



FRANKLIN TOWN COUNCIL

November 15, 2017

7:00 PM

A. SWEARING IN OF TOWN COUNCIL

B. ELECTION OF OFFICERS – Chair, Vice-Chair, Clerk

C. APPROVAL OF MINUTES – September 27, 2017

D. ANNOUNCEMENTS –

1. *This meeting is being recorded by Franklin TV and shown on Comcast channel 11 and Verizon channel 29. This meeting may also be recorded by others.*

E. PROCLAMATIONS/RECOGNITIONS

F. CITIZEN COMMENTS – Citizens are welcome to express their views for up to five minutes on a matter that is not on the Agenda. The Council will not engage in a dialogue or comment on a matter raised during Citizen Comments. The Town Council will give remarks appropriate consideration and may ask the Town Administrator to review the matter.

G. APPOINTMENTS – Finance Director/Comptroller

H. HEARINGS

I. LICENSE TRANSACTIONS

J. PRESENTATIONS/DISCUSSIONS – Open Meeting Law, Public Records, Public Hearings, & Ethics Presentation – Attorney Mark Cerel

K. SUBCOMMITTEE REPORTS

L. LEGISLATION FOR ACTION

1. *Resolution 17-67: Adoption of Town Council Procedures Manual (**Motion to Move Resolution 17-67 – majority vote (5)**)*
2. *Resolution 17-68: Authorization for Installation on the Town Common (**Motion to Move Resolution 17-68 – majority vote (5)**)*
3. *Resolution 17-69: Appropriation - Operating Budget Stabilization Fund (**Motion to Move Resolution 17-69 – majority vote (5)**)*

M. TOWN ADMINISTRATOR'S REPORT

N. FUTURE AGENDA ITEMS

O. COUNCIL COMMENTS

P. EXECUTIVE SESSION - None

Q. ADJOURN

**FRANKLIN TOWN COUNCIL
MINUTES OF MEETING
September 27, 2017**

A meeting of the Town Council was held on Wednesday, September 27, 2017 at the Franklin Municipal Building, 355 East Central Street, Franklin, Massachusetts. Councilors present: Andrew Bissanti, Robert Dellorco, Glenn Jones, Matthew Kelly, Thomas Mercer, Peter Padula, Deborah Pellegri, Judith Pond Pfeffer, Robert Vallee. Councilors absent: None. Administrative personnel in attendance: Jeffrey Nutting, Town Administrator; Jamie Hellen, Deputy Town Administrator; Mark Cerel, Town Attorney.

CALL TO ORDER: Chairman Kelly called the meeting to order at 7:00 PM with a moment of silence and the Pledge of Allegiance.

ANNOUNCEMENTS: Chairman Kelly announced the meeting is being recorded by *Franklin TV* and available for viewing on Comcast Channel 11 and Verizon Channel 29. This meeting may also be recorded by others.

PROCLAMATIONS/RECOGNITIONS: *None.*

CITIZEN COMMENTS: *None.*

APPOINTMENTS: ► *Council on Aging.* ► Ms. Pfeffer read the appointment. ► **MOTION to Ratify** the appointment by the Town Administrator of Janet Milici to serve as a member of the Council on Aging, with an expiration of June 30, 2020 by **Pfeffer. SECOND by Mercer. Discussion:** ► Mr. Bissanti thanked Ms. Milici, who was present at the meeting, for volunteering. ► **VOTE: Yes-9, No-0, Absent-0.**

► **Treasurer/Collector.** ► Ms. Pfeffer read the appointment. ► **MOTION to Ratify** the appointment by the Town Administrator of Kerri Anne Bertone to serve as Treasurer/Collector of the Town of Franklin effective November 6, 2017 by **Pfeffer. SECOND by Mercer. Discussion:** ► Mr. Nutting recognized Jim Dacey for his 18 years of service; he has done a great job. He also recognized the search committee members and reviewed the search process. He stated that at the end of the process, the committee unanimously recommended Kerri Anne Bertone who is currently the Assistant Collector/Treasurer for the Town of Franklin. ► Ms. Pellegri stated she had concerns about this appointment. She stated that the advertisement for the position listed a bachelor's degree in finance as the first requirement; this candidate does not have that degree. She noted that when the position was changed from elected to appointed, the main reason was to get the best qualified person; that is not happening in this case. This is a very important job. Since a Bachelor of Science degree is evidently not what the Town is looking for, the position could be advertised again without said requirement. Some of the people that did apply had the degree, but the Town has now chosen someone without the degree. And, the degree the candidate will be earning from Dean College will be in business, not finance. She stated the position is so important that the candidate should have a bachelor's degree in finance as stated on the job posting. ► Mr. Dellorco confirmed this is a permanent appointment, not a term of office. ► Mr. Nutting stated that he did not know if the other candidates had bachelor of finance degrees; he stated there is no doubt in his mind that Kerri was by far the most qualified person to take on the job. ► A search committee member provided educational backgrounds on some of the candidates interviewed. She agreed this should be an appointed position. She stated that the position is financial, but that does not mean a finance degree is needed to do it. ► Mr. Mercer, a member of the search committee, stated that the candidate tonight was far above any candidate interviewed. He reviewed the background of some of the other candidates. He stated that Ms. Bertone knew that answers to all the questions asked. As well, she has been training for a year in the treasurer's office. He stated it would be a huge mistake to not ratify this appointment. ► Mr. Jones stated that he personally knows some of the people on the search committee making the recommendation of this appointment; they are all professionals and he has full faith and trust in them. He also has his full trust in

Ms. Bertone and she knows the town already; he supports Ms. Bertone. ► Ms. Pfeffer reviewed the that the reason the position was taken from elected to appointed was to get the most experienced person, not the most popular, because the Town is like a \$100 million company. The job description calls for a minimum of a bachelor's degree. The individual being presented does not even have an associate degree. If the Town is not willing to meet the basic job requirements advertised, then it should say so in the advertisement; many other people would have applied for this position. She is going to vote against the appointment. She is in favor of women being appointed; but, in this case she would vote against it being either a woman or a man with these same qualifications. The education matters; the position should be run by a professional with a degree. ► Mr. Padula stated there is something to be said for institutional knowledge; it makes a big difference. Maybe part of the problem was what the job description said. ► Mr. Nutting stated the job description is a wish list. You have to have some faith in the search committee. ► Mr. Dacey stated this is a perfect transition; Ms. Bertone has been transitioning for a year into this position. ► Mr. Bissanti said how far Ms. Bertone has matriculated is of no importance to him; the institutional knowledge gained from working with Jim is tantamount. He stated she has his vote. ► Mr. Dellorco stated there is no doubt that she can do the job, she is striving for her degree, and she is from Franklin; she has his support. ► Chairman Kelly stated that when it was decided to take this position from elected to appointment, they knew it would be tough to find the right candidate, especially from Franklin. He stated that the weight of having one of our own in such an important position in the town is huge. He stated he knows many people who are very successful that do not have degrees. To say that someone does not have a degree is rather insulting. He stated that the Town Council gave the Town Administrator much grief about not having someone from the Town Council on the hiring committee. Now, there was a Town Council member, Mr. Mercer, on this hiring committee. He stated that since there was a Town Council member on the committee, the Town Council should have no problem supporting the candidate. For that reason, he will support this candidate. She is from Franklin and has had on-the-job training. ► **ROLL CALL VOTE:** Bissanti-YES; Dellorco-YES; Jones-YES; Kelly-YES; Mercer-YES; Padula-YES; Pellegrino-NO; Pfeffer-NO; Vallee-YES. ► **VOTE: Yes-7, No-2, Absent-0.**

HEARINGS: *Zoning Bylaw Amendment 17-797: Setbacks for Accessory Buildings and Structures.*

► Ms. Pfeffer read the Zoning Bylaw Amendment. ► **MOTION to Open the hearing by Mercer. SECOND by Dellorco. No Discussion.** ► **VOTE: Yes-9, No-0, Absent-0.** ► Mr. Nutting stated that all this does is change the setback requirements in all areas to 10 ft. He noted that the Building Commissioner was before the Town Council a few weeks ago to explain the confusion. ► **MOTION to Close the hearing by Mercer. SECOND by Dellorco. No Discussion.** ► **VOTE: Yes-9, No-0, Absent-0.**

