

CITY OF FRANKLIN
COMMON COUNCIL MEETING**
FRANKLIN CITY HALL COUNCIL CHAMBERS
9229 W. LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA*
TUESDAY, JANUARY 7, 2014, 6:30 P.M.

- A. Call to Order and Roll Call
- B.
 - 1. Citizen Comment Period
 - 2. Announcements from Mayor Taylor of upcoming community events & news items:
 - a. Eagle Scout Jeffrey Norman Roettgen-Dist. #5.
 - b. Letter from Root-Pike Watershed Initiative Network thanking the City of Franklin for partnering in 2013.
- C. Approval of Minutes
 - 1. Approval of regular meeting of December 17, 2013.
- D. Hearings
 - 1. Public Hearing regarding proposed amendments to §92-9 of the Municipal Code pertaining to impact fees for the purpose of exempting public schools from application of each of the various impact fees and to suspend for 2014 automatic annual rate increases for each of the various impact fee rates.
- E. Organizational Business
- F. Letters and Petitions
- G. Reports and Recommendations
 - 1. Ordinance to amend §92-9 of the Municipal Code pertaining to impact fees for the purpose of exempting public schools from application of each of the various impact fees and to suspend for 2014 automatic annual rate increases for each of the various impact fee rates.
 - 2. Resolution Authorizing the Assignment or Transfer of the Developer's rights and obligations under the Development Agreement for Hampton Inn & Suites Milwaukee/Franklin to FF&E, LLC.
 - 3. Resolution in Opposition to 2013 Assembly Bill 522 Requiring Local Municipalities to Share Payments in Lieu of Taxes Received from Tax Exempt Entities with Overlying Taxation Jurisdictions (Mayor Taylor).
 - 4. Update on the State required property reassessments including geographic distribution of tax valuation increases (Aldermen Wilhelm and Taylor).
 - 5. Ordinance to Amend the Municipal Code to Provide for the Prevention of Blight Created by the Boarding Up of Windows upon Unoccupied Dwelling Structures (Ald. Taylor).
 - 6. Authorization to accept a grant from American Transmission Company, LLC.
 - 7. Project update and staff direction to prepare a public informational meeting related to the easterly extension of W. Evergreen Street, east of S. 51st Street to the proposed Pleasant View Park.
 - 8. Finance Committee recommendation on S. 76th Street & W. Ryan Road Sewer Project financing.
 - 9. Report on Tax Incremental Financing District results for calendar year 2013.

10. Notice of Claim from Bessie Van Dinter for sustained damages to front door as a result of the Franklin Fire and Police Departments needing to gain entry to stop a water leak. The Common Council may enter closed session pursuant to §19.85(1)(e) and (g), Stats., to consider a notice of claim from Bessie Van Dinter (c/o Anna Wilkowski) for sustained damages to her condominium front door on November 21, 2013 due to the need for the Franklin Fire and Police Departments to forcibly gain access to the residence at 6464 Whitnall Edge Drive in Franklin after several unsuccessful attempts of contacting the homeowner in order to stop a water leak, and may reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

H, Licenses and Permits

1. Miscellaneous Licenses.

I. Bills

1. Vouchers and Payroll approval.

J. Adjournment

*Supporting documentation and details of these agenda items are available at City hall during normal business hours.

**Notice is given that a majority of the Forward Franklin Economic Development Commission and Plan Commission may attend this meeting to gather information about an agenda item over which the Forward Franklin Economic Development Commission and Plan Commission has decision-making responsibility. This may constitute a meeting of the Forward Franklin Economic Development Commission and Plan Commission per State ex rel. Badke v. Greendale Village Board, even though the Forward Franklin Economic Development Commission and Plan Commission will not take formal action at this meeting.

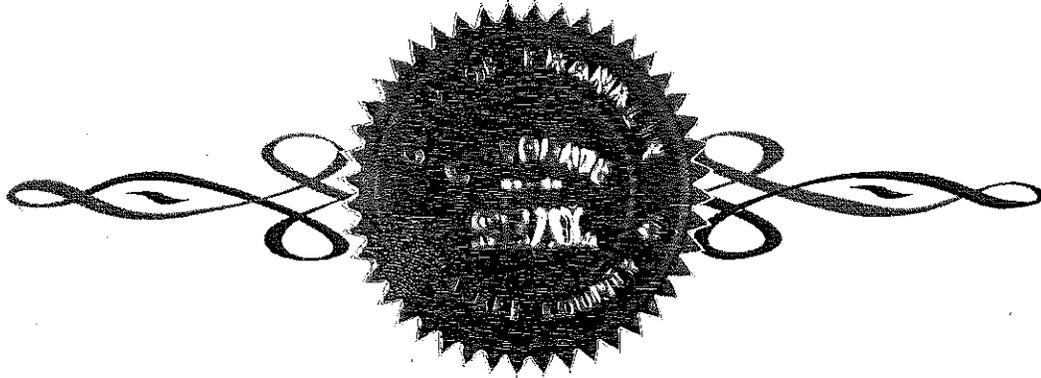
[Note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, contact the City Clerk's office at (414) 425-7500.]

REMINDERS:

January 9	Plan Commission	7:00 p.m.
January 21	Common Council	6:30 p.m.

B.2.a.

THE CITY OF FRANKLIN



WHEREAS, the conferring of an Eagle Scout is the highest and most coveted rank that can be bestowed upon a Boy Scout, where less than four percent of all Scouts in the United States achieve this goal, and

WHEREAS, such an award is an earned award in that the recipient must perform and successfully complete and pass the nationally prescribed set of rigid requirements exacted to achieve an Eagle Scout Award, and

WHEREAS, Jeffrey Norman Roettgen has been a member of Boy Scout Troop 539 for the past 7 years whereby he achieved the rank of Eagle Scout on August 21, 2013 by earning a total of 21 merit badges and serving his troop in various leadership roles, and

WHEREAS, Jeff's Eagle Scout Service Project consisted of organizing a team of workers who put in a total of 108 hours building five raised garden boxes for the St. Joseph Academy Elementary School in Milwaukee, where the boxes are used by the teachers to show students how to grow vegetables, and

WHEREAS, Jeff's family, friends, scouting leaders, and other members of Boy Scout Troop 539, as well as the community, are very proud of his achievement.

