

**FRANKLIN TOWN COUNCIL  
MINUTES OF MEETING  
December 2, 2020**

A meeting of the Town Council was held on Wednesday, December 2, 2020, at the Municipal Building, 2<sup>nd</sup> Floor, Council Chambers, 355 East Central Street, Franklin, MA; residents could attend and participate via the Zoom platform. Councilors present: Andrew Bissanti, Brian Chandler, Robert Dellorco, Melanie Hamblen, Glenn Jones, Matthew Kelly, Thomas Mercer, Deborah Pellegrini. Councilors absent: None. Administrative personnel in attendance: Jamie Hellen, Town Administrator; Mark Cerel, Town Attorney (via Zoom); Chrissy Whelton, Assistant to the Town Administrator.

**CALL TO ORDER:** ► Chair Mercer called the meeting to order at 7:00 PM. He called for a moment of silence and all recited the Pledge of Allegiance.

**ANNOUNCEMENTS:** ► Chair Mercer stated, as posted on the agenda, due to the continued concerns regarding the COVID-19 virus and Governor Baker's declared State of Emergency, we will be conducting a remote/virtual Town Council meeting for all public access and participation. The public will not be permitted to enter the building or participate in person. Only pre-approved participants on the meeting agenda will be allowed to enter the building and participate in person. Residents can attend and participate via the Zoom platform. In an effort to ensure citizen engagement and comply with open meeting law regulations, citizens will be able to dial into the meeting using the provided phone number, or citizens can participate by clicking on the link provided on the agenda. The provided link and phone number will be active for the duration of the meeting for citizens to ask questions/voice concerns. If residents are just interested in watching the meeting, it will also be live-streamed by Franklin TV and shown on Comcast Channel 11 and Verizon Channel 29. This meeting is being recorded by Franklin TV and may also be recorded by others. He stated the Temporary Town Clerk would like to speak. ► Temporary Town Clerk Nancy Danello gave condolences to the family of Mr. Charlie Repeta, election worker. She reminded everyone of the election on Saturday, December 5, 2020, 7 AM to 8 PM, at the high school. She wished everyone a happy holiday season. ► Ms. Pellegrini asked how election day was moved to a Saturday and the voting hours were changed as only the Town Council can make those changes, and the Town Council did not. ► Ms. Danello stated the date was changed to a Saturday because it was a special election; the time was changed for the state election, as well. ► Town Attorney Mark Cerel stated he was not in the loop when the decisions were made.

**CITIZEN COMMENTS:** ► Mr. Alan Earls, 23 Marvin Avenue, spoke about his experience at the last election on November 3, 2020. He stated that he was speaking with people in the parking lot as they were going to vote regarding his running in the upcoming special election in December. He was approached by a member of the Town Clerk's office who stated he was bothering people and had to stop. He looked up the law and it states a person is allowed to do almost anything outside of the 150 ft. exclusion zone. He returned to the parking lot and continued to speak to people as it is not illegal. He recounted his experience regarding the candidate's night Zoom call. An individual from the Committee told him he repeatedly violated the campaign laws and the 20-30 rules agreed to by the Town that he had never heard about. He also learned he was not the only person told to stop speaking with people during the November 3<sup>rd</sup> election. He contacted the Department of Elections and Franklin's deputy police chief. They agreed he was exercising his normal rights as a citizen. He stated that given that there is a rumored set of rules around that no one seems to know about, it would be good if the Town Council could clarify that there is only one law, the State's law, unless there is some other law that is not known about. He stated that no one operating within the law should be harassed; he stated that this is another sad step in the Town's impingement of free speech.