LICENSE TRANSACTIONS: ► **99 Restaurant – Change in Officer/Director (Continuation: Motion to Remove 99 Restaurant License Transaction from the Table – Majority vote (5)).** ► **MOTION to Remove from the Table 99 Restaurant License Transaction by Mercer. SECOND by Dellorco. No Discussion.** ► **VOTE: Yes-9, No-0, Absent-0.** ► Ms. Pfeffer read the license transaction. ► **MOTION to Approve the Change of Officers/Directors for the 99 Restaurant of Boston LLC pursuant to the instructions sent by the ABCC by Pfeffer. SECOND by Mercer. Discussion:** ► Mr. Nutting stated the applicant is here with their attorney. ► Mr. Kyle Gil, on behalf of the Devlin Law Offices, and Mr. Philip Wallach, Manager of 99 Restaurant, Franklin location, addressed the Town Council. Mr. Gil stated this is an inverted filing; Hazem Ouf and Anita Adams have left the company and were replaced by Charles Noyes and Gregory Hayes. This is occurring across all 64 locations. He noted there was an error; there is a change of officers. This transaction does not affect any of the operations. ► Mr. Cerel confirmed the application is now accurate. ► Mr. Wallach, in response to a Council member's question, explained the alcohol awareness process and TIPS Certification for all employees. ► **VOTE: Yes-9, No-0, Absent-0.**

PRESENTATIONS/DISCUSSIONS: None.

SUBCOMMITTEE REPORTS: None.

LEGISLATION FOR ACTION:

1. **Resolution 17-55: Declaration of Town-Owned Land (Vacant Parcel on Summer Street) as Surplus and Available for Disposition and Authorization to Sell Said Parcel (Motion to Move Resolution 17-55 – 2/3 majority vote (6)).** ► Ms. Pfeffer read the resolution. ► **MOTION to Move Resolution 17-55: Declaration of Town-Owned Land (Vacant Parcel on Summer Street) as Surplus and Available for Disposition and Authorization to Sell Said Parcel by Mercer. SECOND by Padula. Discussion:** ► Mr. Nutting stated this piece of land was acquired by tax title. The Treasurer tried to sell it at auction, but no one bid on it as it has no real value. The next-door abutter contacted the Town and asked if he could purchase it; so, he is recommending the sale of the parcel. ► Ms. Pfeffer asked about the Registry of Deeds Book 35,157 number. ► Mr. Nutting said he would check; it may be a typo. ► The abutter stated he has no plans for the property. He questioned that the assessment of the property online states \$2,900, but the purchase price is now \$3,300. ► Mr. Nutting stated that appraisals lag by 18 months; this is an up-to-date number. ► **VOTE: Yes-9, No-0, Absent-0.**

2. **Resolution 17-56: Declaration as Surplus and Available for Partial Disposition (Leasing and Authorization therefor of Town-Owned Structure and Land on Upper Union Street. (Motion to Move Resolution 17-56 – 2/3 majority vote (6)).** ► Ms. Pfeffer read the resolution. ► **MOTION to Move Resolution 17-56: Declaration as Surplus and Available for Partial Disposition (Leasing and Authorization therefor of Town-Owned Structure and Land on Upper Union Street by Mercer. SECOND by Padula. Discussion:** ► Mr. Nutting stated the Town has leases for cell towers on water tanks; this would allow the Town to go out to bid and get a lease on one that is expiring. The Town gets about \$50,000 per lease per year. This is revenue for the Town with no harm. There are four carriers on there right now; one is expiring and going out to bid. This is the water tank that was just painted for \$600,000 last year. He noted that all the leases have specific requirements on how the towers must be mounted. ► **VOTE: Yes-9, No-0, Absent-0.**

► *Mr. Cerel noted that the reference on the prior resolution was correct.*

3. **Resolution 17-57: Amendment of FY 2018 Budget. (Motion to Move Resolution 17-57 – majority vote (5)).** ► Ms. Pfeffer read the resolution. ► **MOTION to Move Resolution 17-57: Amendment of FY 2018 Budget from \$120,465,810 to \$120,602,310 as outlined, by Mercer. SECOND by Jones. Discussion:** ► Mr. Nutting reviewed and explained each proposed adjustment. ► Police Chief Lynch, in response to Council members' questions, confirmed that he did want to send two people to the academy. Knowing that two officers are going to leave, he cannot afford to wait for a year for replacements; he would like to get them in the academy in January. Otherwise, he would be down two people for entire FY 2019. He stated he wanted to replace the one canine immediately. He noted that having two dogs does not fit. ► **VOTE: Yes-9, No-0, Absent-0.**

► *Mr. Cerel requested that the Clerk hand write in the date as the date line was omitted.*

4. **Resolution 17-60: Appropriation – DPW – Public Way Improvements. (Motion to Move Resolution 17-60 – majority vote (5)).** ► Ms. Pfeffer read the resolution. ► **MOTION to Move Resolution 17-60: Appropriation – DPW – Public Way Improvements for \$550,000 by Mercer. SECOND by Padula. Discussion:** ► Mr. Nutting stated the Budget Subcommittee approved this and the Finance Committee unanimously approved this. This is the annual request from the Hotel/Motel tax to use for capital improvements for roads. He noted Director of Public Works Brutus Cantoreggi's letter suggesting roads to be looked at. Before any final road decisions are made, a presentation will be made to the Town Council. ► Mr. Padula asked about the \$550,000. ► Mr. Nutting said it would be about 90 percent. ► Ms. Pfeffer confirmed that there will be no money left in the Hotel/Motel tax for

the year. ► Council members asked about specific streets on Mr. Cantoreggi's list. ► **VOTE: Yes-9, No-0, Absent-0.**

5. **Resolution 17-61: Appropriation – Police – Radio System Improvements. (Motion to Move Resolution 17-61 – majority vote (5)).** ► Ms. Pfeffer read the resolution. ► **MOTION to Move Resolution 17-61: Appropriation – Police – Radio System Improvements for \$18,000 by Mercer. SECOND by Dellorco. Discussion:** ► Mr. Nutting stated that about a week after the Budget Subcommittee met, the Police Chief presented the issue that he had a review of the police radio antenna and system done by an outside consultant. The consultant made some recommendations as presented in the Police Chief's memo of September 14, 2017 stating they needed to do the work listed in the memo. Mr. Nutting stated that he does not think public safety issues should wait, so he is asking the Town Council to approve this tonight. ► Chief Lynch spoke about the agreement with Medway for relocation of the repeater to the tower at the Medway Police Station which will provide for more coverage. He reviewed the issues as outlined in the memo. He stated the northern part of Town is having the radio system problems. ► **VOTE: Yes-9, No-0, Absent-0.**

6. **Resolution 17-59: Declaration of Town-Owned Land on Grove Street (Remaining Portion of Former Nu-Style Property) as Surplus and Available for Disposition (Motion to Move Resolution 17-59 – 2/3 majority vote (6)).** ► Ms. Pfeffer read the resolution. ► **MOTION to Move Resolution 17-59: Declaration of Town-Owned Land on Grove Street (Remaining Portion of Former Nu-Style Property) as Surplus and Available for Disposition by Mercer. SECOND by Padula. Discussion:** ► Mr. Nutting stated there is a typo under the second *whereas*; the area is 35,923 sq. ft. This proposal would allow the Town to attempt to seek proposed bidders for the property with the caveat that they would be responsible for the complete cleanup of the land and demolition of the collapsed building to be awarded the land. This would alleviate the Town from doing that. The Town would get a clean site and someone would get a useable piece of property. Currently, the value is a couple hundred thousand; but the cleanup costs are estimated at well over \$300,000 for the Town to do it. A private developer could do it for less. ► Mr. Mercer thanked him for putting a map on the screen to see; it is very helpful for the people at home to see. ► Mr. Jones noted that he hopes there is at least one bid and that this gets cleaned up. ► Mr. Bissanti stated that it is only \$100 and these properties can be cleaned up. ► Chairman Kelly stated he thinks it should be cleaned up before the Town tries to get rid of it. He thinks this will continue to be a problem to haunt the Town. ► Mr. Nutting stated that someone else may be able to get tax credits, whereas the Town is a government and cannot get tax credits. ► Mr. Bissanti asked why the Town ever took this property to begin with. ► **VOTE: Yes-9, No-0, Absent-0.**

Mr. Bissanti recused himself.