NOW, THEREFORE, I, Thomas M. Taylor, Mayor of the City of Franklin, do hereby congratulate Jeffrey Norman Roettgen on his outstanding achievement of becoming an Eagle Scout.

Dated: January 5, 2014

Thomas M. Taylor
Thomas M. Taylor, Mayor

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B.2.b.

*Connecting People to Protect, Restore &
Sustain the Root-Pike Watershed Ecosystem*

December 17, 2013

Tom Taylor
City of Franklin
Franklin City Hall, 9229 W. Loomis Road
Franklin, WI 53132

Dear Tom,

As we approach the new year, we wanted to take this opportunity to thank you for partnering with Root-Pike Watershed Initiative Network in 2013. Our collaboration has made Root-Pike WIN's programs stronger and more effective and we hope they have contributed to your organization's achievements. We look forward to working with you in the coming year to:

- Develop and implement watershed plans to improve water quality, habitat and recreation;
- Support the work of other local nonprofit groups through our watershed-based grant program;
- Engage citizens in river clean-ups, beach clean-ups and restorations; and,
- Educate homeowners about actions they can take to reduce stormwater pollution.

Our fiscal year 2013 accomplishments are summarized in the enclosed Annual Report. Thank you for helping us to further Root-Pike WIN's mission to protect, restore and sustain the Root-Pike watershed.

Sincerely,

Bill Sasse
President

Susan Greenfield
Executive Director

Our Supporters

July 1, 2012 through June 30, 2013

Sustainers (\$1,000-\$200,000)

Friends of Lake Michigan
 Wisconsin Watershed Initiative
Sc Johnson Fund
 Wisconsin Coastal Management
Grant Program
 National Wetlands Inventory
 Administration
Styberg Foundation
 Family Foundation

Watershed (\$500-\$749)
 Reva A. Holmes Environmental Fund
 Peter & Paula Touhey
 Joe & Barb Voss
 James T. & Cherry Wardrip
 Juan Wells
 Sarah Wright

Tribe (\$250-\$499)
 Carol Baricovich
 Todd Brennan
 Stan & Miriam Bughecki
 Sandy DeWalt
 James L. Ford
 Jerold & Joyce Hershberger
 Julie Kinzelman
 Kay Krause

River (\$100-\$249)
 Camille Gendusa Bluestein
 Karen & Bill Boyd
 Morris Firebaugh
 Pamela A. Holy
 Puzmister, Inc.
 Elaine Radwanski
 Julie A. Rafter

David Sanders
 John & Susan Scripp
 George Seater
 Sierra Club
 Sisters of St. Dominic
 Howard Stacy
 Daniel Strka

Don & Arne Treadwell
 Jay & Melissa Warner
Creek (\$50-\$99)
 David & Ellen Easley
 Joe Fonk
 Richard G. Fox

Tim Fulton
 Nancy Hennessy
 Roger & Jane Jarrett
 Donald & Patricia Kummings
 Margaret Miller
 Joshua Sopczak
 Barry & Patricia Thomas
 Scott & Alice Thomson

In-Kind & Technical Assistance
 UW-Cooperative Extension
 Hawthorn Hollow Nature Sanctuary & Arboretum

Brook (\$5-\$24)
 Michael Burke
 Warren DeKraay Jr.
 Clarence & Donna Peterson
 Joann Sustachek

Metropolitan Sewerage District, SC Johnson Fund
 Peter & Alice Schwalbe
 Thomas & Rae Wood

Led Planning Efforts for Root River and Wind Point Watersheds
 Financial support provided by Fund for Lake Michigan, Racine County, Milwaukee

We held five more public stakeholder meetings and five more advisory group meetings as part of Phase II (development of the written plan) of the Root River Watershed Restoration planning effort, which is set to be completed in July 2014.
 Planning for the Wind Point watershed kicked-off Thursday, June 13, 2013 at a meeting held at The Johnson Foundation at Wingspread.

Root-Pike Watershed Initiative Network

Letter from our Board President & Executive Director

It is with excitement and gratitude that we share our 2013 Annual Report with you. The 2013 fiscal year that ended June 30, 2013 was one of growth, change, planning and partnerships. Building on our relationships with municipalities and other environmental groups, Root-Pike WIN continued to make progress toward protecting, sustaining, and restoring the Root-Pike watershed and its ecosystems. Progress would not be possible without the support of our many partners, contributors and volunteers.

Here are some of our major 2012-2013 accomplishments:
 Funded community-based projects through Watershed-based Grant Program
 Financial support provided by Fund for Lake Michigan, E.C. Styberg Foundation, Rood Family Foundation and Racine Community Foundation

- In January 2013, ten more projects totaling \$45,252.50 were funded by Root-Pike WIN's Watershed-based Grants program. All of these projects were evaluated by our Resource Group and strongly support our mission and vision.
- Grant projects funded last fiscal year and completed this fiscal year include Hawthorn Hollow's prairie restoration, Hawthorn Hollow's WATER Program for over 2,000 4th and 7th grade students, Caledonia Conservancy's School to Nature Program for 350 grade school students, Waukesha County Land Conservancy's study of fresh water native mussels in the Root River, Town of Somers' Neumiller Woods wetland restoration and management plan, River Alliance of Wisconsin's Back to the Root study in City of Racine, and Carthage College's Ecosystems Teams Project for college students and 4th and 5th grade students at Wilson School in Kenosha.

Completed the Pike River Watershed Restoration Plan
 Financial support provided by Fund for Lake Michigan, Wisconsin Coastal Management Grant Program, National Oceanic Atmospheric Administration, Wisconsin Department of Natural Resources, Kenosha County

- After two years of meetings, by the end of July 2013 the full draft of the plan was completed and sent out for review to local public officials, advisory group members and the Environmental Protection Agency.

