

**MINUTES OF THE TOWN OF FRANKLIN TOWN COUNCIL
REGULAR MEETING
January 3, 2023**

THE FRANKLIN TOWN COUNCIL held a regular meeting on Tuesday, January 3, 2023, at 6:02 p.m. in the Town Hall Board Room located at 95 East Main Street Franklin, NC.

1. CALL TO ORDER

Mayor Jack Horton called the meeting to order at 6:00 p.m. with the following members present:

Vice Mayor Joe Collins, Council Members David Culpepper, Stacy Guffey, Adam Kimsey, Mike Lewis and Rita Salain.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice Mayor Joe Collins.

3. ADOPTION OF THE JANUARY 3, 2023 TOWN COUNCIL AGENDA

Council Member Mike Lewis made a motion, seconded by Council Member Rita Salain to adopt the Town Council Revised Agenda for January 3, 2023 as presented. The motion carried unanimously. Vote: 6 – 0.

4. APPROVAL OF THE CONSENT AGENDA FOR JANUARY 3, 2023

- A.) Approval of December 5, 2022 Town Council regular meeting minutes.
- B.) Budget Amendments- Water/Sewer Fund and General Fund
- C.) Tax Release- Macon County
- D.) Street Closure Request- Braveheart5k/Rob Roy Fun Run and 80s Flashback Parade

Council Member Adam Kimsey made a motion, seconded by Council Member Mike Lewis to approve the consent agenda as presented. The motion carried unanimously. Vote 6 – 0.

5. PROJECT AND COMMITTEE UPDATES

- A.) Nikwasi Initiative- Annual Report- Elaine Eisenbraun, Executive Director

Elaine Eisenbraun, Executive Director of Nikwasi Initiative, introduced Bob McCollum, Co-Chair of the Nikwasi Initiative. He stated they have amended their bylaws to sync with the preservation agreement by adding two (2) new members (one Town Council member, David Culpepper & one Town staff member, Justin Setser) and an upcoming amendment to establish an executive committee with three (3) members. He asked Town Council for clarity on easements on the Nikwasi property. He didn't want to see digging and backflow installation done without clarification.

Ms. Eisenbraun used a PowerPoint presentation to highlight the projects and accomplishments from 2022 including: the Barbara McRae Cherokee Apple Trail, Nikwasi Mound, Interpretive Trail Signs (Cherokee Community Forest, Junaluska Grave Site, Noquisiyi, Cherokee Apple Trail and Cherokee Blueway Trail), Blueway Trails on Little Tennessee and Oconaluftee Rivers, Hickory Nut Gap Kiosk, Spikebuck Mound & Internship.

B) Departmental Updates

1. Finance- Sarah Bishop, Finance Director, presented information on updated revenues and expenditures for the 2022/2023 Budget year.
2. Planning/IT- Justin Setser, Town Planner/IT Director, presented a recap on projects from 2022 and on current/future Town projects for 2023.
3. Police-Devin Holland, Police Chief, presented a lookback on calls for 2022 and his goals/visions for the Police Department in 2023.

6. PUBLIC HEARINGS

A.) Mayor Jack Horton called the public hearing related to rezoning of 120 Riverview Street to order at 6:50 p.m.

Town Planner Justin Setser explained that a request had been received for the rezoning of property located at 120 Riverview Street from MICR (Medical Institutional Cultural Residential) to Commercial C-1. The request was made by the Town of Franklin. The Planning Board met on November 21, 2022 and unanimously voted to recommend the rezoning.

There was no public input and no one requested to speak.

Mayor Horton closed Public Hearing at 6:53 p.m.

Council Member Stacy Guffey made a motion, seconded by Council Member Adam Kimsey to approve the rezoning of 120 Riverview Street from MICR to Commercial C-1 as it is consistent with the Land Use plan and that the zoning map for the Town of Franklin be updated to reflect this change. The motion carried unanimously. Vote 6 – 0.

B.) Mayor Jack Horton called the public hearing related to rezoning of 7 Plantation Drive to order at 6:54 p.m.

