



Town of Franklin Board of Aldermen

Agenda

January 5, 2015

7:00 p.m.

1. Call to Order- Mayor Bob Scott
2. Pledge of Allegiance- Vice Mayor Verlin Curtis
3. Adoption of January 5, 2015 Proposed Agenda
4. Approval of the December 1, 2014 Board Minutes
5. Public Hearing **7:05 p.m.** for Re-Zoning Petition for Two (2) Parcels on Pannell Lane
6. Public Session
7. New Business
 - A.) Board Decision on Re-Zoning Petition for Two (2) Parcels on Pannell Lane
 - B.) Proclamation for Zonta International Amelia Earhart Day- Mayor Bob Scott
 - C.) Proclamation for Macon Valley Nursing and Rehabilitation Center- Mayor Bob Scott
 - D.) Presentation/ Update from the Alcohol Beverage Control Board- Todd Mason
 - E.) Appointment to Town of Franklin Planning Board and Board of Adjustment- Land Use Administrator Justin Setser
 - F.) Resolution Authorizing the Town Clerk to Investigate the Sufficiency of a Voluntary Annexation Petition at 44 Lowery Lane- Land Use Administrator Justin Setser
 - G.) Discussion on Soliciting Bids for Property Located at 381 East Main Street- Town Manager Summer Woodard and Town Attorney John Henning Jr
8. Legal
 - A.) Resolution Designating Authorized Countersignatories- Town Manager Summer Woodard and Town Attorney John Henning Jr
 - B.) Charitable Solicitations Ordinance- Town Attorney John Henning Jr
9. Announcements
 - A.) Town Hall Offices will be closed Monday January 19, 2015 for Martin Luther King Jr Day
 - B.) Town Board Retreat will be Saturday January 24, 2015 at 9:00 a.m. in the Town Hall Board room.
10. Adjourn

January 5, 2015 meeting,

The regular meeting of the Town of Franklin Board of Aldermen was held on Monday, January 5, 2015 at 7 p.m. in the Town Hall Board Room. Mayor Robert S. Scott presided. Aldermen Patti Abel, Verlin Curtis, Joyce Handley, and Farrell Jamison were present.

Motion was made by Handley, seconded by Jamison to excuse Aldermen Billy Mashburn and Barbara McRae from the meeting. Motion carried. Vote: 4 to 0.

The Pledge of Allegiance was done.

Adoption of January 5, 2015 Proposed Agenda

Motion was made by Jamison, seconded by Curtis to adopt the January 5, 2015 Agenda as presented. Motion carried. Vote: 4 to 0.

Approval of the December 1, 2014 Board Minutes

Motion was made by Curtis, seconded by Jamison to approve the December 1, 2014 Board Minutes as presented. Motion carried. Vote: 4 to 0.

Public Session

W. H. Derrik – It's good to see the Board again. I'd like to thank ya'll for putting the lights back on the streets. You know which one I'm talking about. Two other things. I just got back three (3) weeks ago. I hear the County is going to develop a noise ordinance. So I was wondering if the Town was going to do the same thing. Because what they have is what we have. So that would cut down on lawyer fees. Have you thought about that?

Mayor Scott – We are waiting to see what the county comes up with. Right now noise complaints are complaint driven. We will send the police out there and tell them to quiet down.

W. H. Derrik – Have you thought about repaving Forest Avenue? Where is that on the priority list?

Summer Woodard – Town Manager – That is on the street ranking list.

W. H. Derikk – Well good. Last thing, Ulco on the corner. When the water comes down it gets under the asphalt. The way to remedy that is to get about three or four tons of rock and pack that. I brought this up before in previous discussions. That's about it. I appreciate it.

Angela Moore – I do want to remind the board that when the Unified Development Ordinance was adopted, all of the previous zoning codes and subdivision ordinances were eliminated from the code. This included the provision for the creation and running of the Planning Board. There was no new provision put into the Unified Development Ordinance. So right now there is no codified language regarding the Planning Board. Just thought I would throw that out there.

Mayor Scott – We will take that under consideration.