Led Planning Efforts for Root River and Wind Point Watersheds
 Financial support provided by Fund for Lake Michigan, Racine County, Milwaukee Metropolitan Sewerage District, SC Johnson Fund

- We held five more public stakeholder meetings and five more advisory group meetings as part of Phase II (development of the written plan) of the Root River Watershed Restoration planning effort, which is set to be completed in July 2014.
- Planning for the Wind Point watershed kicked-off Thursday, June 13, 2013 at a meeting held at The Johnson Foundation at Wingspread.



Bill Sasse
 Bill Sasse, President
 Board of Directors

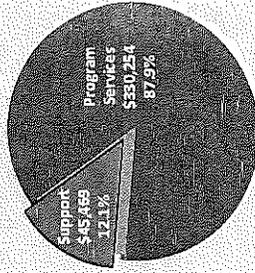
Susan Greenfield
 Susan Greenfield
 Executive Director
 Board of Directors

Financials

July 1, 2012 through June 30, 2013

Statement of Financial Position as of June 30, 2013 (Audited)

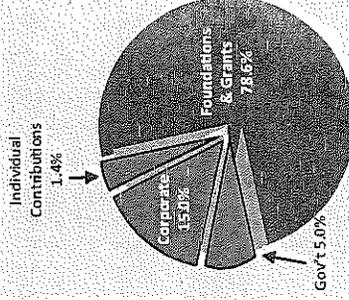
Assets	
Total Checking/Saving	\$109,370
Total Accounts Receivable	\$105,273
Other Current Assets	\$1,176
Total Current Assets	\$215,667
Total Fixed Assets	\$5,963
Total Assets	\$221,782
Liabilities & Equity	
Accounts Payable	\$49,805
Accrued Expenses	\$10,190
Total Current Liabilities	\$59,995
Net assets:	
Unrestricted	\$(120,015)
Temporarily restricted	\$281,802
Total net assets	\$161,787
Total Liabilities and net assets	\$221,782



Expense Distribution

Statement of Financial Income & Expense (Audited)

Income	
Individual Contributions	\$6,207
Foundation/Grants	\$337,041
Corporate	\$64,235
Government Grants	\$21,510
Interest/Savings	\$37
Special Events	\$1,472
Other Income	\$550
Total Income	\$431,052
Expense	
Salary & Payroll	\$97,547
Grants & Contracts Expenses	\$232,707
Other Personnel Expenses	\$12,880
Non-Personnel Expenses	\$16,386
Occupancy	\$2,488
Travel & Meetings	\$1,471
Depreciation, Amortization	\$1,691
Miscellaneous (Insurance, Membership)	\$4,955
Business Expense	\$64
Total Expense	\$375,723
Net Ordinary Income	\$55,329



Income Distribution

Respect Our Waters Marketing Campaign



Each of us can have a positive impact on the health of our rivers and Lake Michigan. That's right, if we each do our part, our individual actions will add up. In an effort to reduce storm water runoff—the biggest cause of pollution in our waters—Root-Pike Watershed Initiative Network and

Southeast Wisconsin Watersheds Trust led a 22-week television advertising campaign that began May 2013. This was the second year of the campaign featuring Sparkles the Water Spaniel. More than 1.6 million adult viewers were exposed to at least one TV spot. A dedicated Respect Our Waters website, Facebook page, news stories and radio interviews were also part of the media mix and contributed to the second year's success. We reinforced the messages with six Greener Yards, Cleaner Waters "how-to" Workshops and nine electronic newsletters that reached over 1,800 people with information on actions they could take in their yards to hold back and clean up storm water runoff before it reaches the street. The campaign is funded by 36 local governments in Washington, Ozaukee, Waukesha, Milwaukee, Racine and Kenosha counties and the Wisconsin Department of Natural Resources.

Vision

Foster the Root-Pike and adjacent Lake Michigan watersheds where the integrity of the land, water, and air resources are protected and enhanced, while maintaining the strength and sustainability of the regional economy, and contributing to the health and social well being of all community members.

Board of Directors

Bill Sasse, President	Jim Mueller, Member
Mike Luba, Vice President	Heather Patti, Member
Dave Giordano, Treasurer	Kristy Schwab-Jacobs, Member
Todd Brennan, Secretary	John Scripp, Member
Bob Eaton, Member	Stephanie Skiba, Member
Gary Fahl, Member	

Staff

Susan Greenfield, Executive Director
Allison Chernouski, Program Manager
Mery Strichartz, Communications Coordinator
Angela Baldocchi, Program Coordinator
Drew Ballantyne, Program Assistant



Root-Pike WIN

Office: 800 Center Street, Suite 118, Racine, WI
Mail: P.O. Box 044164, Racine, WI 53404

262-898-2055

info@rootpikewin.org

www.rootpikewin.org



In addition, Sweet Water and Root-Pike WIN conduct grassroots outreach. During the summer of 2013, the two groups attended more than 45 community events throughout Southeastern Wisconsin to educate residents one-on-one. During those events, the groups distributed 18,000 pet waste bags, raffled 45 rain barrels, and gave away Sparkles buttons and tattoos, and bookmarks featuring actions people can take to reduce pollution in our streams, rivers and lakes.