7. **Zoning Bylaw Amendment 17-795R: Zoning Map Changes from Business and Commercial II to Single Family Residential IV and Commercial I, in an Area on or near Union, Cottage and Saxon Streets – 2nd Reading (Motion to Move Zoning Bylaw Amendment 17-795R – 2/3 majority roll call vote (6)).** ► **MOTION to Waive the reading by Mercer. SECOND by Pfeffer. No Discussion.** ► **VOTE: Yes-8, No-0, Absent-0.** ► **MOTION to Move Zoning Bylaw Amendment 17-795R: Zoning Map Changes from Business and Commercial II to Single Family Residential IV and Commercial I, in an Area on or near Union, Cottage and Saxon Streets by Mercer. SECOND by Jones. Discussion:** Mr. Nutting stated this is a proposed zoning change of the Union and Cottage Street area. He described the current and proposed zoning for the properties on the map that was shown on the screen. ► Chairman Kelly noted that they received a letter from the Planning Board stating they would like the Town Council to look at Commercial I and the parking requirements. He said this should be put on for discussion in October/November. ► Mr. Padula requested Mr. Nutting review the issues the Planning Board had. ► Mr. Nutting reviewed that a small portion of the light

green area on the map, similar to a portion in the downtown area, has no parking requirement; this was adopted about 12 to 14 years ago. This was done at that time to stimulate the downtown for people to develop their property. He said the thought is that if they are going to keep Commercial I, there should be some parking requirement. The next Town Council should look at it. The Planning Board is saying do not vote for the whole thing; he is recommending the Town Council vote for it and then go back and look at the parking issue. Mr. Nutting stated that Franklin TV was not incorporated into this. ► Council Members discussed the proposed zoning changes. ► Mr. Taberner, Director of Planning and Community Development, explained what could be built in CI and other zones and parking requirements. ► Mr. B. Bullock, 17 Wachusett Street, stated he is concerned that the property is being changed from a residential zone to a commercial zone. He does not understand why the Town is setting this precedent to change a residential area just because someone wants to push a line. Is due diligence really being done? It was just noted that the TV station was not captured in this proposed change. For the best interest of the Town, there should be residential areas where people can live and build houses. ► **ROLL CALL VOTE:** Dellorco-YES; Jones-YES; Kelly-YES; Mercer-YES; Padula-YES; Pellegri-YES; Pfeffer-YES; Vallee-YES. ► **VOTE: Yes-8, No-0, Absent-0.**

Mr. Bissanti re-entered the meeting.

8. **Zoning Bylaw Amendment 17-797: Setbacks for Accessory Buildings and Structures – 1st Reading. (Motion to Move Zoning Bylaw Amendment 17-797 to a 2nd Reading – majority vote (5)).** ► Ms. Pfeffer read the zoning bylaw amendment. ► **MOTION to Move Zoning Bylaw Amendment 17-797: Setbacks for Accessory Buildings and Structures to a 2nd Reading by Mercer. SECOND by Padula. Discussion:** ► Mr. Nutting stated no comment; he thinks everyone understands the issue. ► **VOTE: Yes-9, No-0, Absent-0.**

TOWN ADMINISTRATOR’S REPORT: ► Mr. Nutting stated all is well.

FUTURE AGENDA ITEMS: ► Mr. Padula stated the issue related to the parking in Commercial I should be put on a future agenda. ► Mr. Bissanti stated that it should be noted that there are two very valuable parcels around the center of town that the Town could take advantage of; he would like to have it out there for a discussion.

COUNCIL COMMENTS: ► Mr. Bissanti gave condolences to the family of Lauri-Anne Lozzi. ► Ms. Pellegri stated the Friends of the Franklin Historical Museum are holding an appreciation day Open House on Sunday, from 1:00-4:00 PM; please stop in. A free Flu Clinic for all Franklin residents, ages six months or older, with no co-pays, will be done by the Board of Health, VNA, at the Senior Center, Tuesday, October 17, 9:30-11:30 AM. She asked what is happening with the siding on the Museum; it did not get finished this summer. ► Mr. Nutting stated they have just been out straight. ► Mr. Mercer stated the chairs are very squeaky and the noise may be distracting to the TV audience.

EXECUTIVE SESSION: *None.*

ADJOURN: MOTION to Adjourn by Mercer. SECOND by Jones. No Discussion. ► **VOTE: Yes-9, No-0, Absent-0. Meeting adjourned at 8:33 PM.**

Respectfully submitted,

Judith Lizardi
Recording Secretary



APPOINTMENTS

Town of Franklin
Finance Director/Comptroller

Christopher M. Sandini, Sr.

The Finance Director/Comptroller interview committee has recommended the appointment of Christopher M. Sandini, Sr. to serve as Finance Director/Comptroller of the Town of Franklin.

MOTION to ratify the appointment by the Town Administrator of Christopher M. Sandini, Sr. to serve as Finance Director/Comptroller of the Town of Franklin effective January 2, 2018.

DATED: _____, 2017

VOTED:

UNANIMOUS _____

YES _____ **NO** _____

ABSTAIN _____

ABSENT _____

A True Record Attest:

Teresa M. Burr
Town Clerk

_____, Clerk

Franklin Town Council


Town of Franklin

Town Administrator
Tel: (508) 520-4949



Fax: (508) 520-4903

355 East Central Street
Franklin, Massachusetts 02038-1352

TO: Town Council
FROM: Jeffrey D. Nutting, Jamie Hellen 
DATE: November 9, 2017
RE: Ratification of Finance Director Appointment

Application Process

The application process for the Finance Director started in August 2017. We posted the position on our website and the Municipal Building Bulletin Board from August 15 – September 30, 2017. The position was advertised in the September issue of the Beacon magazine. The posting also appeared on the websites of the Massachusetts Municipal Association (MMA), the Massachusetts Government Finance Officers Association (MGFOA) and the Massachusetts Municipal Auditors' & Accountants' Association (MMAAA).

We received applications from seventeen candidates, most of which did not have the minimum required qualifications. We invited the top four candidates to come in for in-person interviews. One candidate had recently accepted a position with another town and declined our invitation for an interview. We interviewed three candidates.

The interview committee consisted of Town Councilor Peter Padula, Finance Committee Member Susan Dewsnap, Town Administrator Jeff Nutting, Deputy Town Administrator Jamie Hellen, Human Resources Manager Karen Bratt, and School Business Manager Miriam Goodman.

Recommendation

The interview committee recommends Mr. Christopher Sandini to be the Finance Director for the Town of Franklin. Mr. Sandini is currently the Finance Director in Hopkinton. Prior to his appointment in Hopkinton, Mr. Sandini served as the Director of Finance and Information Technology in Hudson for 19 years.

Candidate Profile

Mr. Sandini has over 20 years of experience in municipal government. Before starting his career in municipal government, Mr. Sandini worked as an Auditor and CPA for a firm specializing in governmental audits. He has a Bachelor's Degree in Business Administration with a concentration in Accounting from the UMass/Lowell.

Christopher M. Sandini, Sr.



OBJECTIVE

Utilize my strong financial and operational skills to make a difference in a progressive municipality.

EXPERIENCE

November 2015-Present

Town of Hopkinton, Hopkinton, Massachusetts

Director of Finance and Chief Financial Officer

1996-November 2015:

Town of Hudson, Hudson, Massachusetts

Director of Finance and Information Technology / Town Accountant – Oversee five offices in the financial operations of the Town. Administer and direct IT including infrastructure, PC and server set-up and deployment and software implementations. Maintain the books and records of the Town and approve all expenditures and payrolls. Defacto HR Administer of Town employee and retiree benefits.

Skills & Accomplishments

- Play an integral role in the planning and execution of many balanced budgets, all without the use of operational overrides.
- Regularly meet with department heads to discuss budgetary and capital needs. Developed a financial framework, working cooperatively with our department heads.
- Serve on and sometimes chaired many ad hoc committees.
- Participate in the preparation of several Town Meeting Warrants.
- Approve all procurements as Chief Procurement Officer.
- Secured 3 bond rating upgrades and many positive reviews.
- Spearheaded an effective program that removes Tax Title properties from our balance sheet, generating excess revenue.
- Administer the Town's self-insured health plan and unemployment insurance program.
- Supervise the payroll department.
- Have completed many IT projects including a state of the art high-speed broadband network connecting all major Town structures.
- Proficient at developing understandable financial reports that are easy to produce using 3rd party software. Provides the users timely information to make informed decisions.