**APPROVAL OF MINUTES:** None.

**PROCLAMATIONS/RECOGNITIONS:** None.

**APPOINTMENTS: None.**

**HEARINGS: 7:10 PM**

► **Franklin Tax Classification Hearing** - Legislation for Action Items: 10a., 10b., 10c., 10d. ► Chair Mercer declared the hearing open. ► Mr. Hellen explained this is the annual Tax Rate Hearing. The hearing is required by Massachusetts law for the Town Council to set the FY21 tax rate for July 1, 2020 to June 30, 2021. Information from the Assessor's Office on the tax rate hearing is provided in the Town Council's meeting packet. He noted that the average median house value has increased in Franklin by 2.8 percent, and the proposed tax rate is \$14.65. The related four resolutions listed under Legislation for Action need to be voted on annually per state law. He thanked the Assessor's Office for all their hard work especially during COVID. ► Mr. Kevin Doyle, Director, Assessor's Office, thanked various Town departments for their support. He stated this hearing is to determine if the Town will continue with a single tax rate or look at the option of a dual tax rate. He stated that historically, the Town has always had a single tax rate. The Town is 81 percent residential and 19 percent commercial/industrial. He stated there are four items to be voted on by the Town Council. The first resolution is relative to the tax rate. The second resolution relates to a specific classification of property which has not been elected by the board of assessors. The third resolution regards the residential exemption mostly involving communities having a large non-resident ownership of property. The fourth resolution regards the small commercial exemption. As shown on his slideshow presentation, Mr. Doyle addressed six property classes and their associated new growth valuations. He discussed the levy limit for fiscal year 2021. He reviewed historically from 1988 the assessed value for the average residential single-family and the certified tax rate for each year. ► Town Council members asked questions. ► Mr. Christopher Feeley, Board of Assessors member, explained the calculation to determine the tax rate. ► Mr. Hellen noted that each community makes the decision to have a single or dual rate based on their own community make up. Most communities around Franklin have a single rate. ► Mr. Doyle reviewed the highest valued commercial properties in Franklin. ► Mr. Dellorco stated he was in favor of keeping a single tax rate. He indicated concern for commercial properties during these times. ► Mr. Kelly stated that commercial buildings employ residents and do not use many of the Town's resources. He would not be in favor of a dual tax rate. He stated that we need to encourage more businesses to come to Franklin. ► Mr. Hellen stated that under State law, the tax levy raises 2.5 percent each year. If it was lowered, services and/or employees would be cut. The local guidance is regulated by the State; there is not a lot of flexibility. ► **MOTION to Close** the public hearing for Franklin Tax Classification Hearing by **Kelly. SECOND** by **Jones. No discussion.** ► **VOTE: Yes-8, No-0, Absent-0.**

**LEGISLATION FOR ACTION:**

**Note:** Two-Thirds Vote requires six votes; Majority Vote requires majority of members present and voting.

- a. **Resolution 20-68: Tax Classification Residential Factor (Motion to Approve Resolution 20-68 - Majority Vote).** ► Mr. Jones read the resolution. ► **MOTION to Approve** Resolution 20-68: Tax Classification Residential Factor will be set at [1.000000] by **Dellorco. SECOND** by **Kelly. No Discussion.** ► **VOTE: Yes-8, No-0, Absent-0.**
- b. **Resolution 20-69: Tax Classification - Open Space Exemption (Motion to Approve Resolution 20-69 - Majority Vote).** ► Mr. Jones read the resolution. ► **MOTION to Approve** Resolution 20-69: Tax Classification - Open Space Exemption, that there not be an exemption for open space, by **Dellorco. SECOND** by **Hamblen. No Discussion.** ► **VOTE: Yes-8, No-0, Absent-0.**
- c. **Resolution 20-70: Tax Classification Small Business Exemption (Motion to Approve Resolution 20-70 - Majority Vote).** ► Mr. Jones read the resolution. ► **MOTION to Approve** Resolution 20-70: Tax Classification Small Business Exemption, that there not be an exemption for small businesses, by **Dellorco. SECOND** by **Hamblen. No Discussion.** ► **VOTE: Yes-8, No-0, Absent-0.**

- d. Resolution 20-71: Tax Classification Residential Property Exemption (Motion to Approve Resolution 20-71 - Majority Vote).* ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 20-71: Tax Classification Residential Property Exemption, that there not be an exemption for residential property, by Dellorco. SECOND by Hamblen. No Discussion. ► VOTE: Yes-8, No-0, Absent-0.**