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CITY OF FRANKLIN
COMMON COUNCIL MEETING
DECEMBER 17, 2013
MINUTES

- ROLL CALL A. The regular meeting of the Common Council was held on December 17, 2013 and called to order at 6:30 p.m. by Mayor Tom Taylor in the Franklin City Hall Council Chambers, 9229 W. Loomis Road, Franklin, Wisconsin. On roll call, the following were in attendance: Aldermen Mark Dandrea, Daniel M. Mayer, Kristen Wilhelm, Steve Taylor, Doug Schmidt, and Ken Skowronski. Also present were City Engineer John M. Bennett, Director of Administration Mark Luberda, City Attorney Jesse Wesolowski and City Clerk Wesolowski.
- CITIZEN COMMENT B.1. Citizen comment period was opened at 6:31 p.m. and closed at 6:38 p.m.
- ANNOUNCEMENTS B.2.a. Mayor Taylor noted the application for a Zoning Compliance Permit for the expansion of Baptista's Bakery, Inc. for the property located at 4625 Oakwood Park Drive in the Franklin Business Park, by TI Investors of Franklin, LLC, a subsidiary of Zilber, Ltd., and Baptista's Bakery, Inc. (scheduled for consideration by the Community Development Authority on Thursday, December 19, 2013 at 6:00 p.m.)
- APPROVAL OF
MINUTES-12/3/13 C.1. Alderman Skowronski moved to approve the minutes of the regular meeting of December 3, 2013, as amended at Item G.3. Seconded by Alderman Schmidt. All voted Aye; motion carried.
- APPROVAL OF
MINUTES-12/11/13 C.2. Alderman Schmidt moved to approve the minutes of the special meeting of December 11, 2013. Seconded by Alderman Dandrea. All voted Aye; motion carried.
- PUBLIC HEARING
FUTURE LAND USE FOR
11120 W. LOOMIS RD.
(VICTORY OF LAMB,
INC.) D.1. The public hearing was called to order at 6:45 p.m., regarding a proposed ordinance to amend the City of Franklin 2025 Future Land Use Map for property located at approximately 11120 W. Loomis Road from Residential and Areas of Natural Resource Features to Institutional (Victory of Lamb, Inc., applicant) and Areas of Natural Resource Features, and was closed at 6:50 p.m. (See Item G.2.)
- APPOINTMENT OF
INSPECTOR OF
ELECTION FOR 2014-15 E.1. Alderman Taylor moved to confirm Mayoral appointments of Inspectors of Election and alternates for 2014-2015 as listed on the action request form dated 12/17/2013. Seconded by Alderman Mayer. On roll call, all voted Aye; motion carried.
- DONATION G.1. Alderman Wilhelm moved to accept the donation of \$415 from Brenwood Park residents Eileen Pfeiffer, Marge Flintrop, Doris Pischel, Dorothy Pratt and Elin Rogahn to the Fire Department. Seconded by Alderman Mayer. All voted Aye; motion carried.

- ORD. 2013-2124
CHANGE FUTURE LAND
USE FOR 11120 W.
LOOMIS RD.
- G.2. Alderman Skowronski moved to adopt Ordinance No. 2013-2124, AN ORDINANCE TO AMEND THE CITY OF FRANKLIN 2025 COMPREHENSIVE MASTER PLAN TO CHANGE THE CITY OF FRANKLIN 2025 FUTURE LAND USE MAP FOR PROPERTY LOCATED AT APPROXIMATELY 11120 WEST LOOMIS ROAD FROM RESIDENTIAL USE AND NATURAL RESOURCES USE TO INSTITUTIONAL USE AND NATURAL RESOURCES USE (APPROXIMATELY 14.95 ACRES)(VICTORY OF LAMB, INC., APPLICANT). Seconded by Alderman Schmidt.
Alderman Skowronski moved to call the question. Seconded by Alderman Mayer. All voted Aye; motion carried.
The vote on the main motion to adopt Ordinance No. 2013-2124, Aldermen Dandrea, Wilhelm, Taylor, Schmidt, and Skowronski voted Aye; Alderman Mayer voted No. Motion carried.
- ORD. 2013-2125
REZONING OF LAND AT
11120 W. LOOMIS RD.
(VICTORY OF LAMB,
INC.)
- G.3. Alderman Skowronski moved to adopt Ordinance No. 2013-2125, AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ZONING MAP) TO REZONE A CERTAIN PARCEL OF LAND FROM R-3 SUBURBAN/ESTATE SINGLE-FAMILY RESIDENCE DISTRICT TO I-1 INSTITUTIONAL DISTRICT (APPROXIMATELY 11120 WEST LOOMIS ROAD) (APPROXIMATELY 14.95 ACRES) (VICTORY OF LAMB, INC., APPLICANT). Seconded by Alderman Dandrea. Upon voice vote, Alderman Mayer Abstained. Motion carried.
- RES. 2013-6948
SECURITY
MAINTENANCE AND
PAGING SYSTEMS
SIMPLEXGRINNELL LP
- G.4. Alderman Taylor moved to adopt Resolution No. 2013-6948, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN AGREEMENT FOR MAINTENANCE OF THE SECURITY AND PAGING SYSTEM IN THE FRANKLIN LAW ENFORCEMENT CENTER SERVICES WITH SIMPLEXGRINNELL LP. Seconded by Alderman Skowronski. All voted Aye; motion carried.
- RES. 2013-6949
SOUTH DOOR ENTRY
SECURITY
SIMPLEXGRINNELL LP
- G.5. Alderman Wilhelm moved to adopt Resolution No. 2013-6949, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN AGREEMENT FOR SOUTH DOOR ENTRY SECURITY EQUIPMENT FOR THE FRANKLIN LAW ENFORCEMENT CENTER SERVICES WITH SIMPLEXGRINNELL LP. Seconded by Alderman Taylor. All voted Aye; motion carried.
- ORD. 2013-2126
COURT COSTS
MUNICIPAL COURT
ACTIONS
- G.6. Alderman Wilhelm moved to adopt Ordinance No. 2013-2126, AN ORDINANCE TO AMEND THE FRANKLIN MUNICIPAL CODE AS IT PERTAINS TO COURT COSTS IMPOSED IN MUNICIPAL COURT ACTIONS. Seconded by Alderman Taylor. All voted Aye; motion carried.