Town Planner Justin Setser explained that a request had been received for the rezoning of property located at 7 Plantation Drive from Residential R-1 to Commercial C-2. The request was made by land owners, Stephen & Vicki Baldwin. The Planning Board met on November 21, 2022 and unanimously voted to recommend the rezoning.

Douglas Lalumandier, 66 Belleview Oak Circle, adjacent property owner to the Baldwin's property, stated he objects to the request to rezone the property. His concerns are about future use of the property; it is mostly surrounded by R-1 Residential, there would be increased traffic, potential issues with security for homeowners, and the valuation of the residential properties.

Ute Andrews, 79 Twin Hills Road, stated she was against the proposed rezoning. She just recently moved to the area behind the property. Her concern is the noise from the business. She likes the peace and quiet of the retirement community. She asked if there were plans for noise barriers.

Andrea Ledlie, 53 Belleview Oak Circle, also objected to the rezoning project and is opposed to noise in the community. She stated that the current permit that was applied for (moving the access road) allows for metal buildings, dump trucks and large boulders. She is opposed to having commercial property in her

back yard. She feels it would take away from the peace and beauty that she has in the community. She is opposed of the traffic and the noise.

Town Planner, Justin Setser, discussed the process of rezoning. He stated that all neighboring property owners were notified. He mailed out 15 (fifteen) letters. He stated that the permit mentioned was issued by the county.

Mr. Stephen Baldwin, petitioning property owner, spoke on his reason for wanting the property rezoned. He has been in the landscaping business for 30 years and purchased the one parcel 7 years ago (at the time of purchase he was unaware that it was partially zoned as residential) and just recently purchased the adjoining property. He stated his workers are rarely on the property during the day. He noted that the property has both residential and commercial around it. He would like to move the entrance to the metal building from Bellview Rd to Plantation Dr since the entrance is in a blind curve. He would also like to demolish the abandoned home on the property.

William McMillen, 243 Hiland Terrace, is opposed to the rezoning. He feels that it will cause lots of traffic accidents.

Council Member Culpepper questioned the zoning of the body shop located on Bellview. Town Planner Setser stated it is currently zoned residential, but the business is no longer operating. He also asked about the cottages up the road.

Caroline Frees, Hiland Park property owner, is concerned about the noise and blind curve on Belleview with traffic of big trucks.

Town Planner Setser added that in any rezoning you have to take into account any uses that would be allowed – not just the current business.

Town Attorney John Henning, Jr. made it known that rezoning of this property is not in line with the current Comprehensive Land Use Plan and this would need to be taken into account.

Mayor Horton closed Public Hearing at 7:36 p.m.

Council Member Stacy Guffey made a motion, seconded by Vice Mayor Joe Collins to table this discussion to the February 6, 2023 Town Council meeting. The motion carried unanimously. Vote: 6 - 0.

7. PUBLIC SESSION

Daniel Lawton and James Teems both spoke on behalf of the Skate Community in regards to the proposed Ordinance Amendment (Chapter 72) involving skateboard usage downtown. Mr. Lawton felt that the changes would be anti-youth and that skateboarding, for some, is a lifeline to the world.

Mr. Teems is supportive of skateboarding. His family skateboards. He feels that if skateboarding in Town is limited, the kids would go hang out in the holler. He said they could have something constructive to do or do something destructive. He asked Town Council to think about the kids.

8. NEW BUSINESS

A.) Request approval to refund tap fee due to zoning issues

Town Manager Amie Owens received a request for a refund of a water service tap fee. The land owner paid \$4,636 (plus \$115.39 credit card processing fee) to add water service to the property on Roller Mill Road. The owner had plans to place a manufactured home on the property, but due to zoning, a manufactured home cannot be placed on this property. Town staff does not have authorization to issue refunds unless there is a clerical error. Town Council is the only entity who can review and approve or deny the refund request.

There is now a new process in place where no tap fees will be quoted until proper notification has been made to the Town Planner to check the zoning requirements of the property.