#### **HEARINGS (continued): 7:10 PM**

##### **► Comcast of Massachusetts II, Inc. Cable Television Renewal License 12/2/2020 - 12/1/2030 -**

Legislation for Action Item: 10e. ► Chair Mercer declared the hearing open. ► Mr. Hellen reviewed that this is the public hearing for the Comcast cable license. He requested the Town Council's consideration of the Cable License Renewal Agreement between the Town of Franklin and Comcast of Massachusetts II, Inc. provided in the Town Council's meeting packet. He stated the Town Administration worked with Attorney William Solomon and Franklin Cable Access to obtain the best contract with Comcast Cable for the Franklin Community. The renewal term for this agreement will be from December 2, 2020 to December 1, 2030. The agreement is commensurate with other providers in Town and with the current market for cable service. He noted that there are almost 5,000 Comcast cable subscribers in Franklin. He reviewed that Comcast offers a basic service to all; however, they are pleased to provide a discount for qualified senior citizens in Franklin. Comcast will offer \$2.00 off its monthly "Extra" service level or Digital Level of service. This discount will be provided to those subscribers aged sixty-five (65) or older, who are Heads of Households and are income eligible. He noted that cable companies are regulated by the federal government. ► Town Council members asked questions. ► Mr. Hellen stated a 10-year contract is required. ► Mr. Cerel stated that it is in the Town's best interest to get the longest contract as it supports PEG access. ► Attorney Solomon concurred with Mr. Cerel and outlined the benefits of a 10-year license. ► Mr. Hellen stated that if someone was unhappy with Comcast, they could switch to Verizon. ► Mr. Solomon reviewed the license provisions that Comcast must comply with. ► Mr. Chandler asked about the provision regarding if a resident loses cable for 24 hours or more. ► Ms. Cathy Maloney, Comcast representative, stated that a subscriber must call if they have lost service in order to get a prorated bill for the period of non-service. She reviewed the tree trimming procedures for the lines. She explained that they work with customers all the time on billing concerns and provide all options as they do not want to lose a customer. ► Ms. Pellegrini stated the \$2.00 reduction for seniors is an injustice as the bills keep going up. She stated this has to be looked into. ► Mr. Kelly stated that having contracts with both Verizon and Comcast creates competition and possibly price decreases. ► Mr. Rod Crochiere, 1 Summit Road, stated he noticed a trend that people are going with streaming services. Most people only need internet access as even children need internet access for school. Most often, the companies make subscribers buy bundled services in order to get internet service. He asked if Comcast is going to start increasing billing for content downloads. ► Ms. Maloney stated no. ► Mr. Shaun Kennedy, 99 Miller Street, stated he heard Comcast is going to impose data usage caps. ► Ms. Maloney stated it is not a cap. However, Comcast just introduced that if a customer goes over a data usage amount there would be increased costs; more information will be provided in the future. ► **MOTION to Close the public hearing for Comcast of Massachusetts II, Inc. Cable Television Renewal License 12/2/2020 - 12/1/2030 by Dellorco. SECOND by Hamblen. No discussion. ► VOTE: Yes-7, No-1, Absent-0.**

#### **LEGISLATION FOR ACTION (continued):**

- e. Resolution 20-72: Comcast of Massachusetts II, Inc. Cable License Renewal (Motion to approve Resolution 20-72 - Majority Vote).* ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 20-72: Comcast of Massachusetts II, Inc. Cable License Renewal by Dellorco. SECOND by Hamblen. No Discussion. ► VOTE: Yes-7, No-1, Absent-0.**
- f. Bylaw Amendment 20-863: Chapter 82, Municipal Service Fees - Temporary Reduction in Municipal Service Fees for Common Victualer All Alcohol and Wine & Malt Licenses for the 2021 License Renewal Season - Second Reading (Motion to Adopt Bylaw Amendment 20-863 - Majority Roll Call Vote).* ► **MOTION to Adopt Bylaw Amendment 20-863: Chapter 82, Municipal Service Fees - Temporary Reduction in Municipal Service Fees for Common Victualer All Alcohol and Wine & Malt**

Licenses for the 2021 License Renewal Season by **Dellorco**. **SECOND** by **Hamblen**. **Discussion:** ► Mr. Hellen stated this is the second reading of a proposed temporary bylaw that is also being done in other towns. This is a 25 percent reduction in the licensing fee for the restaurants in Franklin. He noted it will be a difficult winter for restaurants due to COVID. ► Mr. Cerel stated a public hearing is required before the second reading of this bylaw amendment. Therefore, he recommended opening the public hearing and taking public input before proceeding with this Legislation for Action item.