MODIFICATIONS OF
SERVICES AGREEMENT
RUEKERT-MIELKE

G.7. Alderman Schmidt moved to authorize the Director of Administration to execute a modification of the services agreement with Ruckert-Mielke for a review and update to impact fees increasing the not-to-exceed amount to \$23,367 which incorporates Ruckert-Mielke's current charges, with an additional project contingency authorization to the Director of Administration not to exceed \$1,783; all contingent upon Ruckert-Mielke waiving \$6,700 in existing charges and approval of the related budget modification. Seconded by Alderman Dandrea. All voted Aye; motion carried.

ORD. 2013-2127
AMEND ORD. 2012-2096
TO MODIFY BUDGET OF
DEVELOPMENT-
IMPACT-FEE FUND

G.8. Alderman Taylor moved to adopt Ordinance No. 2013-2127, AN ORDINANCE TO AMEND ORDINANCE 2012-2096 (AN ORDINANCE ADOPTING THE 2013 BUDGETS AND TAX LEVY FOR THE CITY OF FRANKLIN), AS AMENDED, TO MODIFY THE BUDGET OF THE DEVELOPMENT-IMPACT FEE FUND ADDING \$9,000 TO THE "OTHER PROFESSIONAL SERVICES" LINE ITEM, FUNDED FROM EXISTING ADMINISTRATIVE FEES FOR THE MODIFICATION OF THE PROFESSIONAL SERVICES AGREEMENT WITH RUEKERT-MEILKE FOR AN IMPACT FEE UPDATE WHICH INCORPORATES AN ADDITIONAL PROJECT CONTINGENCY FOR THE FINAL COMPLETION OF THE PROJECT. Seconded by Alderman Dandrea. Upon unanimous Aye voice vote, motion carried.

RES. 2013-6950
2014 ENGINEERING
SERVICES AGREEMENT
JSA CIVIL
ENVIRONMENTAL
ENGINEERS, INC.

G.9. Alderman Skowronski moved to adopt Resolution No. 2013-6950, A RESOLUTION AUTHORIZING CERTAIN OFFICIALS TO EXECUTE AN AGREEMENT TO CONTINUE PROFESSIONAL ENVIRONMENTAL ENGINEERING SERVICES TO MONITOR COMPLIANCE AT THE METRO RECYCLING & DISPOSAL FACILITY TO DECEMBER 31, 2014, WITH JSA CIVIL ENVIRONMENTAL ENGINEERS, INC. Seconded by Alderman Mayer. All voted Aye; motion carried.

RES. 2013-6953
INTERGOVERNMENTAL
AGREEMENT WITH
MMSD-PPII
ELIMINATION ON S.
36TH ST.

G.12. Alderman Wilhelm moved to adopt Resolution No. 2013-6953, A RESOLUTION AUTHORIZING OFFICIALS TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE MILWAUKEE METROPOLITAN SEWERAGE DISTRICT (MMSD) FOR THE PRIVATE PROPERTY INFILTRATION AND INFLOW (PPII) ELIMINATION ON S. 36TH STREET BETWEEN W. MISSOURI AVENUE AND W. MADISON BOULEVARD. Seconded by Alderman Taylor. All voted Aye; motion carried.

RES. 2013-6951
CONTRACT TO MUSSON
BROTHERS, INC.
S. 36TH ST. SANITARY
SEWER LATERAL
INFLOW

G.10. Alderman Wilhelm moved to adopt Resolution No. 2013-6951, A RESOLUTION AWARING CONTRACT TO THE LOW BIDDER MUSSON BROTHERS, INC IN THE AMOUNT OF \$245,508.25 FOR THE S. 36TH STREET PRIVATE PROPERTY SANITARY SEWER LATERAL INFLOW AND INFILTRATION REHABILITATION FROM W. MISSOURI AVENUE TO W. MADISON BOULEVARD. Seconded by Alderman Dandrea. All voted Aye; motion carried.

RES. 2013-6952
CONTRACT TO STARK
ASPHALT
INSTALLATION OF
CONCRETE SIDEWALK
ON S. 51ST ST.

G.11. Alderman Taylor moved to adopt Resolution No. 2013-6952, A RESOLUTION AWARING CONTRACT TO THE LOW BIDDER, STARK ASPHALT, IN THE AMOUNT OF \$52,595.00 FOR THE INSTALLATION OF CONCRETE SIDEWALK ON S. 51ST STREET FROM W. MINNESOTA AVENUE NORTH 1,340 FEET TO W. RAWSON AVENUE. Seconded by Alderman Dandrea. All voted Aye; motion carried.

ORDINANCE FOR
PREVENTION OF
BLIGHT

G.13. Alderman Taylor moved to adopt AN ORDINANCE TO AMEND THE MUNICIPAL CODE TO PROVIDE FOR THE PREVENTION OF BLIGHT CREATED BY THE BOARDING UP OF WINDOWS UPON UNOCCUPIED DWELLING STRUCTURES. Seconded by Alderman Skowronski.
Alderman Taylor withdrew his motion and then moved to refer this Ordinance to the January 7, 2014, Common Council meeting. Seconded by Alderman Wilhelm.
Alderman Wilhelm moved to call the question. Seconded by Alderman Mayer. All voted Aye; motion carried.
On the voice vote for the main motion, all voted Aye. Motion carried.

AMENDMENT TO 2013
CLARE MEADOWS
NORTH HANDICAP
ACCESIBLE SIDEWALK
CDBG PROJECT

G.14. Alderman Wilhelm moved to authorize the Director of Administration to accept and execute an amendment to the Agreement with Milwaukee County for the 2013 Clare Meadows North Handicap Accessible Sidewalk CDBG Project, Phase III, once prepared and received from Milwaukee County, granting an extension of the project to July 1, 2014 or such other date that the County may provide. Seconded by Alderman Schmidt. All voted Aye; motion carried.