1997-Present:

Marlborough Retirement System, Marlborough, Massachusetts

Board Member – Deliberate and vote on a wide range of issues covering retirement law, superannuation and disability retirement and the investment and maintenance of a multimillion dollar portfolio.

1987-1996:

McCarthy, Hargrave & Co., CPA, Worcester, Massachusetts

Auditor and CPA* – Served as Office Administrator, Auditor and ultimately Field Supervisor for a firm specializing in governmental audits.

EDUCATION

University of Lowell; Bachelor of Science in Business Administration with Concentration in Accounting, cum laude 1986.

Certified Public Accountant 1994 (*License currently inactive).

Several courses and seminars covering human resources, insurance and benefits administration and management and financial topics. Well versed in various laws and regulations including employment, procurement, bargaining, ethics, open meeting and health and other benefits.

OTHER

Massachusetts Municipal Management Association; Massachusetts Society of Certified Public Accountants; Government Finance Officers Association; Massachusetts Government Finance Officers Association; Massachusetts Municipal Auditors and Accountants Association.

Speaker at a yearly Public Policy seminar for the McCormick Institute held at UMASS Boston on financial and budgetary considerations of municipalities.

PRESENTATIONS

AND

DISCUSSIONS

- *Open Meeting Law, Public Records, Public Hearings, & Ethics – Attorney Mark Cerel*



355 East Central Street
Franklin, Massachusetts 02038-1352

MEMORANDUM

TO: Franklin Town Council

FROM: Mark G. Cerel, Town Attorney

RE: OML, Public Records, Ethics Law, Public Hearing Procedures: Specific Application to Town Council and Individual Member Conduct

DATE: November 15, 2017

I have provided prior Councils with written memoranda on Open Meeting Law, Ethics Law, and Conducting Public Hearings. I have attached copies of the three memoranda for the current Council members, because the law in these areas has not substantially changed. This memorandum is intended to emphasize those statutory provisions and legal procedures which continue to have specific application to the Town Council and its individual members.

Open Meeting Law (OML)

- Statutory definitions of "deliberation" and "meeting" are both broad:
"Deliberation": an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body . . .

"Meeting" a deliberation by a public body with respect to any matter within the body's jurisdiction . . .
- Cannot use either serial communications or subcommittees to avoid compliance.
- A.G.'s Office (Division of Open Government) charged with enforcement; consequence of public body's non-compliance includes nullification of its action and/or a civil fine.
- Remote Participation: Revised A.G.'s regulations ease procedural requirements, but still need quorum to be physically present and all votes to be by roll-call.

Public Records Law

- Definition includes all documents, regardless of form, made or received by public official for public purpose, unless within one or another specific statutory exemption, G.L. Ch. 4, Section 7, Par. 26

- Document itself determines whether it is a public record, not the equipment by which it was generated, e.g.; personal electronic device

Ethics Law G.L. Chapter 268A)

- Town Council members are deemed to be municipal employees (as opposed to "special municipal employees") and are therefore subject to all statutory prohibitions and restrictions
- Statutory prohibitions and restrictions apply not only to individual Council members, but also to their "immediate family" members
- Prohibitions apply not only to final decisions, i.e.: individual Councilor's votes, but also to his/her participation, i.e.: deliberative process
- G.L. Chapter 268A is a criminal statute; penalty for violation include imprisonment and/or fine
- Specific statutory prohibitions:
 - Self-dealing, G.L. Ch. 268A, Section 19(a)
 - Interest in Contract, G.L. Ch. 268A, Section 20
 - Solicitation/Receipt; Appearance of Conflict, G.L. Chapter 268A, Section 23
- Ethics Commission available for guidance, in advance

Conducting Public Hearings

- Adjudicatory hearings are deemed to be an administrative function, as opposed to legislative; increased legal exposure to municipality, government body, and individual members as a result.
- Importance of being an impartial fact finder, as opposed to an advocate.
- Need to be familiar with appropriate legal standard/criteria and quantum of proof.
- Need to refrain from irrelevant or inappropriate comments.

MGC:ce
Attachments

**11-9-11 OML PRESENTATION FOR TOWN COUNCIL
MARK G. CEREL, TOWN ATTORNEY**

Statute is now in effect; took effect July 1, 2010

Going to address:

- Requirements for "public bodies", Town Boards, Commissions and Committees in particular, as opposed to Town Clerk;
- Enforcement mechanism (A.G.)
- Problems

General Prohibitions/Requirements/Exceptions:

- Quorum of public body meeting to deliberate
- What is/is not "meeting", "deliberation"
- Emails and other electronic communication
- Sequential communications

Meeting Requirements (Chair, in particular):

- Posting of Notice – timing and contents
(Definition of "Emergency" unchanged)
- Listing of topics Chair reasonably anticipates . . .
- Conduct of meeting
 - Requirement to announce recordation
- Executive session
 - Limited
- Minutes and records

A.G. Enforcement

- Process
- Remedies, including imposition of civil penalty

Problems

- Definition of "deliberation" and, because of it, with "meeting"
- Notices: listing of topics Chair **reasonably anticipates**
- Executive Session: "stating all subjects that may be revealed without compromising . . ." (level of detail?)
- Attorney-client privilege (SJC in **Suffolk Construction** case)

OUTLINE FOR WORKSHOP ON HOLDING PUBLIC (ADJUDICATORY) HEARINGS AND RENDERING DECISION IN MUNICIPAL PERMIT AND APPROVAL CASES

Workshop Subject Matter:

- Encompasses both land use and non-land use
- Includes Suspensions/Revocations as well as grants
- Applies to official(s) as well as Boards, if designated local permitting authority

Legal Context:

- Statutory authority to act (regulate)
- Constitutional procedural due process requirements:
 - Impartial fact-finder/decision maker
 - Notice and opportunity to be heard
 - Factual support for decision (varies with type of case)
- Compliance with other legal requirements
 - Open meeting and public records statutes
 - G.L. Chapter 268A (ethics law)
 - Mullin case applies to multi-session hearings; G.L. Ch. 39, Section 23D allows any Board member to miss one session

Principles Applicable to All Hearings:

- Be familiar with legal authority (statute, regulations, bylaw) under which you are acting
- Identify legal requirements/criteria upon which Board or officer must make factual findings
- Give proper legal notice: applicant/licensee, public at large, abutters/interested parties
- Hold public hearing: open, continue, close
- Deliberate: determine facts, based upon evidence introduced during hearing, apply legal criteria, reach decision including any conditions

Additional Principles Applicable to Land Use Hearings:

- Hold public hearing
 - Require applicant to introduce satisfactory proof on each element
 - If necessary, retain own consultant(s) to evaluate applicant's proof (G.L. Ch. 44, §53G)
 - Allow any opponents to make presentation, confined to legal criteria
 - Confine Board members' questioning, remarks to relevant issue(s)
- Deliberate publicly: review legal requirements, evaluate applicant's proof and any opposition in light of those requirements, being careful that Board members' confine analysis to relevant issue(s)
 - Find facts (make determination of facts supporting individual legal criteria)
 - Discuss conditions (must bear reasonable relationship to relief, Dolan v. City of Tigard, U.S. Sup. Ct.); no imposition of impact/exaction fees or other public benefits
 - Vote on decision, with any conditions
 - Draft/authorize staff to draft written decision for subsequent Board review

Additional Principles Applicable to Non-Land Use Hearings (Grants, Suspensions/Revocations):

- Legal standard: abuse of discretion or substantial evidence; importance of "creating record" for judicial review in event of appeal
- Application hearings: require applicant to make presentation
- Suspension/revocation hearings: arrange for another municipal officer to prosecute (make presentation): Police Chief, Board/Commission Agent, Town Attorney, etc.

OVERVIEW OF STATE ETHICS LAW, G.L. CHAPTER 268A, AS REVISED IN 2009
by Mark G. Cerel, Franklin Town Attorney and
Medfield Town Counsel

The Massachusetts State Ethics Law G.L. Chapter 268A is a statute of extremely broad application. The statute defines "municipal employee" as "a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis", excluding only elected town meeting and charter commission members. In 2009, the Legislature revised the statute, expanding prohibited conduct and substantially increasing the penalties for engaging in same. It is therefore important that all municipal employees be familiar with the statute so as not to run unwittingly afoul of legal requirements and prohibitions. The following discussion is intended to assist in this effort by highlighting the most significant aspects of the statute, both as it existed prior to 2009 and with the 2009 revisions.

