motion carried. Vote: 5 to 0.

Adoption of July 6, 2015 Proposed Agenda

Motion was made by McRae, seconded by Jamison to approve the July 6, 2015 proposed agenda. Motion carried. Vote: 5 to 0.

Approval of June 1, 2015 Board Minutes

Motion was made by Jamison, seconded by McRae to approve the June 1, 2015 meeting minutes as presented. Motion carried. Vote: 5 to 0.

Public Session

Bob Burke – Macon New Beginnings – We are a new organization established in April 2015 to address the Macon County homeless challenge. In January 2014, a survey indicated that there were 24 homeless individuals in Macon County. Irrespective if you think that number is right or wrong, there are homeless people in Macon County. We are here to address the challenge. There is no shelter in Macon County. A survey conducted by an organization in Waynesville found that in 2013 the average cost per person per year was \$31,000.00. You can quickly come up with \$750,000 for 24 individuals. Clearly, the best thing to do is prevention. That's the best way to address it. In our Mission Statement we go by Christian principles. We think people need the saving grace of Jesus. Secondly, we talk about collaborating and building relationships. That's why we are here. We will be glad to come back and give the Board a progress report.

Angela Moore – The minimum housing standards. It sounds boring doesn't it? I can assure you it's not. In the spirit of independence and freedom that our forefathers fought for, I'd like to take a minute and talk about the minimum housing standards. It would be reasonable to assume that you, as the elected officials of the Town of Franklin, would be familiar with this document. Especially Aldermen Mashburn, Handley, Curtis, Jamison and Mayor Scott. You were on the Board when this passed unanimously four years ago. But I have my doubts if you have even read it. I will get to that shortly. Enforcement of this ordinance as it is written is a gross violation of the Fourth Amendment of the U.S. Constitution. Violating the rights of people to be secure in their persons and their homes against unreasonable searches and seizures. It is egregious to violate this and it is personal. If you are violating the rights of one person, you are trampling on the freedoms of all of us. Let me read you an excerpt from this ordinance. "The Town Planner is authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and associated premises for the purposes of making inspections.

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Angela Moore – “The owner occupant or person in charge of every dwelling, dwelling unit, rooming house or rooming unit shall give the Town Planner free access to that dwelling and its premises at all reasonable times for the purposes of examinations and surveys.” To sum that up, it says that the Town Planner can go, at his own discretion, into every apartment, condo, mobile home, rental home, owner occupied home in Franklin and Franklin’s Extra Territorial Jurisdiction. That’s a violation of the Fourth Amendment if I’ve ever heard of one. In fact, the Supreme Court has ruled that a warrant would be needed for a search such as this. The minimum housing standard dictate numerous standards for the fitness of all buildings used for human habitation. I’ve lived in rural Africa. I have seen minimum housing standards. The Town of Franklin’s standards are embarrassing. Let me highlight a few. I’ll keep to standards applicable to owner occupied homes and rented dwellings. Noxious weeds. “Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are detrimental to health.” Poison Ivy is readily found at the Whitmire Property. Carolina nightshade can be found here at Town Hall. Cleanliness, “every occupant of a dwelling or dwelling unit shall keep clean and sanitary condition that part of a dwelling or dwelling unit and the premises on which they occupy and control.” An occupant is defined as anyone over the age of 1. That’s right kids. The Town of Franklin is coming to see if you cleaned your room. While they are at it, they will make sure Mom and Dad did the dishes and scrubbed the toilet bowl. This is certainly ridiculous. Screens. “Every door opening directly from a dwelling unit connecting to outdoor space shall be equipped with screens and a self-closing device. That means every home should have a screen. The real fun part about this, you can see hundreds of home in Franklin without screens. This means they are unfit for habitation according to the minimum housing standards. This brings me back to my point. I’m doubtful this Board has read this ordinance. The following residences lack a screen on one or more dwelling openings. 299 Hurst Circle owned by Alderman Billy Mashburn. 39 Northside Drive owned by Alderman Joyce Handley. 266 Harrison Avenue Owned by Barbara McRae. 77 Wilkie Street owned by Patti Abel.

Mayor Scott – Ms. Moore. I’m sorry but I’m not going to allow personal attacks against this Board.

Angela Moore – This is not personal.

Mayor Scott – Yes it is. I’m going to be honest with you, you don’t understand this. You are talking about the difference between criminal warrants and administrative search warrants. Two entirely different things. I will give you two more minutes to wrap this up, but I will not tolerate personal attacks on this Board. If you got a problem with anybody on this Board, you come to them in person. Unless you got some kind of compelling interest, you need to come up with proof of why you are singling these board members out. I’m not going to violate your First Amendment Rights. I’m giving you two more minutes.