RES. 2013-6954
CITY OF FRANKLIN
BARGAINING
EMPLOYEES'
RETIREMENT PLAN

G.15. Alderman Schmidt moved to adopt Resolution No. 2013-6954, A RESOLUTION TO AMEND THE CITY OF FRANKLIN BARGAINING EMPLOYEES' RETIREMENT PLAN AND THE CITY OF FRANKLIN CERTAIN EMPLOYEES' RETIREMENT PLAN TO AMEND PLAN NAMES, ELIGIBILITY, EMPLOYER PICK-UP CONTRIBUTIONS, VESTING, AND TO MEET FEDERAL REQUIREMENTS AND TO INCORPORATE SUCH INTO THE EMPLOYEE HANDBOOK. Seconded by Alderman Dandrea. All voted Aye; motion carried.

- AEROTROPOLIS
MILWAUKEE
INTERLOCAL
COOPERATION
AGREEMENT
- G.16. Alderman Mayer moved to authorize the Mayor and City Clerk to execute the Interlocal Cooperation Agreement as a separate document and/or with a multi-municipal signature page and to direct the Planning Department to prepare a recommendation for an "Interlocal Aerotropolis Area" designation. Seconded by Wilhelm. All voted Aye; motion carried.
- SOUTH SUBURBAN
CHAMBER OF
COMMERCE ANNUAL
AWARDS DINNER
- G.17. Alderman Taylor moved to authorize use of \$400 of Contingency appropriations for City representative participation at the South Suburban Chamber of Commerce Annual Awards Dinner. Seconded by Alderman Schmidt. All voted Aye; motion carried.
- MSGOVERN'S
"OPENFORMS"
UPGRADE
- G.18. Alderman Taylor moved to authorize the Director of Administration to execute a purchase order agreement with MSGovern for the purchase of the "OpenForms" upgrade to the City's permitting software for an amount not-to-exceed \$17,320. Seconded by Alderman Dandrea. All voted Aye; motion carried.
- 2014 IT SERVICES
AGREEMENT WITH
HEARTLAND BUSINESS
SYSTEMS
- G.19. Alderman Taylor moved to authorize the Director of Administration to execute the Information Technology Services Agreement between Heartland Business Systems and the City of Franklin effective January 1, 2014. Seconded by Alderman Dandrea. All voted Aye; motion carried.
- GEOGRAPHIC
MARKETING
ADVANTAGE, LLC
AGREEMENT FOR 2014
- G.20. Alderman Schmidt moved to authorize the Director of Administration to execute a contract with Geographic Marketing Advantage, LLC for Geographic Information System Support and Database Maintenance Services in a form substantially equivalent to the 2013 contract but incorporating a 3% rate increase effective January 1, 2014. Seconded by Alderman Mayer. All voted Aye; motion carried.
- MISCELLANEOUS
LICENSES
- H.1. Alderman Taylor moved to grant the following licenses;
- Operator License to Markowski, Karen A., 11077 W. Forest Home Ave., Apt. 122, Hales Corners:
- People Uniting for the Betterment of Life and Investment in the Community (PUBLIC) Grants to:
Saint Paul's Lutheran School-Community Out Reach, fee waivers-park permit on 5/29/2014 at Vernon Barg Pavilion and Xaverian Missionaries-Annual Festival, fee waivers-Extraordinary Event License, Temporary Class B Beer and Wine License, Temporary Operator License, Temporary Food License and Sign Permits on 6/21-22/2014 at 4500 Xavier Dr.

LICENSES-
CONTINUED

Also moved to hold Operator Licenses for Proeber, Alexander J., 8405 Nicholson Rd., Caledonia and Ceron-Rodriguez, Jonathan, 1633 S. 37th St., Milw., both subject to appearing before the License Committee. Seconded by Alderman Skowronski. All voted Aye; motion carried.

VOUCHERS AND
PAYROLL

I.1. Alderman Skowronski moved to approve net general checking account City vouchers in the range of Nos. 150292 through 150432 dated November 29 through December 12, 2013 in the amount of \$1,492,577.88. Seconded by Alderman Dandrea. On roll call, all voted Aye. Motion carried.

Alderman Schmidt moved to approve net payroll dated December 13, 2013 in the amount of \$321,125.68 (estimate previously approved at \$318,000.00) and payments of the various payroll deductions in the amount of \$210,165.17 with check nos. 150433 through 150440 and EFT nos. 2491 through 2493 (estimate previously approved at \$211,000.00) plus any City matching payments, where required. Seconded by Alderman Skowronski. On roll call, all voted Aye. Motion carried.

Alderman Dandrea moved to approve net general checking account City vouchers in the range Nos. 150441 through Nos. 150444 in the amount of \$56,758.34 dated December 17, 2013. Seconded by Alderman Mayer. On roll call, all voted Aye. Motion carried.

Alderman Schmidt moved to approve the net payroll dated December 27, 2013 estimated at \$354,000.00 and payments of the various payroll deductions estimated at \$218,000.00 plus any City matching payments, where required. Seconded by Alderman Skowronski. On roll call, all voted Aye. Motion carried.

Alderman Skowronski moved to approve payment of \$57,500 to Humana as the advance claim funding payment on the 2014 health claims. Seconded by Alderman Mayer. On roll call, all voted Aye. Motion carried.

ADJOURNMENT

J. Alderman Taylor moved to adjourn the meeting at 8:06 p.m. Seconded by Alderman Dandrea. All voted Aye; motion carried.

<p>APPROVAL</p> <p><i>slw</i> </p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>01/07/2014</p>
<p>PUBLIC HEARING</p>	<p>A Public Hearing Regarding Proposed Amendments to §92-9 of the Municipal Code Pertaining to Impact Fees For the Purpose of Exempting Public Schools from Application of Each of the Various Impact Fees and to Suspend for 2014 Automatic Annual Rate Increases for Each of the Various Impact Fee Rates</p>	<p>ITEM NUMBER</p> <p><i>D.1.</i></p>

The attached Official Notice to hear public comment regarding proposed amendments to §92-9 of the Municipal Code pertaining to impact fees for the purpose of exempting public schools from application of each of the various impact fees and to suspend for 2014 automatic annual rate increases for each of the various impact fee rates was published in the paper on December 12, 2013. The purpose of these proposed amendments is to address two items. First, at the direction of the Common Council in accordance with Resolution 2013-6924, adopted November 5, 2013, the Common Council wishes to consider the exemption of public schools from application of each of the various impact fees. Second, based upon the results of the 2013 amendment to the impact fee for parks, playgrounds, and other recreational facilities, it is reasonable to suspend for 2014 the annual increase in impact fee rates as provided for by §92-9 L of the Municipal Code of Franklin, Wisconsin.