Section 1 of the statute contains definitions; these were already in place and were not affected by the 2009 legislation. As with any comprehensive statutory scheme, a person needs to start his or her analysis with a close reading of all operative definitions. Of particular significance, are definitions of:

- (a) "Compensation", which includes not only money but economic benefit.
- (c) "Immediate Family" which, in addition to spouse and children, includes both employee's and spouse's parents and siblings.
- (f) "Municipal Agency" which includes both enumerated representatives and "other instrumentality".

- (g) "Municipal employee", the definition of which is set out above.
- (j) "Participate" which includes not only actual decision making but input.
- (k) "Particular matter" which applies to virtually all governmental activities, excepting only municipal home rule petitioning.
- (n) "Special municipal employee" a status that provides limited exemption from the statute based upon being a volunteer or working part-time (works for municipality no more than 800 hours per year).
 - Cannot be mayor, city council member, or selectmen in town with population in excess of 10,000.
 - Position must be expressly classified (voted) by Council or BOS.
 - Designation applies to position, not individual.
 - Failure of Council or BOS to make express classification renders all employees of municipality "municipal employees" subject to all provisions of statute.

Sections 2 and 3 of the statute contain broad prohibitions on bribery, generally. Section 2 prohibits corrupt gifts or solicitations to public officials and Section 3 prohibits public officials from accepting or soliciting. These sections address fairly clear-cut criminal conduct and provide commensurate criminal penalties.

Section 17 of the statute prohibits certain conduct by municipal employees and parallels earlier sections addressed to state and county employees. In particular, the statute prohibits receiving or requesting compensation from a third party in relation to a "particular matter" in which his or her municipality has "direct and substantial interest" or the third party's paying or offering compensation. The statute partially exempts "special municipal employees" from its provision. There are several other stated exemptions

including: representation of immediate family, special municipal employee's assisting another person in performing contractual work for the benefit of the municipality (superior's written certification required), municipal employee's applying for building permit and performing work thereunder as long as not employed by permit-granting agency or its regulator. The 2009 revisions substantially increased both imprisonment and fine; a violation is currently punishable by 2 ½-5 years imprisonment and/or a \$10,000 fine.

Section 18 prohibits certain conduct by former municipal employees including acting as agent or attorney for a third party in any matter in which the person participated while a municipal employee. The 2009 revisions substantially increased both imprisonment and fine; a violation is currently punishable by 2 ½-5 years imprisonment and/or a \$10,000 fine.

Section 19(a) prohibits a municipal employee from participating in a municipal matter in which the employee, his or her immediate family, business entities in which the employee has an interest, or prospective employer has a financial interest. Section 19(b) provides several exemptions:

- municipal employee's written disclosure of interest in advance and determination by person's superior that interest insubstantial.
- Elected municipal employee (Treasurer-Collector) making bank deposits who files written disclosure of financial interest in advance.
- "Particular matter" involves determination of general policy and interest of municipal employee and immediate family is shared with substantial segment of

municipality's population. (Example: school committee member with school-age children).

The 2009 revisions substantially increased both imprisonment and fine; a violation is currently punishable by 2 ½-5 years imprisonment and/or a \$10,000 fine.

Section 20 prohibits a municipal employee from having a financial interest in a contract with the municipality other than his or her own employment contract; this means that a municipal employee cannot hold multiple positions with the municipality, unless he or she falls within a stated exception to the general prohibition. There are a number of exemptions; the first is a process to be followed where the employee proposes to provide personal services to the municipality on a limited basis outside of his or her regular working hours and not involving his or her regular job duties. (Example: school teacher employed by municipal recreation department during summer.) This requires written certification from contracting agency and exemption vote by council or selectmen. Other exemptions include: a qualifying special municipal employee who files a full disclosure of financial interest, and a municipal employee who provides personal services as part-time, call or volunteer emergency personnel (police, fire, ambulance, etc.). The 2009 revisions substantially increased both imprisonment and fine; a violation is currently punishable by 2 ½-5 years imprisonment and/or a \$10,000 fine.

Section 21 was rewritten by 2009 legislation to expand the State Ethic Commission's enforcement authority; this includes the authority to impose a civil fine of up to \$25,000.

Section 23 sets out supplemental standards of conduct applicable to all governmental employees; the 2009 legislation substantially expanded these. The standard now include prohibitions on the following:

1. Accepting compensable employment which is "inherently incompatible" with one's public responsibilities.
2. Soliciting or receiving anything of substantial value (value of \$50) or using official position to secure favorable treatment.
3. Acting in a manner which would cause a reasonable person to conclude that official can be improperly influenced. (Liability can be avoided by official's filing of written disclosure.)
4. Making false or fraudulent claim for payment or compensation.

On the positive side, the legislation authorizes the State Ethics Commission to adopt regulations establishing a definition of "substantial value", exclusions for ceremonial privileges and exemptions, exclusions for family/friendship privileges and exemptions, and additional exclusions where "no genuine risk of conflict or appearance" thereof.



TOWN OF FRANKLIN

RESOLUTION 17 - 67

Adoption of Town Council Procedures Manual

WHEREAS, The newly elected Town Council of the Town of Franklin, recognizing the importance of conducting business in an orderly and efficient manner, wishes to formally adopt the Procedures Manual of the Franklin Town Council, dated March 7, 2012; and

WHEREAS, The Procedures Manual of the Town Council will consist of three documents: the Introduction, The Role of the Town Council, and The Council Procedures.

NOW THEREFORE, BE IT RESOLVED THAT the Procedures Manual of the Town of Franklin is duly adopted and effective until revised or revoked by resolution of the Town Council of the Town of Franklin.

DATED: November ____, 2017

VOTED:

UNANIMOUS _____

YES _____ **NO** _____

ABSTAIN _____

ABSENT _____

A True Record Attest:

Teresa M. Burr
Town Clerk

_____, Clerk
Franklin Town Council

INTRODUCTION

Where there is no law, but every man does what is right
in his own eyes, there is the least of liberty.
---General Henry M. Robert

In order for the Franklin Town Council to function in an orderly fashion, it must be able to meet, discuss, deliberate, debate and vote on the issues that are brought before it. These group discussions and group actions, like group games, require rules, guidelines and procedures to allow for the free and orderly flow of discussion and deliberation. *The Procedures Manual of the Franklin Town Council* was developed to provide such direction to the Council in its deliberations.

The Procedures Manual of the Franklin Town Council has important bearing on the rights, duties, and obligations of the members of the Town Council, as well as on the degree to which the Council membership is to maintain control of the business of the Council. The members of the Council, attending one of its regular or properly called meetings, have full and full and sole power to act for the entire Council, and do so by majority vote, unless dictated otherwise by *Massachusetts General Law*, *The Franklin Town Charter*, or *The Procedures Manual of the Franklin Town Council*.

By the adoption of *The Procedures Manual of the Franklin Town Council* by the Franklin Town Council, the rules within it, together with *Massachusetts General Law* and *The Franklin Town Charter*, are binding upon the Council and constitute the Franklin Town Council's rules of order.

Because no deliberative assembly should attempt to transact business without having adopted some standard manual on the subject of its authority in all cases not covered by its own special rules, The Franklin Town Council adopts *Robert's Rules of Order, Revised* as its standard manual of parliamentary procedure.

ROLE OF THE TOWN COUNCIL

- 1. A member of the Council, in relation to his/her community should:**
 - A. Realize that his/her basic function is to make policy, with administration delegated to the Administrator.
 - B. Realize that he/she is one of a team and should abide by, and carry out, all Council decisions once they are made.
 - C. Be well-informed concerning the duties of a Council member on both local and state levels.
 - D. Remember that he/she represents the entire community at all times.
 - E. Accept the office as a means of unselfish service, not benefit personally or politically from his/her Council activities.
 - F. In all appointments, avoid political patronage by judging all candidates on merit, experience, and qualifications only.
 - G. Abide by the ethics established by the State and not use the position to obtain inside information on matters which may benefit someone personally.