#### **HEARINGS (continued): 7:10 PM**

► **Bylaw Amendment 20-863: Chapter 82, Municipal Service Fees - Temporary reduction in Municipal Service Fees for Common Victualer All Alcohol and Wine & Malt Licenses for the 2021 License Renewal Season** - Legislation for Action Item: 10f. ► Chair Mercer declared the hearing open. ► Town Council members asked questions. ► Ms. Hamblen stated this could help local restaurants. ► **MOTION to Close** the public hearing for Bylaw Amendment 20-863: Chapter 82, Municipal Service Fees - Temporary reduction in Municipal Service Fees for Common Victualer All Alcohol and Wine & Malt Licenses for the 2021 License Renewal Season by **Jones**. **SECOND** by **Hamblen**. **No discussion**. ► **VOTE: Yes-8, No-0, Absent-0**.

► Chair Mercer confirmed there is an active Motion and Second on the floor for Bylaw Amendment 20-863: Chapter 82, Municipal Service Fees - Temporary Reduction in Municipal Service Fees for Common Victualer All Alcohol and Wine & Malt Licenses for the 2021 License Renewal Season - Second Reading. **No Discussion**. **ROLL CALL VOTE: Bissanti-YES; Chandler-YES; Dellorco-YES; Hamblen-YES; Jones-YES; Kelly-YES; Mercer-YES; Pellegrini-YES**. ► **VOTE: Yes-8, No-0, Absent-0**.

**LICENSE TRANSACTIONS: None.**

**PRESENTATIONS/DISCUSSIONS:** ► ***Cyber Fraud Spear Phishing Incident: Town Administrator Jamie Hellen and IT Director Tim Rapoza.*** ► Mr. Hellen stated the Town was a victim of a spear phishing attack in September. Tonight's presentation is designed to tell the story of what happened and what was done about it. He stated it will be a long presentation with a lot of material. He narrated a slideshow presentation. He reviewed the goals of the presentation and noted it remains a fluid situation. He stated that some personnel matters cannot be disclosed or discussed per various state laws. There is still an active police investigation. This is an update on the situation, not a conclusion. He noted that individual liability could apply. ► Mr. Rapoza discussed the definition of cybersecurity. He reviewed the definition of computer system which includes the user. He reviewed computer areas of security. He discussed the methodologies in place today including internet security, LAN security, client (device) security, physical security, WIFI security, and end user security. He stated no anti-malware software will ever be 100 percent effective. He discussed the human element and explained that technology cannot protect against fraud and clicking done by the human element. He reviewed the definitions and discussed phishing, spear phishing, and ransomware. Ninety-one percent of cyberattacks and the resulting data breach begin with a spear phishing email. Research shows that users are the weak link in IT security. He explained that he wanted to dispel the notation that the Town had a cyberattack or hack. He stated that the Town's systems were not breached and no malware was on the Town's systems. He reviewed phishing and malware statistics. He reviewed that user training and diligence is an integral part, if not the most important part, of protecting ourselves from attackers. ► Mr. Hellen continued the presentation and stated the Town of Franklin has been the victim of a sophisticated cyber fraud spear-phishing attack; this is confirmed by Police Chief Thomas Lynch, Director Rapoza, Attorney Cerel, and Special Counsel Kerwin. The Town Treasurer-Collector was targeted via a spear phishing campaign based on a false profile. The Town Treasurer did not verify the request which resulted in an initial loss to the Water Enterprise Fund of \$522,696.65. No other Town or School financial accounts have been affected; it is solely the loan payment on that one project. He explained that the Town of Franklin Water Department is currently building a new \$13 million water treatment plant and rebuilding two wells (3 and 6) near Grove Street through a stable, low interest loan from the State Revolving Fund. The project is currently under budget by \$420,000. He discussed the initial response strategy and priorities regarding the incident.