Attached for explanation purposes on the proposed amendments is a document entitled "Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update – December 2013" as prepared by the Department of Administration.

COUNCIL ACTION REQUESTED

A separate item has been placed on the January 7, 2014 Common Council Meeting agenda for action pertaining to "An Ordinance to Amend §92-9 of the Municipal Code Pertaining to Impact Fees for the Purpose of Exempting Public Schools from Application of Each of the Various Impact Fees and to Suspend for 2014 Automatic Annual Rate Increases for Each of the Various Impact Fee Rates".

CITY OF FRANKLIN

OFFICIAL NOTICE

NOTICE IS HEREBY GIVEN THAT THE COMMON COUNCIL OF THE CITY OF FRANKLIN will conduct a public hearing on Tuesday, January 7, 2014 at 6:30 p.m., or as soon thereafter as the matter may be heard, in the Common Council Chambers at the Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin, to hear public comment regarding proposed amendments to §92-9 of the Municipal Code pertaining to impact fees upon land development pursuant to §66.0617 of the Wisconsin Statutes. The proposed amendments are to exempt public schools from application of each of the various impact fees and to suspend for 2014 automatic annual rate increases for each of the various impact fee rates imposed under §92-9 of the Municipal Code. Copies of a Public Facilities Needs Assessment prepared pursuant to §66.0617(4) of the Wisconsin Statutes and a copy of the proposed ordinance are available for viewing in the office of the City Clerk at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin 53132, during normal business hours. The proposed draft form ordinance is subject to revisions following public hearing and the further consideration by the City of Franklin Common Council, including, but not limited to, revisions modifying the automatic annual rate increase.

SANDRA L. WESOLOWSKI
CITY CLERK

Dated this 12th day of December, 2013

**AMENDMENT TO THE 2002
IMPACT FEE STUDY
&
THE 2004 IMPACT FEE UPDATE
-
DECEMBER 2013**

**CITY OF FRANKLIN
MILWAUKEE COUNTY, WISCONSIN**

Prepared By:
Department of Administration,
City of Franklin, Wisconsin

INTRODUCTION

“In 2002, the City of Franklin hired Ruckert & Mielke, Inc. to prepare a public facilities needs assessment and impact fee study (2002 Impact Fee Study) for the construction of law enforcement and municipal court facilities and fire protection and emergency medical facilities, as well as library, park and recreation, transportation system and water system facilities. The needs assessment was prepared during February and March of 2002 in accordance with Wisconsin Statutes 66.0617, formerly Wisconsin Statutes 66.55, and was presented to the City on April 16, 2002. The City held a public hearing on the proposed impact fee ordinance on May 7, 2002. On May 7, 2002, the City adopted the impact fee ordinance imposing total impact fees in the amount of \$3,809. Since then a 2004 amendment updated the law enforcement/municipal court, and fire protection and EMS impact fees. Within the 2004 update most of the analyses remained unchanged with the exception of the development projections, land use projections, and a few of the estimated project costs for the police and fire facilities.” [Excerpt from the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, as prepared by Ruckert & Mielke, Inc.”]

Additionally, in 2013 Ruckert & Mielke, Inc. prepared an “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, which updated the original needs assessment to revise the land use, population, and development projections and which updated the park impact fee project lists, costs, and identified any new park projects or improvements that may be required due to new development. It then applied that revised information to an updated calculation of the parks, playgrounds, and other recreational facilities impact fee. The amendment was supplementary to and intended to be read in conjunction with the 2002 Impact Fee Study, and the 2004 amendment. The amendment acted as an updated public facility needs assessment for the Park and Recreation Facilities.

The purpose of this update is to address two items. First, addressed herein as Part 1, at the direction of the Common Council in accordance with Resolution 2013-6924, adopted November 5, 2013, the Common Council wishes to consider the exemption of public schools from application of each of the various impact fees. Second, addressed herein as Part 2, based upon the results of the 2013 amendment to the impact fee for parks, playgrounds, and other recreational facilities, it is reasonable to suspend for 2014 the annual increase in impact fee rates as provided for by §92-9 L of the Municipal Code of Franklin, Wisconsin. This amendment is supplementary to and intended to be read in conjunction with the 2002 Impact Fee Study and the 2004 and 2013 amendments. This amendment, in conjunction with the documents previously referenced, acts as an updated public facility needs assessment.

METHODOLOGY

“The public facilities needs assessment prepared in 2002 included the following, as required by Wisconsin Statutes 66.0617:

1. An inventory of existing public facilities including an identification of existing deficiencies in the quantity or quality of those public facilities, for which it was anticipated that an impact fee would be imposed.

2. An identification of new public facilities or improvements or expansions of existing public facilities that will be required because of new land development. The identification was based upon an explicitly identified level of service and standards.
3. A detailed estimate of the capital costs of providing the new public facilities or improvements or expansion previously mentioned.
4. A computation of the cost per capita of providing the new public facilities required because of new land development, and a recommended schedule of impact fees, including an estimate of the effect of imposing impact fees on the availability of affordable housing within the City.”

[Excerpt from the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013 as prepared by Ruckert & Mielke, Inc.”]

As noted in the introduction, the 2013 amendment updated such sections in relation to the parks, playgrounds, and other recreational facilities impact fee and calculated a new parks, playgrounds, and other recreational facilities impact fee. Specifically, the amendment noted that it “updated the original needs assessment to revise the land use, population and development projections and update the park impact fee project lists, costs and identify any new park projects or improvements that may be required due to new development.”