- 2. A member of the Council, in his/her relations with administrative officers of the Town, should:**
 - A. Endeavor to establish sound, clearly defined policies that will direct and support the administration for the benefit of the people of the community.
 - B. Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administration.
 - C. Give the Administrator full responsibility for discharging the duties of his/her office.

- 3. A member of the Council, in his/her relations with fellow Council members, should:**
 - A. Recognize that action at official legal meetings is binding and that he/she alone cannot bind the Council outside of such meetings.
 - B. Not make statements or promises of how he/she will vote on matters that will come before the Council until he/she has had an opportunity to hear the pros and cons of the issue during a Council meeting.
 - C. Uphold the intent of executive session and respect the privileged communication that exists in executive session.
 - D. Make decisions only after all facts on a question have been presented and discussed.
 - E. Treat with respect the rights of all members of the Council despite differences of opinion.

PROCEDURES MANUAL OF THE FRANKLIN TOWN COUNCIL

I. PARLIAMENTARY PROCEDURE

The Council shall be governed by Robert's Rules of Order Revised in all questions of parliamentary practice not provided for by special rules or orders.

II. COUNCIL MEETINGS

Regular meetings of the Council shall be held in the Council Chamber (Municipal Building) on the first and third Wednesday of each month, or as otherwise voted by the Council, commencing at 7:00 PM. [See also Charter: 2-5-1].

III. QUORUM

A quorum of the Town Council shall consist of a majority of its members [Charter: 2-5-2]. If at any time a meeting is called to order, or, if during a meeting a roll call shows less than a quorum present, the Chairman shall declare a recess of not more than ten minutes, after which time, if a quorum is not present, the meeting shall be adjourned. Any member may call for a roll call on the question of the presence of a quorum.

IV. PUBLIC POSTINGS

By law, public notices of all Council meetings, except in emergencies, must be posted with the Town Clerk a minimum of 48 hours before any meeting. The Town Clerk will insure that the notice is posted on the Town Hall bulletin board. Meeting notice forms emanate from the Town Clerk's office and will include the name of the committee and the date, time, and place of the meeting.

V. MINUTES

A written record of each council meeting is required by law and becomes part of the public record. Minutes must contain the date, time and place of the meeting, members present or absent, the names of the makers and seconds of all motions, all formal votes of the Council, and a reasonable summary of discussion. Minutes must be formally accepted by the Council. Minutes of all Council meetings must be placed on file in the office of the Town Clerk where they will be available for public inspection upon request. Video recordings of council meetings will be kept on file at the Franklin Public Library and will be considered part of the official minutes of any meeting of the Council. Video recordings shall be kept for the shelf life of the media, and best available technology shall be pursued to preserve them indefinitely.

VI. THE CHAIRMAN -- POWERS AND DUTIES

The Chairman, or Vice Chairman in the absence of the Chairman, shall take the Chair at the hour appointed for the Council to meet and shall immediately call the members to order. In the absence of the Chairman, the Vice Chairman shall assume the role of Chairman pro tem. The Clerk will designate a presiding Chair by seniority in the event both the Chairman and Vice Chairman are absent.

VII. PRESERVATION OF DECORUM AND ORDER AND APPEALS FROM DECISION OF THE CHAIR.

The Chairman shall preserve decorum and order, may speak to points of order in preference to other members, shall decide all questions of order, subject to an appeal to the Council, regularly seconded, and no other business shall be in order until the question on the appeal shall have been decided. The question shall be put as follows: "Shall the decision of the Chair stand as the judgment of the Council?" The vote shall be

by roll call, and it shall be decided in the affirmative unless a majority of the Councilors present and voting vote to the contrary.

VIII. VIVA VOCE AND RAISED HANDS

All questions shall be stated and put by the Chairman. In case of a roll call vote, the Chairman shall declare the result, after the Clerk has announced the number voting on each side. The results of viva voce votes shall be declared by the Chairman without reference to the Clerk. Where a raised hand vote is taken, the Chairman shall count and announce the result. Where the result of a viva voce vote is in doubt, the Chairman may, and on demand of any member, shall call for a division of the Council, which shall be taken by a show of hands, or by a roll call if requested by any Councilor. It shall not be in order for members to explain their votes during the call of the roll.

IX. THROUGH CHAIR

All remarks and questions shall be addressed to the Council as a whole through the Chair and not to any member thereof. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the Council without permission of the Chairman.

X. RECESS

The Chairman may at any time, during debate or otherwise, declare a recess for not more than ten minutes, and such action shall not be subject to appeal, nor shall any motions apply thereto.

XI. ADDRESSING THE CHAIR

Every member speaking to a question or making a motion shall address the Chair as "Mr./Madame Chairman," who shall thereupon pronounce the name of the member entitled to the floor. Members addressing the Council shall confine themselves to the question under debate and avoid personalities; nor shall there be any conversation among the members while a question is being stated, while a member is speaking, or a paper is being read. If a member is speaking or otherwise transgresses the rules of the Council, any other member may call the offending member to order by addressing the Chair.

XII. CHAIR MAY SPEAK

The Chairman may speak in favor of, or in opposition to, any motion and will be bound by the same rules as those which are applied to other speakers; i.e., speaking once for no more than three minutes, and not to speak again until all others who wish to speak have spoken once.

XIII. CITIZENS COMMENTS

The Franklin Town Council encourages citizens to attend its meetings and welcomes their views on pertinent subjects. Anyone may comment at this time for up to five minutes. The Council will not engage in dialogue with the audience. However, the Council will give your remarks appropriate consideration.

Citizens present who wish to speak on an agenda item may do so after all Councilors who wish to speak on the item have spoken. Those citizens who wish to speak shall be limited to one three-minute response. [SEE ALSO CHARTER: 2-5-3].

XIV. POINT OF ORDER

Any Councilor on being called to a point of order shall cease debate until the point of order is decided, unless allowed by the Chairman to explain.

XV. ELECTION OF OFFICERS

A majority of all members elected to the Council (5) shall be required to elect a Chairman, Vice Chairman, and Clerk.

XVI. VOTE REQUIREMENTS

All votes on by-laws shall be by roll call [Charter: 2-6-5].

For other actions requiring a by-law [see Charter: 2-7-1].

All action taken by the Town Council requiring a vote will be by a simple majority (majority of Councilors present and voting) unless otherwise provided for in the Massachusetts General Laws, Home Rule Charter, By-laws, or by Rules set forth in the Procedures Manual of the Franklin Town Council.

Resolutions require a simple majority.

In case of a tie in votes on any proposal, the proposal shall be considered lost.

A Town By-law requires a majority vote of the full Council (5). Vote is by roll call [Charter: 2-6-4 and 2-6-5].

A Zoning By-law requires two-thirds vote of the full Council (6). Vote is by roll call [MGL Ch. 40A, Sec.5].

A properly protested* Zoning By-law requires a three-quarters vote (7) of the full Council. Vote is by roll call. [*Properly protested = written protest filed by owners of at least 20% of affected land area; or, of adjacent land 300 feet therefrom: [MGL Ch. 40A, Sec. 5].

An Emergency By-law requires a two-thirds vote of the full Council (6). Vote is by roll call [Charter: 2-6-3]. Two votes are needed: One on the emergency [2/3 vote of the full Council (6)], and one on the By-law [2/3 vote of the full Council (6)].

To take money from the Stabilization Fund for any municipal expenditure requires a two-thirds vote of the Council membership (6) [MGL Ch. 40, Sec. 5b].

Unpaid bills require 2/3 vote (Councilors present and voting) [MGL Ch. 44, Sec. 64].

Other business may be conducted if the Council has a quorum, and may be passed by a majority of the quorum [Charter: 2-5-2].

Any Rule, Regulation, or other local legislation which provides for the imposition of any fine or penalty shall be provided for by the adoption of a By-law.

In order to expedite the Council's deliberations when considering lengthy proposed By-laws, when the reading of said proposed By-laws has been waived, and yet not to deprive the public of the nub of the matter at hand, a brief summary of the substance of the proposed By-law will be attached to it for reading by the Clerk of the Council.

The Chair may require that a vote be taken on any item before the Council if failure to do so would make the item illegal to adopt because of the expiration of a federal or state mandated time limit or similar circumstance.

XVII. READINGS

Every By-law, unless rejected, shall have two separate readings and shall be voted only after two separate readings; the second of said readings and votes will not be less than fourteen days after the first, except in cases in which a shorter period is authorized by law. Any order rescinding or amending a By-law shall require the same number of readings and of votes as was required for the passage of the original By-law.