Angela Moore – I’m singling these Board Members out because they said with their vote that this was reasonable. And that this should be law, when they themselves violated it. It’s not personal.

Mayor Scott – I’m not arguing the point with you. You have two minutes. You’re not on the agenda. You’re on the public comment period.

Angela Moore – This has nothing to do with anyone on this Board. I have nothing personal, no vendetta, against anyone serving on this Board. I do, however, have a problem with elected officials enacting a law that they knew they were violating or that they themselves did not read.

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Mayor Scott – If you think someone on this Board is violating the law, your duty as a citizen is to go before the Planning Board and report it. This is not the place to try it.

Angela Moore – I'm not asking for a trial. I'm simply commenting to the Board that they may want to take a second look. I would encourage the Board to take action to rescind the minimum housing code, because it violates the U.S. Constitution and it would cost a lot of money and resources to enforce. It is the habit of this Board to ignore citizens who speak during public session, but I think you owe your constituents an explanation.

Mayor Scott – We will give you that explanation. When will the planning board meet again Mr. Setser?

Justin Setser – Land Use Administrator – In two weeks at 4 p.m.

Mayor Scott – There you go. Take it to the planning board and follow the proper procedures to get these issues you bring up resolved.

Angela Moore – It's my understanding that you are asking people not to bring their concerns to the Board?

John Henning Jr. – Town Attorney – This is not debate time. And I feel it is incumbent on me to ensure the Board that your minimum housing code is based on rock solid federal and state law. It is not violating anyone's rights, and in fact it protects the rights of people who live in this community not to live next to places that cause infestations of vermin on their property. It also takes a giant step back in terms of where it could go in terms of exhibiting owner occupied housing. And a careful reading of that ordinance would tell anyone reading it that owner occupied housing is exempted from almost every one of those requirements. Except for the fact that rental properties are protected because it is an anti-slum ordinance.

Angela Moore – Every example I gave applied to all dwellings.

Mayor Scott – Ms. Moore I'm in charge of this meeting and I am gaveling you down.

Angela Moore – Yes sir.

Mayor Scott – I told you the procedures you can follow to address your concerns.

W.H. Derrick – Last week a car at Ulco and Wayah Street fell into that hole again. What it did was tear out a lot of the dirt there. Now all you have is a foundation sticking up. You go down in there and it's all eaten up. The water rushes in there and a lot of times that whole thing is filled up. It's like a little pool. It's about eight to ten feet.

Mayor Scott – We will talk about it and we will see what we can do. I'm in complete sympathy with you. Let me look into that. We are not brushing you off.

July 6, 2015 meeting continued,

New Business: Presentation on Macon County Department of Social Services

Patrick Betancourt – Director of Social Services in Macon County – I just want to thank the Town Board and Mrs. Dinah Mashburn for coordinating me being here tonight. I am honored to be a new member of the Town of Franklin, and I want to continue having a great working relationship. It's my intent to continue the good work of the previous director, Miss Jane Kimsey, and I look forward to working with the Town going forward. I know I have big shoes to fill. Thank you for your partnership.

Mayor Scott – I think I can speak for the Board and say we are glad to have you here, and let us know if we can do anything for you. You made a good choice of a town to come to.

New Business: Re-Appointment of Pat Pattillo to Alcohol Beverage Control Board

Mayor Scott – There are two things we can do. We can re-appoint Mr. Pattillo to the Board tonight, or go by our resolutions and open it up for applications for someone else.

Motion was made by Handley, seconded by Jamison, to reappoint Pat Pattillo for a three (3) year term beginning July 6, 2015 and ending July 6, 2018 to the Alcohol Beverage Control Board. Motion carried. Vote: 5 to 0.

New Business – Re-Appointment of Town Tax Collector

Summer Woodard – Town Manager – It is the yearly appointment of our Town tax collector, and we would like to recommend the reappointment of Mrs. Jessie Wilkins for another one year term.

Motion was made by McRae, seconded by Handley to re-appoint Mrs. Jessie Wilkins as Town Collector for a one year term. Motion carried. Vote: 5 to 0. A copy of the Resolution is attached.

New Business: Re-Appointment of Town Clerk

Summer Woodard – Town Manager – This is also the yearly appointment of our Town Clerk, and we would like to recommend the re-appointment of Mr. Chad Simons for another one year term.

Motion was made by Curtis, seconded by Jamison to re-appoint Mr. Chad Simons as Town Clerk for a one year term. Motion carried. A copy of the Resolution is attached.