Council Member Mike Lewis asked Town Manager Owens if she was Okay with issuing the refund. Manager Owens stated she was since no actual work had been completed for the tap installation.

Council Member David Culpepper made a motion, seconded by Council Member Rita Salain to grant approval of the tap fee refund and to appropriate funds from tap fees to water/sewer refund. The motion carried unanimously. Vote: 6 - 0.

B.) Resolution to accept American Rescue Plan Grant offer of \$820,000 for the Clyde Street waterline improvements

Town Manager Amie Owens requested approval of the Resolution to Accept the American Rescue Plan grant offer of \$820,000 from NC DEQ for the Clyde Street waterline improvements.

Council Member David Culpepper made a motion, seconded by Vice Mayor Joe Collins to approve the Resolution as presented. The motion carried unanimously. Vote: 6 - 0.

C.) Requesting adoption of Capital Project Ordinance for Clyde Street waterline improvements

Town Manager Amie Owens requested to adopt the Capital Project Ordinance for the Clyde Street waterline improvements. This resolution will allow for payments and reimbursements to be made across budget years if necessary.

Council Member Stacy Guffey made a motion, seconded by Council Member David Culpepper to adopt the Ordinance for the Clyde Street waterline improvements as presented. The motion carried unanimously. Vote: 6 - 0.

D.) Request approval of Ordinance update- Chapter 92: Fire Prevention- new section 92.5 Knox Box Requirements

Town Attorney John Henning, Jr. presented an Ordinance Amendment to Chapter 92- Fire Prevention. The Ordinance Review Committee met on October 24, 2022 and discussed proposed changes to this ordinance.

The recommendation is to amend the ordinance language to include: A Knox Box key entry system is required in all new construction and major up-fits for commercial and multi-tenant residential structures containing automatic sprinkler systems or fire alarm systems.

Council Member Culpepper stated he had tried to purchase Knox Box keys online and was unsuccessfully at doing so. He questioned who would be liable for rekeying boxes if the master key was lost. Town Manager Owens said if any negligence was the Town's fault it could be filed on the Town's insurance.

Council Member Rita Salain made a motion, seconded by Council Member Stacey Guffey to approve the recommended changes and update Chapter 92 - Fire Prevention Ordinance by adding a Section 92.05. The motion carried unanimously. Vote: 6 - 0.

E.) Discussion of Ordinance Amendment- Chapter 72

Town Attorney John Henning, Jr. discussed proposed changes to Ordinance Chapter 72. This item was originally pulled from the November 7, 2022 meeting agenda for discussion at the December 5, 2022 meeting. However, at the December 5 meeting, discussion was held and it was requested that Town Attorney Henning research related liabilities and action was then tabled until the January 3, 2023 meeting.

The Ordinance Review Committee met on October 24, 2022 and discussed the proposed changes. The reason for the ordinance change is due to the proposed licensing agreement with the Town of Franklin and First United Methodist Church. Town Attorney Henning stated there is specific language required by NCGS Chapter 99-E related to hazardous recreational activities and the liability of local governments that had to be added to the current ordinance.

Town Attorney John Henning, Jr. researched how other nearby/similar municipalities have dealt with skateboarding on sidewalks and into the potential liability. He didn't find the potential for liability to be high.

Council Member Stacy Guffey questioned 72.05, roadway/bicycle path language: Does it apply specifically to bicycle paths on roads or bicycle paths on Greenways? Town Attorney said he didn't think it was intended for greenways. The Town has very little jurisdiction of the Greenway. Council Member Guffey just wanted to make sure it didn't include the Greenway.

Council Member David Culpepper would like to exclude 72.05 a & c. He is supportive of the language needed to adopt the licensing of the skatepark.

Council Member David Culpepper made a motion, seconded by Council Member Stacy Guffey to approved the recommended Chapter 72 Ordinance changes excluding the changes made to Chapter 72.05 and 72.10. The motion carried unanimously. Vote: 6 - 0.