XVIII. RESUBMISSION

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for resubmission, unless resubmission is approved by a majority of the Council present, or as otherwise provided by the Charter or Massachusetts General Law.

A zoning by-law which is voted down may not be reconsidered within two years unless the Planning Board makes a recommendation to do so, [MGL Ch. 40A, Sec. 5].

XIX. SPONSOR ABSENCE

In the event that the sponsoring member of any order, resolution, or other matter is not present when the Clerk reads said matter, the Chairman shall instruct the Clerk to withdraw said matter from consideration at that meeting.

XX. MOTIONS

The order of precedence of motions shall be as follows:

1. Motion to recess
2. Raise a question of privilege
3. Lay on the table
4. Suspend the rules (two-thirds vote)
5. Previous question (two-thirds vote)
6. Limit or extend limits of debate (two-thirds vote)
7. Postpone to a certain time
8. Commit or refer
9. Amend
10. Postpone indefinitely
11. Main Motion

The highest in rank being at the head of the list and the lowest in rank at the last of the list. When any one of them is immediately pending, the motions before it on the said list are in order and shall be acted upon first, and those below are out of order.

The following motions shall be non-debatable:

1. To adjourn
2. To recess (when privileged)
3. To raise a question of privilege
4. To lay on the table
5. To suspend the rules
6. Previous question (two-thirds vote)
7. To limit or to extend limits of debate (two-thirds vote)

The following motions only can be amended:

1. To recess
2. To postpone to a certain time
3. To commit or refer
4. To amend
5. Main motion

A motion to adjourn shall be in order at any time except upon immediate repetition.

XXI. WRITTEN PROPOSALS

All proposed By-laws, Orders, and Resolutions shall be in writing and shall bear the name of the sponsor.
[Adopted 9-2-98]

XXII. PERSONAL PRIVILEGE

The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character, or motives are assailed, questioned, or impugned.

XXIII. ORDER OF BUSINESS AND AGENDA

At every meeting of the Council the standard order of business shall be as follows:

- A. Approval of Minutes
- B. Announcements from the Chair
- C. Proclamations
- D. Citizen Comments
- E. Appointments
- F. Hearings
- G. License Transactions
- H. Presentations/Discussions
- I. Subcommittee Reports
- J. Legislation for Action
- K. Town Administrator's Report
- L. Old Business
- M. New Business
- N. Council Comments
- O. Executive Session
- P. Adjourn

Only privileged motions (to adjourn; to recess; personal privilege; or orders of the day) shall be made during "Council Comments".

During "New Business," the Council shall consider only those matters that relate to or concern potential legislation. If a "simple majority as required by charter" of the Councilors present during "New Business" so determine, such matters will be included on a future agenda for consideration by the Council. Debate during "New Business" shall be limited to whether the matter raised shall be included on an agenda in the future and each Councilor shall be limited to three minutes.

The above order shall not be changed except by a vote of a majority of all the members of the Council; and upon the motion to change the order, no debate shall be allowed. Additions to this order may be made by the Chairman and/or Town Administrator when setting the agenda (Example: Committee Reports).

All items for the agenda, including any relevant communications and reports from the Town Administrator, other town officers and town boards, shall be submitted to the Town Administrator's office no later than 10:00 AM on Thursday preceding the regular Council meeting.

Copies of said reports and agenda shall be delivered to the Town Council members no later than Friday preceding the regular Council meeting. Late items require a two-thirds vote of the members of the Council to be allowed at the Council meeting.

The agenda will be prepared by the Town Administrator with input from and approval by the Council Chairman, or, in his absence, the Vice Chairman of the Council, and then prepared for presentation by the Town Administrator's office staff.

XXIV. HEARINGS

The time devoted to public hearings at any meeting of the Town Council shall not be more than three (3) hours at any one sitting. Any hearing not completed within the specified time may be continued to another meeting. Hearings which are authorized by the order of the Council shall have precedence and shall be followed by public presentations. In all hearings before the Council, the case of the petitioner shall be first submitted, except where the Chairman of the Council rules otherwise.

Public hearing format (after petitioner's presentation):

1. General questions from public
2. Public speaking in favor
3. Public speaking in opposition
4. Questions from Town Councilors

Debates on the merits of the petition shall be reserved until and if there is a motion duly made and seconded at the appropriate time and date following the hearing.

This format shall not apply during public hearings to consider the annual budget, when normal Council budget format is followed.

XXV. COMMITTEES

Committees shall be authorized by majority vote of the Council. Appointments to committees of the Council are made by the Chairman in concert with Town Administrator. Appointed individuals shall receive notification of their appointment from the Chairman prior to the public announcement of the makeup of the committee. Notice of all committee meetings must adhere to MGL C 39 § 23 A & B (Open Meeting Law)

XXVI. COMMITTEE MEETINGS

A committee shall meet on the call of the Committee Chairman, or a majority of its members.

XXVII. COMMITTEE QUORUM

A majority of the members of a committee shall constitute a quorum.

XXVIII. COMMITTEE REPORTS

The Chairman of the Council, upon receipt of the Committee Report, shall call for the vote on the motion, petition, or order as introduced by the Committee, so that the vote would be on that motion, petition, or order, and not on the Committee Report itself.

When debate centers around committee reports, committee members may be recognized beyond the time limit to answer questions.

Documents referred to in committee shall be returned with the report.

Nothing in this rule shall be construed to prohibit the introduction of minority reports.

XXIX. RELIEVING FROM FURTHER CONSIDERATION

Upon motion, the Council may, by a majority vote of all members of the Council, relieve a committee of further consideration of a matter referred to it and order the same placed on the agenda.

XXX. MOTIONS FOR RECONSIDERATION

After a motion has been passed or defeated, any member voting with the prevailing side may move for reconsideration, which shall be open to debate. A motion to reconsider a vote shall be in order at the same or the regular meeting next succeeding that at which the vote was passed, provided a motion "to reconsider and enter into the minutes" is made at the meeting at which the vote was taken. No more than one motion for reconsideration of any vote shall be entertained. In the case of a question decided by a tie vote, the prevailing side shall be considered to be the one in whose favor the question was decided.

XXXI. DEBATE DECORUM

Every member when about to speak shall address the Chair and wait until recognized by the Chairman. No member shall be recognized if not seated. In speaking, the member shall be confined to the question, shall not use unbecoming, abusive, or unparliamentary language, and shall avoid personalities. Any member who, in debate, Council related correspondence or otherwise, indulges in personalities or makes charges reflecting upon the character of another member, or of citizens, shall make an apology in open session at the meeting at which the offense is committed or at the next succeeding regular meeting and, failing to do so, shall be named by the Chair or held in contempt and suspended from further participation in debate until said apology is made.

XXXII. DEBATE LIMITATION

No member shall speak more than once on a question when another member who has not spoken claims the floor, and no member speaking shall, without his consent, be interrupted by another, except on a point of order. A member may speak upon a matter for no more than three (3) minutes at a time. A councilor may yield all or part of his or her time to another councilor. A member who has not spoken on a matter shall have priority and recognition by the Chair.

The Clerk of the Council shall inform the Chairman whenever a member has spoken longer than three minutes.

XXXIII. CONFLICTS OF INTEREST

No member shall vote on any matters, or serve on any committee, where the member's private or family interest will conflict with the public's interest in a way that is violative of the Conflict of Interest Law, MGL. Ch. 268A.

XXXIV. OPEN MEETING LAW

The Open Meeting Law gives the public and the press a legal right to attend all meetings of regional and municipal boards and committees, except when the board or committee votes to go into Executive Session.

Before the Executive Session can be called, the following procedure must be followed:

1. An open session, for which notice has been posted, must first convene.
2. The Chairman must cite the purpose for the Executive Session, give an estimate of the length of the Executive Session, and state whether or not the Council will reconvene thereafter in open session.
3. A majority of Council members must vote, by roll call, to go into Executive Session, and the vote must be recorded in the Council minutes.