New Business: Authorize Town Manager to send a Letter to the National Flood Insurance Program

Summer Woodard – Town Manager – What we are asking tonight is simply to be able to open dialogue with the National Flood Insurance Program. They will not talk to myself or our Town Planner about the maps that were inaccurate a couple of years ago. This is just a letter to open a dialogue.

Motion was made by Curtis, seconded by Handley to send a letter to the National Flood Insurance Program to open dialogue. Motion carried. Vote: 5 to 0. A copy of the letter is attached.

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New Business: Applications for Fiscal Year 2015-2016 Non-Profit Funding Pool

Summer Woodard – Town Manager – We have opened the non-profit funding pool applications this year. They will be online and also at the front desk at town hall, and they will be advertised as well. They are due Monday, Aug. 24, 2015 by 5 p.m.

New Business: Update on various North Carolina Department of Transportation Projects

Justin Setser – Land Use Administrator – Two weeks ago myself and Ms. Woodard went to a meeting with the Department of Transportation at Southwestern Community College. They gave us an update. One was about 441 starting at the overpass near Siler Road down to Wide Horizon. That was the project to do some access management, putting in a divided median. I believe work could start in 2020. Another one potentially funded was a roundabout at Maple Street and Wayah Street, near the Catholic Church; and one potential round about at Wayah and Porter Street where the Chamber is. They are doing engineer studies. Those are the big projects.

Mayor Scott – Can you do us a favor and have them go look at the natural cave that Mr. Derrik mentioned please?

New Business: Budget Amendments

Kyra Doster – Finance Officer – I have one concerning the Crawford Branch Restoration project. The grant funds were received in 2015, and they were unexpended as of June 30, 2015. We need to appropriate those funds to spend it this fiscal year. The next one is for the Fire Fund. This one reflects the fire tax increase from .0356 to .0446 cents by the county. We did not increase expenditures in this fund. We simply decreased the amount of fund balance by \$18,462.

Motion was made by Curtis, seconded by Handley to approve the two budget amendments. Motion carried. Vote: 5 to 0. A copy of the amendments are attached.

Evelyn Southard – Financial Consultant – The next budget amendment has to do with a capital project fund, which we used Fund 67 for that. Fund 60 is our operating fund for water and sewer. Coming into the 14-15 year we had a deficit in Fund 67 of \$4.6 million. The reason for that, we think, is that expenditures were recorded in Fund 67 for construction projects, but when the revenue came in for the bond proceeds they were recorded in Fund 60. We can't do a journal entry and reclassify that, because it is a new fiscal year. That's what this does. We want this to go into fiscal year 14-15 as well.

Motion was made by Handley, seconded by McRae to approve the budget amendment. Motion carried. Vote: 5 to 0. A copy of the amendment is attached.

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New Business: Eligible Facilities Request for T-Mobile at 90 Cunningham Road

Justin Setser – Land Use Administrator – This is for T-Mobile. They have submitted their plans to add an antenna at 90 Cunningham Road. I got the stamped engineer letter showing sufficient capacity as well.

John Henning Jr. – Town Attorney – We don't have an option with these, so I'm going to look into streamlining this process going forward. Maybe we can change the ordinance so maybe just a stamped approval by your land-use administrator will suffice, instead of having to be placed on the agenda.

Justin Setser – Land Use Administrator – It's also been sitting on my desk for a while, holding them up because it came on my desk five days after the last Board meeting.

Motion was made by Jamison, seconded by Curtis to approve the Eligible Facilities Request for T-Mobile at 90 Cunningham Road. Motion carried. A copy of the request is attached.

New Business: Order of Abatement of a Nuisance Violation at 185 First Street

Justin Setser – Land Use Administrator – I just handed out some pictures of the house at 185 First Street. Back in September I sent a letter to Diane Shipman, the owner of the property, who lives in Florida. I tried to contact her after I received several complaints from residents about the tall weeds. She has informed me she didn't have the funds to do anything. While I was giving her time to do an appeal, it actually got a contract under it to be sold. So I wanted to wait. There was a hold up. There is still a contract. I've talked to the Attorney doing the closing, and he doesn't think it is going to close anytime soon. I told him I would like to have the manager authorize our town crews to mow it with a bush hog to make it better for the folks on First Street. The Attorney doesn't have a problem with it, and Ms. Shipman does not have a problem with it either. So that's why I'm here.

John Henning Jr. – Town Attorney – The statutes say you can go and abate it. In actuality, unless you have an agreement it actually works better to go with a lawsuit and get an order. If she is willing to give us something in writing to go clean it up, that's the best of both worlds.