January 5, 2015 meeting continued,

Public Hearing 7:05 p.m. for Re-Zoning Petition for Two (2) Parcels on Pannell Lane

Angela Moore – I've seen several rezonings come across your table from this area, in and around the landfill which is now Macon Transit. Consistently these people are being turned down. I think that's a mistake on the Board's part. Because these people, many of them bought their property before the landfill was even there. And they're not even within our town limits. And I think what needs to be done is that they need to be given back their property rights. It's a lot of fun to champion the cause of decorating the town or working with the police department, or working towards better water and sewer, but the reality is that the citizens in this area that live near the landfill, which has expanded beyond its initial use against the Unified Development Ordinance. The landfill was grandfathered in, but the extension of the landfill and the extension of Macon Transit, the only reason that was allowed is that parcel was rezoned from Residential (R-1) to Industrial. It was originally zoned Residential (R-1) to keep the landfill from expanding without community discussions. We had these discussions when I was on staff here. I feel like those people were silenced the last time during that rezoning. Some people have tried to rezone their properties, but have been turned down. So not only do I support this rezoning fully, and I think each of you should consider supporting it. I think you should delay your vote to conduct research on it. That whole area, I believe there are some buffer and screening ordinances that are being violated by the county's parcel because it is based on use. I would encourage you to vote yes on this rezoning, and take a closer look at that community in general.

Justin Setser – Land-Use Administrator – In your packets you will see the petition from Macon County. The total added up is 22.99 acres. Per our zoning ordinance, this does meet your requirements for Industrial. It's a minimum of one acre per parcel. This did go before the planning board, and they looked over the impacts, and voted to recommend approval for the rezoning. Also you will see the attached maps showing the aerial, which shows what is currently zoned. Also you will find the statements and findings of fact from the Planning Board.

Susan Schlatter – 475 Pannell Lane – How far down Pannell Lane will the buffer be? I know the Dalton property has been purchased, and also the property next to it with the house on it. I'm wondering how far the buffer will be. We don't want to drive past the landfill every day going home.

Mayor Scott – I'm not sure if I can answer that question.

Alderman Jamison – The County has representatives here.

Chris Stahl – Macon County Solid Waste Director – I believe I can answer that question. The minimum distance from the road to the boundary of the landfill is three hundred (300) feet. The minimum distance from the landfill to a private residence is five hundred (500) feet. Given the proximity of the number of residents on Pannell Lane, the five hundred foot (500) buffer will probably be applied.

The Public Hearing was closed at approximately 7:15 p.m.

January 5, 2015 meeting continued,

New Business: Board Decision on Re-Zoning Petition for Two (2) Parcels on Pannell Lane

Motion was made by Curtis, seconded by Jamison to approve the Re-Zoning Petition for Two (2) Parcels on Pannell Lane from Residential (R-1) to Industrial (I-1). Motion carried. Vote: 4 to 0.

New Business: Proclamation for Zonta International Amelia Earhart Day

Peggy Milton – Vice President of Zonta Club – We are an organization that helps to improve the status of women. Zonta celebrates Amelia Earhart during the month of January, and we sponsor a scholarship in her honor. The award goes to women who study advance aerospace engineering and science. We are proud to say that our area actually has a scholarship winner, and that ceremony will be Saturday, January 11, 2015.

Mayor Scott read the proclamation.

Motion was made by Jamison, seconded by Abel to approve the Proclamation making January 11, 2015 Amelia Earhart Day in Franklin, North Carolina. Motion carried. Vote: 4 to 0. A copy of the Proclamation is attached.

New Business – Proclamation for Macon Valley Nursing and Rehabilitation Center

Mayor Scott read the Proclamation.

Motion was made by Curtis, seconded by Handley to approve the Proclamation to recognize Macon Valley Nursing and Rehabilitation Center for achieving the Silver Award in October of 2014 for excellence in healthcare. Motion carried. Vote: 4 to 0. A copy of the Proclamation is attached.

New Business – Presentation/Update from the Alcohol Beverage Control Board

Todd Mason – President of the Franklin Alcohol Beverage Control Board – Thank you for having me. A brief update, we showed a three (3) percent increase in sales in 2013-2014. This is very good considering the economy. I did not know if you were aware or not, but we also have to be audited every year. We have had to do this twenty (20) consecutive years. We have had clean audits every time. We are basically spot on with our profit ratio. As you are aware, the state studies stores of similar size. Not by store size, but by county size. They also look at whether or not the Town owns or leases their building. Roughly, right now we are giving the Town \$70,000 annually. We rank in the top 50 of Alcohol Beverage Control Boards in North Carolina, in the fact that it's clean and well-stocked. There are over 200 in the state. A couple of items the state is looking at is possible Sunday sales. That will be up to the Alcohol Beverage Control Board. Another item is selling non-alcoholic items such as shot glasses, etc. Another thing is extending the hours. We are already operating under the maximum hours, which is 9 a.m. to 5 p.m. The state may be looking at extending that, but that doesn't mean we will have to do that. Sampling items and lottery ticket sales is also something they are looking at.