Executive Sessions can be held only when the following matters are discussed or considered:

1. The reputation and character, physical condition or mental health, rather than the professional competence of an individual; individuals involved must receive written notice, forty-eight (48) hours in advance of a proposed Executive Session, unless such notice is waived;
2. Discipline or dismissal or the hearing of complaints or charges against an individual; individuals involved must receive written notice forty-eight (48) hours in advance of a proposed Executive Session, unless such notice is waived;
3. Strategy for collective bargaining, contract negotiations with non-union personnel, or litigation, where open discussion of the same may have a detrimental effect;
4. Collective Bargaining and contract negotiations with non-union personnel may be conducted in Executive Session;
5. Deployment of security personnel or devices;
6. Allegations of criminal misconduct;
7. Transactions in real property, where open discussion may have a detrimental effect on such transactions;
8. Matters required by statute or other law to be kept private;
9. Interviews by preliminary screening committees with applicants for employment if public interviews will have detrimental effect on obtaining qualified applicants.
10. Mediation concerning litigation or public business decisions provided that (a) the decision to do so is made publicly, and (b) decisions on mediation issues are made publicly.

Votes and proceedings in Executive Session may be kept private, as long as privacy will serve the purpose for which the Executive Session was called.

All votes taken in Executive Session must be by roll call [MGL. Ch. 39, Sec. 23B].

XXXV. SPECTATOR DECORUM

Guests will be allowed in the gallery of the Council chamber when the Council is in session. No demonstrations of approval or disapproval from guests shall be permitted, and if such demonstrations are made, the gallery may be cleared by the Chairman.

XXXVI. REMOTE PARTICIPATION POLICY

Remote Participation Shall:

1. Be limited to one member per meeting, on a first come first serve basis;

2. Require a four hour notice be given to the Chair and Town Administrator's Office;
3. Be limited to use in the Council Chambers;
4. Shall not be allowed by subcommittees;
5. Shall not be allowed during executive sessions.

If technical problems interrupt the call, the chair will wait up to three minutes to allow for the reconnection prior to resuming the meeting. If the member is disconnected, the fact and time shall be noted in the minutes. If the party reconnects, the fact and time shall be noted in the minutes.

XXXVII. AMENDMENT AND REPEAL

None of the foregoing rules and orders shall be amended or repealed at any meeting unless a simple majority of those members present and voting consent thereto and a motion for that purpose shall not be made and acted upon at the same meeting.



TOWN OF FRANKLIN

RESOLUTION 17 - 68

Authorization for Installation on the Town Common

BE IT RESOLVED BY THE FRANKLIN TOWN COUNCIL THAT:

Pursuant to the Code of the Town of Franklin Article 1, §37-1., the Town Council of the Town of Franklin votes to authorize the expansion and construction of the existing veterans' war memorial on the Town Common, substantially as depicted on the attached conceptual plan.

This resolution shall become effective according to the rules and regulations of the Town of Franklin Home Rule Charter.

DATED: _____, 2017

VOTED:

UNANIMOUS: _____

A True Record Attest:

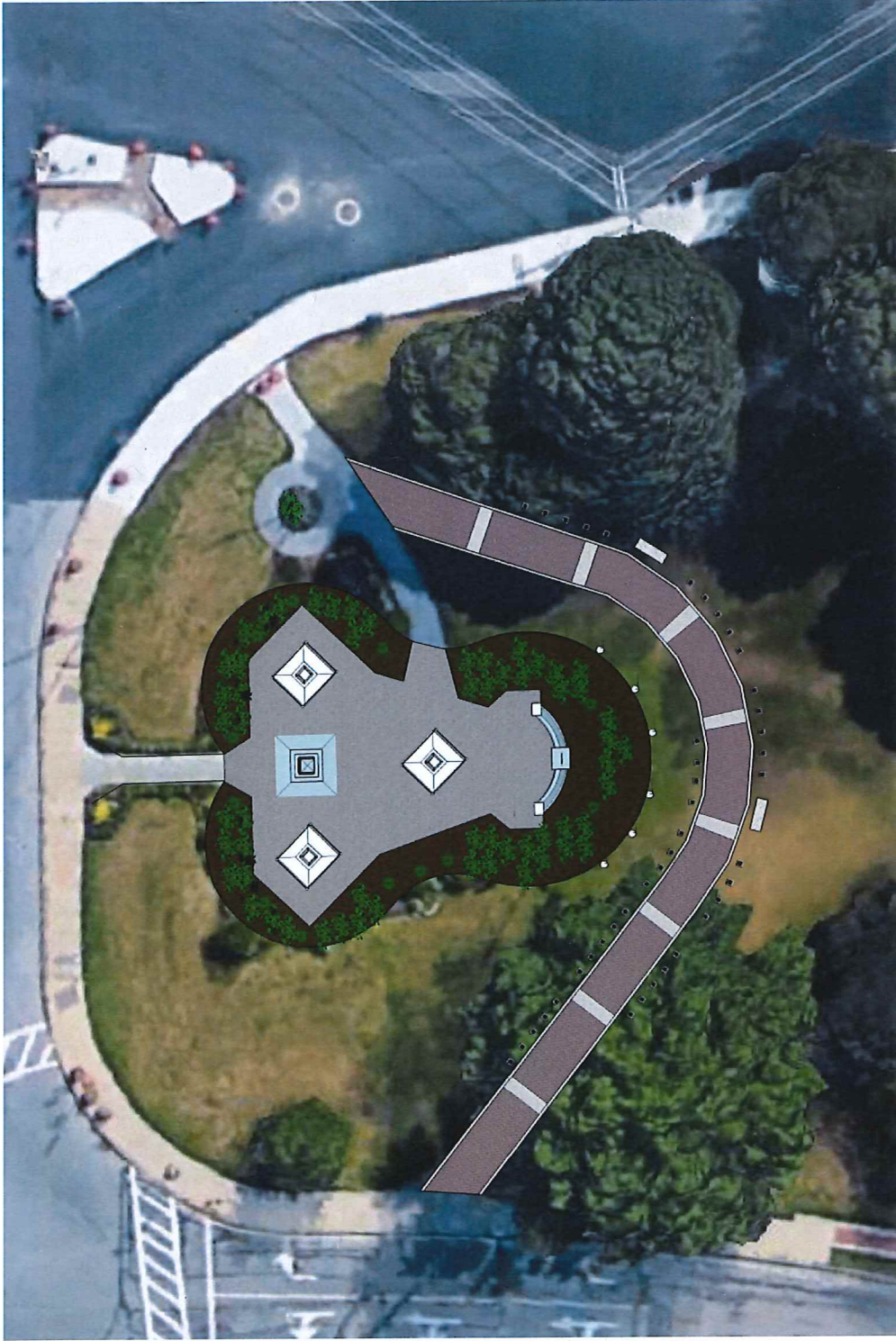
YES: ____ **NO:** ____

Teresa M. Burr
Town Clerk

ABSTAIN: ____ **ABSENT:** ____


, Clerk
Franklin Town Council

Aerial View



Memo

To: Town Council
From: Jeffrey Nutting, Jamie Hellen
Date: November 8, 2017
Re: Transfer of funds to the Budget Stabilization Account



Each year we estimate the "New Growth" in property taxes in February when we are putting the budget revenue estimates together. The estimate is based on previous years' information and any other information the Assessor may have at the time. The actual amount is usually available about November 1st. This year we have good news.

The final amount will provide \$325,000 more revenue.

Given the financial difficulty we are facing in FY 19, I suggest the funds be appropriated to the Budget Stabilization account. The Budget Stabilization account was established several years ago in anticipation of helping to "get over the hump" of a tough financial position. While we should not use all the funds at once in the Budget Stabilization account, adding to the account will provide a little more flexibility as we struggle to balance the budget next year.

The current balance in the account is \$1,365,000. I would be happy to answer any questions that you may have.

cc: Finance Committee



Sponsor: Administration

TOWN OF FRANKLIN

RESOLUTION NO.: 17-69

APPROPRIATION: Operating Budget Stabilization Fund

AMOUNT REQUESTED: \$ 325,000

PURPOSE: To raise and appropriate funds for the Operating Budget Stabilization Fund.

MOTION

Be It Moved and Voted by the Town Council to Raise and Appropriate the sum of Three hundred twenty-five thousand dollars (\$325,000) for the Operating Budget Stabilization Fund.

DATED: _____, 2017

VOTED:

UNANIMOUS _____

YES _____ **NO** _____

ABSTAIN _____

ABSENT _____

A True Record Attest:

Teresa M. Burr
Town Clerk

Franklin Town Council, Clerk