Motion was made by Handley, seconded by Curtis to proceed with clean-up by cooperation or by procedural action if necessary to mow at 185 First Street. Motion carried. Vote: 5 to 0.

July 6, 2015 meeting continued,

New Business: Forward Text Amendment Regarding Indoor Gun Range to Town Planning Board

Justin Setser – Land Use Administrator – Our Ordinance Review Committee met and we discussed this two weeks ago. We can bring this to the planning board to work on requirements for an indoor gun range. This will begin this process.

Motion was made by Handley, seconded by Curtis to forward text amendment regarding indoor gun range to Town Planning Board. Motion carried. Vote: 5 to 0.

New Business: Request to be Forwarded to the Town Planning Board. Off-Site Parking, Mobile Food Vending, Construction Standards for Curb and Guttering and Multi-Tenant Sign Ordinance

Justin Setser – Land Use Administrator – Just like the gun range, this will allow us to discuss these things at our next planning board meeting. Some of this is just updating our standards.

Alderman McRae – What's off-site parking?

Justin Setser – Land Use Administrator – In our zoning ordinance, if a business is wanting to open a restaurant or store, they can apply for offsite parking as long as it's within 250 feet of a property and they get permission to do so. But if they get permission from an owner and not the leaser, that's a problem. That's the idea. We are going to look into it.

John Henning Jr. – Town Attorney – And we could also run into a problem that they could have an agreement, and then next week, not have one. So this would clear that up.

Motion was made by McRae, seconded by Jamison to forward text amendments pertaining to off-site parking, mobile food vending, and construction standards for curb and guttering, multi-tenant sign ordinance to Planning Board. Motion carried. Vote: 5 to 0.

Legal: Update on Brittany Lane

John Henning Jr. – Town Attorney – After several months on this process, we are ready to file a complaint on this matter. This is really what happens with minimum housing more than anything. There are thirteen owners and the rest of them are scattered to the winds. Justin has been as thorough as he possibly could be, and it has been a problem for all of the neighbors there. We have to serve it on thirteen (13) people.

Legal: Bid Proposal for Property located at 381 East Main Street.

John Henning Jr. – Town Attorney – As the Board is all aware, the Town ended up acquiring a property that has always been surplus to us. It does provide rental space to a tenant there. Several months ago we started a sealed bid process. We just got one bid from Mr. Walter Hunter. It's really to the pleasure of the Board at this point. You can reject it and wait or you can accept it.

Alderman Jamison – Is it still being used by the church now?

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Alderman Handley – What was the reevaluation?

Summer Woodard – Town Manager - It is being used by the church now. \$125,000.00 was tax value.

Alderman Curtis – In fairness to the Town we need to reject this bid.

Motion was made by Curtis, seconded by Jamison to reject bid proposal. Motion carried. Vote: 5 to 0.

Legal: Presentation of Sufficiency Notification for 44 Lowery Lane

Chad Simons – Town Clerk- The General Assembly came through. They have granted your request to remove the subdivision and ten (10) percent corporate limits requirements to annex non-contiguous satellite property. I didn't certify the annexation period several months ago because part of the property is in a subdivision, but that no longer exists, so I have deemed this to be suitable.

Legal: Set Public Hearing for Annexation Petition for 44 Lowery Lane

Motion was made by Jamison, seconded by Handley to set a public hearing for Annexation Petition for 44 Lowery Lane on August 3, 2015 at 7:05 p.m. in the Town Hall Board Room. Motion carried. Vote: 5 to 0.

Legal: Tax Discoveries

John Henning Jr. – Town Attorney – I just wanted to explain discoveries to you. We had a large set because the tax collector found, after the reevaluation, a whole list of properties partially in the town limit and by law we have to assess and collect real and personal property located in Town. There is a list of about twelve (12) property owners who will get a tax bill who have never gotten a tax bill before. I have a form letter ready to go. By law we have to try to collect these taxes.

Alderman Jamison – How many years do we go back? I was a discovery years ago.

John Henning Jr. – Town Attorney – We are researching it to see that. If nothing else, we will collect this year for sure.

Announcements:

Alderman McRae – I just want to thank Mayor Scott and town workers for what they did on July 4th to make it a success.

Mayor Scott – We had a blast for sure. The Town of Franklin will be hosting the joint meeting with Macon County and the Town of Highlands on Thursday July 23, 2015 at Lazy hiker.

July 6, 2015 meeting continued,

Adjournment

Motion was made by Mashburn, seconded by McRae to adjourn at approximately 8:30 p.m. Motion carried. Vote: 5 to 0.

Chad Simons, Town Clerk

Robert S. Scott, Mayor