January 5, 2015 meeting continued,

Mayor Scott – Did you say sampling?

Todd Mason – Yes. You would have vendors looking at testing new alcohol items, not alcohol that is already on sale.

Alderman Jamison – What is the status or any future plans on a larger store, or the expansion of the store.

Todd Mason – Our lease expires in December 2015. We can renew the lease. The shopping center would like for us to stay there. Some people would like for us to stay there too. That's up to the Alcohol Beverage Control Board and the Town Board. We don't need larger space. We could get by with a little less. We took this space because we had outgrown the 3,200 square feet that we had been in for a number of years at the end of the shopping center. Nothing has been presented to us in terms of land. The shopping center has not told us what the rate increases will be.

Alderman Jamison – The last time there was some negotiations to keep the lease down. I knew that would hold until the next lease.

Todd Mason – Yes. We were all aware of that. They wanted us there. They kept the lease down to keep us there until everything else fell through. I don't know what will happen. It will probably increase drastically.

Mayor Scott- I would hate for us to get into the lottery business.

New Business: Appointment to the Town of Franklin Planning Board

Justin Setser – Land-Use Administrator – As you know we have a vacancy on the Planning Board and Board of Adjustment. Larry Hollifield is leaving. We advertised the position in the paper, ran it on the Town's website, and we received one application. The Planning Board reviewed his resume, and recommended appointment of Brandon McMahan to the Planning Board. He lives in Town on Bidwell Street. He is eager to serve.

Motion was made by Handley, seconded by Abel to appoint Brandon McMahan to the Town of Franklin Planning Board and Board of Adjustment. Motion carried. Vote: 4 to 0.

January 5, 2015 meeting continued

New Business: Resolution authorizing the Town Clerk to Investigate the Sufficiency of a Voluntary Annexation Petition at 44 Lowery Lane.

John Henning Jr. – Town Attorney – There are a few items the Board should consider. There is no opinion on whether the board should move ahead on the sufficiency annexation. In your packet there is an annexation policy adopted some years ago by the Board. It contains a statement that the Town will not consider annexing non-contiguous property outside the Extra Territorial Jurisdiction. Those of you on the Board will remember that policy was adopted when several petitions from outside farther in the county were coming in. They were seeking annexation to sell alcohol. The Town desired not to go that far out to provide services. You are not bound by this policy. It's not an ordinance. The Board will need to consider this policy in view of this petition.

Alderman Jamison – Have we not turned down other request for voluntary annexations for the same basic reasons?

John Henning Jr. – Yes. Not since 2011. But again, you're not bound by this policy unless you want to be. You can consider this.

Alderman Jamison – There are other positives, such as low insurance rates for them. That would be a big plus for them being annexed. Because that area is not presently in the Franklin Fire District.

Aldermen Curtis – Access to less expensive water and sewer, and frankly speaking, we don't need less revenue on property we annex in.

Steve Isaacs – President of Pioneer Petroleum Company – We have 28 stores that we own and operate. The 29th one we are going to open up in Burnsville in two weeks. And you are right, every one of our stores are in the city limits and our insurance is considerably less expensive. We are very strict with alcohol in our stores, so we want police protection. Those are the main reasons. We have been looking at Franklin for a long time. We have seven stores in North Carolinas right now. I've always thought the corridor down there is prime for development. And the reason we looked at this one is that it is contiguous, because the property across the road is in the city limits. That's how I understand it. I like this side better.

Mr. Isaacs showed pictures of what the store would look like.

Steve Isaacs - Since we opened up in Asheville, a Bojangles has opened up there beside me. A Dicks Sporting Goods is now in front. A motel has come in behind me. All the owners say that we were the reason they came there. This will be a good way to incentivize growth there. I was the first property annexed in 39 years in the city of Burnsville. This happened six months ago, and it's opening up in two weeks. Since then, a pizza hut has opened up beside me and a motel is coming behind me. We are a traffic generator, and I hope you will consider what we would like to do.

Alderman Jamison – In addition, there is going to be a gas station and a small convenience store. Restaurants?