The Town has done their due diligence to get as many facts as possible and address several themes. He discussed the findings to date which include, but are not limited to, that the initial loss of \$522,696.65 occurred in August. It was not discovered until September when the contractor informed Franklin they had not been paid. The wiring bank was notified in an attempt to recall the wire and Franklin Police were notified. He reviewed the process used by the fraudster to contact the Treasurer and change the form of payment from check to wire transfer. There were 23 exchanges between the Treasurer and the fraudster which resulted in the Treasurer authorizing the wire transfer of funds to an account which was not the account of the real vendor. The funds were misdirected to a bank in California. On September 28, 2020, the Town Administrator was notified by the Town's Finance Director of the misdirected payment. The Town Administrator contacted the Town's insurance agent, MIIA, the Chief of Police, Technology Director, and the Town Attorney. He said that the incident was the result of human error. He noted that the Town began using wire transfers around 2010. He stated the Town is working with their financial auditors to develop a new wire transfer policy. The Town of Franklin has sound financial practices and this will highlight some areas of improvements. He stated that an internal audit of electronic systems has been conducted. He stated that he has no evidence, to date, from the forensics analysis that there was intentional, malicious, willful, or suspicious conduct by the Treasurer-Collector. He reviewed the financial recovery. The initial loss for the Water Enterprise Fund ratepayers is \$522,696.65. Through the Town's insurance carrier, MIIA, \$200,000 will be restored to the loss/project. Through employee discipline issued, \$22,696.65 of losses will be restored. The financial impact to the average property owner who pays into the Water Enterprise Fund is approximately \$30.00. He discussed litigation options and third-party lawsuits. He explained that at the recommendation of the Town Administrator, Town Attorney, and Special Counsel, the Town Council formally voted last week to not pursue litigation against any third-party involved at the current time. He discussed the Treasurer-Collector and Assistant Treasurer-Collector bonds. He explained bonds are not insurance; they are largely surety in the event of embezzlement, collusion, or other federal or state crimes. He explained that at the recommendation of the Town Administrator, Town Attorney, and Special Counsel, the Town Council formally voted last week to not pursue the bond. ► Police Chief Lynch discussed the Franklin Police investigation. He stated that detectives from the Franklin Police Department formally opened an investigation on September 29, 2020, to the criminal act against the Town. He noted the Treasurer-Collector has been cooperative and forthright in all interviews as part of the investigation. The investigation will likely take some time. ► Mr. Hellen provided details of the performance improvement plan and explained the wire transfer policy and revisions to the standard contract use by the Town. He discussed cybersecurity training for Town staff. He stated there will be a complete financial audit from the Town's auditors. And, the Technology Department will be hiring a full-time employee to focus on cyber. He explained that the Treasurer-Collector Kerri Bertone has been served with the most severe discipline in Franklin over the last two decades. She will be suspended for a full month without pay and compensation will be reduced an additional sum for a total lost wage of \$22,696.65. He reviewed personnel accountability and stated Ms. Bertone has been honest, cooperative, and assisted all lawyers, police detectives, and staff. He stated that for all the factors he listed and reviewed, he is offering Ms. Bertone a second chance. He thanked all the citizens who called and spoke to him about the incident. He stated the material presented tonight is the information that he knows. He reiterated that the Town has gotten back approximately 40 percent of the loss so far. ► Ms. Bertone addressed the Town Council and gave her apologies for allowing the Town to become a victim of cyber fraud and provided her statement on the incident. ► Chair Mercer thanked Ms. Bertone for her apology.

***Chair Mercer declared a three-minute recess.***

► Chair Mercer stated there is deep interest in this incident. He stated the Town will get to the bottom of this; tonight was a big step forward in that goal. He thanked all the staff for their work including getting back 40 percent of the money so far. He noted that they cannot report what they do not factually know. He discussed accountability and stated that this incident is still being investigated. ► Town Council members expressed thanks for the presentation and appreciation for Ms. Bertone's apology, and asked questions which Mr. Hellen answered. ► Mr. Hellen stated the investigation is ongoing. He opined that at this time, it is likely that

they will not get the money back, but he is keeping the hope alive. He noted that tonight's presentation was an update on the situation, not a conclusion. He explained that the frequency of wire transfers before this incident was not even half of the payments made. He stated that tonight's presentation will be put on the Town Administrator's website; as additional information becomes available, it will be posted on the same website location as well as helpful links for citizens. He discussed where the money is coming from to pay the remainder of the vendor's bill. He mentioned that the likelihood of getting the money back is a little higher because it was sent to a bank in California. However, ultimately, the bill is going to have to be paid before April. The best method will be to use the Emergency Fund; the project has to get done. If the Town is lucky enough to get the money back, the fund will be replenished. ► Ms. Jane Callaway-Tripp, 607 Maple Street, thanked the Town Council for their clarification of the situation and asked about the financial impact on property owners using well-water and those who use Town water. ► Mr. Shaun Kennedy, 99 Miller Street, thanked the Town Council and others for the provided information. He discussed the need for cyber training. ► Chair Mercer thanked everyone involved for their hard work. He apologized to the residents for not being able to get this information out to them sooner; he is hopeful tonight's presentation explained why.