F.) Request approval of licensing agreement between Town of Franklin and First United Methodist Church for the skatepark facility

Town Attorney John Henning, Jr. discussed the proposed license agreement with First United Methodist Church that would allow the Town to take control of the Walk Skatepark. This agreement would allow the Town to change the hours to fit other parks from daylight to dark; to leave the gate open to allow for skating and it would allow for the skating area to be unsupervised.

The Town is authorized to operate designated park areas owned and/or operated by the Town for certain hazardous activities including skateboarding, and further may require the posting

certain rules providing for the safe engagement which limits the Town's liability, pursuant to Chapter 99E, Article 3 of the North Carolina General Statutes, and the amendment to Chapter 72 would allow the Town to do so.

Council Member David Culpepper made a motion, seconded by Council Member Stacy Guffey to approve the License Agreement between the Town of Franklin and First United Methodist Church as presented. The motion carried unanimously. Vote: 6 - 0.

G.) Request approval of Resolution directing Town Administration to apply for a Greenway Feasibility Grant Study

Town Planner Justin Setser requested approval for a NCDOT grant to study the feasibility of the Crawford Branch Greenway. This is for a feasibility study only and not funding for a project. Mr. Setser explained that while there is no match required, it shows the commitment from the Town and could provide additional point value if there was some match available.

Council Member David Culpepper made a motion, seconded by Council Member Rita Salain to the Resolution directing Town Administration to apply for a Greenway Feasibility Grant Study up to \$120,000 with a 10% Town funding match and allocation of funds from fund balance if the grant is received. The motion carried unanimously. Vote: 6 - 0.

H.) Appointment to ABC Board

Mayor Horton explained there is a vacancy on the ABC Board. The newly appointed member will serve a 3-year term. There were two (2) candidates- Dr. William "Bill" Duffell and Alton Sutton, Jr. Council members voted by signed ballot. Votes were tallied by the Town Clerk.

Dr. Bill Duffell received three (3) votes and Alton Sutton, Jr. received three (3) votes. Mayor Jack Horton orally cast the deciding vote for Alton Sutton, Jr. Mr. Sutton will serve on the ABC Board for a term beginning January 23, 2023 through January 23, 2026.

I.) Request for approval of Budget Calendar for FY 2023/2024 Budget

Town Manager Amie Owens presented the Fiscal Year 2023/2024 Budget Calendar for approval.

Vice Mayor Joe Collins made a motion, seconded by Council Member Adam Kimsey to approve the Fiscal Year 2023/2024 Budget Calendar as presented. The motion carried unanimously. Vote: 6 - 0.

9. OLD BUSINESS

A.) Request Approval of Town acceptance of Street for maintenance

Thomas Harris, Heritage Hollow Property Owners Board Member, was present to answer additional questions on the request for the Town to accept Heritage Hollow Drive as a Town street. Council Member Culpepper inquired if there were plans to put in a pedestrian foot bridge. Mr. Harris stated that the Property Owners Association had no funds, therefore, no interest in adding a foot bridge. He did say there was a trail in the woods that could be utilized.

Vice Mayor Joe Collins made a motion, seconded by Council Member Rita Salain to accept Heritage Hollow Drive as a Town street. The motion carried unanimously. Vote: 6 - 0.

10. ITEMS FROM COUNCIL

Discussion was held to set a date for the 2023 Town Council Retreat. The retreat priority development session with dinner is set for Friday, February 17, 2023 at 6 p.m. at a location TBD and the retreat work session is scheduled for Saturday, February 18, 2023 at 8:30 a.m. in Town Hall Board Room with breakfast beginning at 8 a.m.

11. ANNOUNCEMENTS

- A.) Next Town Council Meeting will be held Monday, February 6, 2023 at 6:00 p.m.
- B.) Town Offices will be Closed on Monday, January 16, 2023 in observance of Martin Luther King Jr. Day per the NC State Holiday Schedule.

12. ADJOURNMENT

Council Member Rita Salain made a motion, seconded by Council Member Adam Kimsey to adjourn the meeting at 8:46 p.m. The motion carried unanimously. Vote: 6 to 0.

C. Jack Horton, Mayor

Nicole Bradley, Town Clerk