January 5, 2015 meeting continued,

Steve Isaacs – We have several franchises we can choose from.

Alderman Jamison – Carwashes?

Steve Isaacs- That’s a possibility, especially since we have sewer out there.

John Henning Jr. – Town Attorney – We will have to give some thought about the language in that policy. Whether or not non-contiguous means the corporate boundary, or non-contiguous to any town property. He is right. It is contiguous to a satellite. But I don’t think that’s what it meant. The Town Board will keep its options open.

Alderman Jamison – I’d like for us to go ahead and look into it this policy going forward.

Motion was made by Jamison, seconded by Handley to approve the Resolution Authorizing the Town Clerk to investigate the sufficiency of a Voluntary Annexation Petition at 44 Lowery Lane. Motion carried. Voting in favor: Handley, Jamison and Abel. Voting No: Curtis. Vote: 3 to 1. A copy of the Resolution is attached.

New Business: Discussion on Soliciting Bids for Property Located at 381 East Main Street

Summer Woodard – Town Manager – A few months ago the Town purchased property here. I would just like to start the discussion about soliciting bids for the property.

John Henning Jr. – Town Attorney – To sell real property owned by the Town, it has to be declared surplus and not needed. We’ve already done that. You also have to advertise for sealed bids. If someone wanted to exchange that property, we can look at that. But right now there is no point in talking about it. A public auction is not a good way to drum up interest in a piece of property. I would recommend the Board authorize the manager and myself to go forward with the sealed bids. Or on the other hand, you have an offer from an individual who wanted to remain anonymous for now. That’s okay right now. That offer is for \$50,000.00. You can instruct me to get another offer and that would start us down the path of the upset offer advertisement process. Or we could do the sealed bids, collect those after thirty days, and we choose the best one. Nothing is final until the board passes something. If at the end of the sealed bid process or the upset bid process, there is still not a sufficient offer you can turn it down and we are back where we were.

Mayor Scott – I guess I wonder if it wouldn’t be better to go ahead and advertise for sealed bids. I don’t know how many people know this property is for sale.

John Henning Jr. – It will get advertised either way. We certainly haven’t advertised it yet.

Mayor Scott- Do we need a motion tonight?

John Henning Jr. – Town Attorney – I think we do. You need to direct us to propose to accept the initial \$50,000.00 offer and begin the upset bid process or not, or alternatively authorize the advertising for the sealed bid process.

January 5, 2015 meeting continued,

Mayor Scott – What would the board like to do on this?

Alderman Handley – I would like for us to do the sealed bid process.

Motion was made by Handley, seconded by Abel to direct Town Manager Summer Woodard and Town Attorney John Henning Jr. to conduct a sealed bid process for Property Located at 381 East Main Street. Motion carried. Vote: 4 to 0.

Legal: Resolution Designating Authorized Signatories

John Henning Jr. – Town Attorney – You are required to authorize signatories, or people who counter-sign checks. This makes this explicit. It also authorizes the Town Manager to designate a person to be a counter signatory, which the Board ultimately has to approve.

Summer Woodard – Town Manager – We need Ms. Emilie Nickerson to be one of the counter signatories on the checks, for payroll and other accounts payable purposes.

Motion was made by Jamison, seconded by Curtis to adopt Resolution designating authorized Counter signatories. Motion carried. Vote: 4 to 0. A copy of the Resolution is attached.

Legal: Charitable Solicitations Ordinance

John Henning Jr. – I think we have beaten this horse half to death. You are all familiar with the purpose of it by now, which is to require a two million dollar insurance policy and a permit for solicitations in the streets.

Mayor Scott – I do have some reservations about this. I'm not sure if we defined charitable.

John Henning Jr. – Town Attorney – I think the statute dictates that. The ordinance itself deals with people standing in the roads soliciting contributions.

Mayor Scott – That could also be various groups.

John Henning Jr. – It would be any groups wanting to stand in the streets to solicit.

Mayor Scott- Do we really need to require a fee of \$25.00 a day before any permit is to be issued.

John Henning Jr. – The statute doesn't require a fee, but I think you need to consider staff time. The \$25.00 permit fee is the maximum.

Mayor Scott – And the two million dollar insurance policy?

John Henning Jr. – Town Attorney – That's statutory. So if you're going to allow these charitable solicitations of donations in the streets, this is the way to do it. The two million dollar amount is in the statute.

January 5, 2015 meeting continued,

Mayor Scott – Does that protect us or solicitors?