#### **LEGISLATION FOR ACTION (continued):**

- g. Resolution 20-73: Gift acceptance - Police Department, \$5,025 (Motion to Approve Resolution 20-73 - Majority Vote).** ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 20-73: Gift acceptance - Police Department, \$5,025 by Dellorco. SECOND by Kelly. Discussion:** ► Mr. Hellen thanked the donors for their generous donations. ► **VOTE: Yes-8, No-0, Absent-0.**
- h. Resolution 20-74: Cable Funds in Support of PEG Service and Programming per MGL Ch. 44, §53F3/4 (Motion to Approve Resolution 20-74 - Majority Vote).** ► Mr. Jones read the resolution. ► **MOTION to Approve Resolution 20-74: Cable Funds in Support of PEG Service and Programming per MGL Ch. 44, §53F3/4 by Dellorco. SECOND by Hamblen. Discussion:** ► Mr. Hellen stated that the Department of Revenue requires this vote be taken every two months. ► Mr. Cerel explained the agreement and payment process is required by the state. ► **VOTE: Yes-8, No-0, Absent-0.**

#### **SUBCOMMITTEE REPORTS:**

- a. Capital Budget Subcommittee.** ► None.
- b. Budget Subcommittee.** ► None.
- c. Economic Development Subcommittee.** ► None.

#### **TOWN ADMINISTRATOR'S REPORT: None.**

**FUTURE AGENDA ITEMS:** ► Mr. Bissanti stated he would like to explore an advisory committee or citizens committee as people in Town want to know more. ► Ms. Pellegrini stated she would like election responsibilities to be an agenda item.

**COUNCIL COMMENTS:** ► Mr. Chandler mentioned the last storm, the north side of Town, and National Grid; he questioned what can be done. ► Mr. Brutus Cantoreggi stated a lot of the trees that are coming down are on private property and not in the Town's purview. ► Ms. Hamblen thanked all the volunteers and DPW who decorated the triangle in downtown Franklin. She encouraged everyone to vote on Saturday and go to the Winter Farmers' Market. ► Ms. Pellegrini asked about the lights on the bridge. ► Mr. Cantoreggi stated he would look into it. ► Ms. Pellegrini asked about the 30 rules regarding elections that were mentioned during tonight's meeting. ► Mr. Hellen stated there are not 30 rules regarding elections. However, there is a statute in state law about voter intimidation and harassment. He suggested that maybe more people were feeling anxious about going to the polls this year. There were some people who came through the polls and complained. Being 150 ft. from the polls is required. ► Ms. Pellegrini noted the Museum Gift Store is open. ► Mr. Bissanti stated that he did not see any intimidation going on in the parking lot during the election. He noted that some people working at the polls were too strict. ► Mr. Dellorco stated that possibly people did

not want to be in close contact with anyone at the polls. He stated the Town Common decorations look great. ►Chair Mercer thanked Attorney Kerwin for his help in the spear phishing incident. He gave a shout out to Ms. Jenna Baglioni Perro, teacher at Oak Street Elementary School, who was awarded a \$5,000 Staples gift card for the Oak Street Elementary School. He thanked all who helped out with the Town Common lights. He would like to create a list of decorated houses so residents could drive around and looked at the festive decorations. He gave his condolences to the family of Charles Repeta.

**EXECUTIVE SESSION: None.**

**ADJOURN: ►MOTION to Adjourn by Kelly. SECOND by Jones. No Discussion. ►VOTE: Yes-8, No-0, Absent-0. Meeting adjourned at 11:05 PM.**

Respectfully submitted,

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Judith Lizardi  
Recording Secretary