John Henning Jr. – The town takes on no liability passing this ordinance. I can't promise you that you won't be sued if something happens. But you would be doubly protected with that policy.

Alderman Jamison – It would also protect us if someone was soliciting in the streets, creating a nuisance, which pulled the attention of a driver, and they ran over someone else trying to cross the street.

Mayor Scott – The issuance of a permit under this chapter are not governmental functions of the Town.

John Henning Jr. – And that makes clear the town is not responsible for what somebody else does in the middle of the street.

Mayor Scott – So if they fail to follow a police officer's order to cease, they shall be guilty of a class two misdemeanor. That's already true if an officer tells you to move on and you don't. That's obstructing, resisting and delaying. Isn't that a class two?

Alderman Jamison – But the officer would only be approaching them if they only had a permit. That's the only place it would apply. Right now they can't tell them to move on.

Mayor Scott – And it says no person shall stand on sidewalk, street or right-of-way, excluding sidewalks, while soliciting or attempting to solicit employment, business or contribution from the driver or the occupants of any vehicle. That looks like that is restrictive, but I'll go along with whatever you guys want to do.

John Henning Jr. – Town Attorney – I didn't get creative with this thing. Most of this came wholesale directly out of the statute. This is what the state law authorizes us to do.

Mayor Scott- But this is not state law.

John Henning Jr. – We are authorized as a division of the state to do this.

Mayor Scott – So if we adopt this, we can do things on a complaint driven basis.

David Adams – Police Chief – Can we determine where they can solicit funds? To me that's a traffic hazard. Can we determine what intersections they use?

John Henning Jr. – I think the answer is yes. Let me look into that.

Mayor Scott - I think an officer has the authority to tell you to go away if you are creating a traffic hazard right now.

Alderman Handley – I don't think so. It hasn't been working.

Alderman Abel – Will we be more liable if we don't have the permitting?

January 5, 2015 meeting continued

John Henning Jr. – I think so, because this method allows you to make sure that whoever is doing that has met certain requirements.

Alderman Abel – And they are taking on the responsibility.

John Henning Jr. – And the Town isn't responsible for what they do. So you will invoke much more protection for the town.

Mayor Scott – Have we had any other issues besides this one?

David Adams – Police Chief – No, I don't think so.

Mayor Scott – In passing this ordinance are we going to impact some other charitable organizations where the old Franklin Motel use to be? If a cheerleader gets a little excited and jumps out of the road, are we going to write them up?

Alderman Handley – And if we designate just one street, they will go somewhere else.

Mayor Scott – Is the ordinance being presented to clear up one situation or is it going to clear up a whole lot of situations.

Alderman Abel – I think it could potentially clear up a whole lot of situations down the road.

Alderman Jamison – That by far is the most complaints that I get. I know we can't stop it. We can do something.

Mayor Scott – How do you define Parade in the ordinance book? We do require a parade permit. The North Carolina Association of Education had to get a permit because they were crossing the street in their protest.

Alderman Curtis – Their next place might be in front of the BI-LO shopping center. They should move to the sidewalk. That way it keeps everyone out of the road. The cheerleaders and other organizations do well on the sidewalks. This has been a steady barrage of complaints. Nobody seems to know who they are. I don't think they know who they are.

Mayor Scott – I'm a little concerned about the First Amendment question here.

Alderman Handley – I'm ready to take a vote.

Motion was made by Handley, seconded by Curtis to adopt Charitable Solicitations Ordinance as presented. Motion carried. Vote: 4 to 0. A copy of the Ordinance is attached.

January 5, 2015 meeting continued

Announcements

Town Hall Offices will be closed Monday January 19, 2015 for Martin Luther King Jr. Day.
Town Board Retreat will be Saturday January 24, 2015 at 9 a.m. in the Town Hall Board Room.

Alderman Jamison – Do we have an idea on the agenda for the retreat?

Summer Woodard – Town manager – Yes. If the Board Members think of anything else, please just let me know.

Mayor Scott – I would like to remind the media that Paul Meyer with the League of Municipalities will be at the next Region A Meeting at the Boiler Room. He will talk about some of the legislative goals during this next session.

**Motion was made by Jamison, seconded by Abel to adjourn the meeting at approximately 8:45 p.m.
Motion Carried. Vote: 4 to 0.**

Robert S. Scott, Mayor

Chad B. Simons, Town Clerk