As such, this additional amendment to the 2002 Impact Fee Study and the 2004 Impact Fee Update, along with recommendations included in the September 2013 amendment, as adopted in October of 2013, incorporates all of the information required of a Public Facility Needs Assessment as identified in Wis. Stats 66.0617.

PART 1. EXEMPTION OF PUBLIC SCHOOLS FROM SUBJECTION TO IMPACT FEES.

As noted above, on November 5, 2013, the Common Council adopted Resolution No. 2013-6924, incorporated below, which directed that an ordinance be prepared for consideration to “provide for exemption of public school districts from application of impact fees applicable to institutional or non-residential development.”

STATE OF WISCONSIN CITY OF FRANKLIN MILWAUKEE COUNTY

RESOLUTION NO. 2013-~~6924~~

A RESOLUTION DIRECTING STAFF TO INVESTIGATE AND PREPARE AN ORDINANCE EXEMPTING PUBLIC SCHOOL DISTRICTS FROM SUBJECTION TO CITY-IMPOSED IMPACT FEES AS SET FORTH IN SECTION 92-9 OF THE MUNICIPAL CODE

WHEREAS, the City of Franklin previously adopted Impact Fees related to park, playground, and other recreational facilities; fire protection and emergency medical facilities; law enforcement facilities; transportation facilities; and the Southwest Sanitary Sewer Service Area extension facilities that require developers to pay for the capital costs that are necessary to accommodate land development; and

WHEREAS, public school districts function similar to units of local government having the ability to levy property taxes and requiring the election of resident citizens to serve on the School Board and other units of government, specifically the United States, the State of Wisconsin, Milwaukee County, and the City of Franklin are exempted by local definition from paying such impact fees as may apply to institutional development; and

WHEREAS, any impact fee charged to a public school district would effectively be passed through to all of the property tax payers of the district thereby diluting the intended application of such fees upon developers, and, similarly, those land developers which cause growth and development of the public school district are already subject to impact fees through application of residential development impact fee rates; and

WHEREAS, a public school district may appeal the imposition or amount of imposition of an impact fee but failure to appeal or differences in the conclusions of such appeals could lead to inconsistent application of impact fees upon development by public school districts, which development should all be treated in a similar manner.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Franklin does hereby direct the Director of Administration, with the advice and direction of the City Attorney, to prepare an ordinance revision to Section 92-9 "Impact Fees" to provide for exemption of public school districts from application of impact fees applicable to institutional or non-residential development.

BE IT FURTHER RESOLVED that, unless otherwise restricted by law, such ordinance shall be retroactive to January 1, 2013, and shall provide that or allow for any such applicable impact fees collected since that date from or on behalf of a public school district be refunded.

Introduced at a regular meeting of the Common Council of the City of Franklin this 5th day of November, 2013 by Alderman Skowronski

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 5th day of November, 2013.

APPROVED:


Thomas M. Taylor, Mayor

ATTEST:


Sandra L. Wesolowski, City Clerk

AYES 6 NOES 0 ABSENT 0

Based on communication from Ruekert & Mielke, the City's impact fees, as currently established and applicable on a non-residential or institutional development basis, would be applied to schools "expanding for growth of student population." They noted that "if they are performing a renovation project to improve an older school or replace an outdated school this school would not be subject to impact fee charges unless there is an enlargement in student population or staff."

Upon inquiry, however, Ruekert & Mielke did not indicate that they specifically anticipated impact fee revenue to be generated by new public school development. A review of the 2002 Impact Fee Study does show that the "Governmental and Institutional" land use category is considered relative to existing and planned land uses and construction of additional floor area. This category specifically notes that it "Includes Institutional District." This distinction is relevant because the Institutional District has a broad range of facilities that are considered permitted or special uses within the district.

Section 15-3.0312 I-1 of the Unified Development Ordinance indicates that the "Institutional District is intended to: 1. Eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public, or quasi-public

purpose, is anticipated to be permanent.” As noted above, however, the district is not limited to such uses, the Institutional District has a broad range of facilities that are permitted or special uses including, but not limited to, the following: utilities, lumber yards, hardware stores, nurseries, gift shops, funeral services, dance studios, theatrical producers and services, various health care services and facilities, and convenience stores (Per Table 15-3.0603 of the Unified Development Ordinance). Additionally schools, governmental buildings, religious organizations, and libraries are included as permitted or special uses in this district. As a conclusion, it is easy to see that construction of additional square footage of floor space in the Institutional District, as contemplated in the Impact Fee Study, does not limit itself to governmental buildings, churches, schools, and the like. The additional square footage of floor space includes all of these potential other permitted and special uses that could occur with the Institutional District and which would logically be subject to impact fees.

That being the case, it is reasonable to conclude that the Impact Fee Study did not specifically consider and incorporate anticipated revenue from development of public schools.

There is also a logical consideration for the exemption of public schools from consideration of the application of impact fees. As noted by the Common Council in Resolution 2013-6924, “any impact fee charged to a public school district would effectively be passed through to all of the property taxpayers of the district thereby diluting the intended application of such fees upon developers, and, similarly, those land developers which cause growth...” Therefore, the intended cost of new development is passed directly to those causing new development under the ordinance if public school development is exempted, provided such revenue is not anticipated. In such an instance, the impact fee rates will be set at levels necessary to generate the necessary impact fee revenue from only those to whom the fee directly applies. They would not be set at a reduced level that incorporates impact fee revenue paid indirectly by non-new-growth property taxpayers of the school district. It is worth noting repeating, therefore, that the current fees as previously set were not set too low, if schools are now exempted, because there is no evidence that the anticipated revenue levels specifically anticipated or included a revenue stream from public school development.

In addition to the logical argument presented above, public school district’s share a similarity with other organizations already excluded from City of Franklin impact fees levied on institutional development. Chapter 92 provides in the definition of “Institutional Development” that “The construction or modification of improvements to real property by the United States, the State of Wisconsin, Milwaukee County and the City of Franklin are not institutional development for the purposes of this section.” The reasoning for this exemption is not identified, but each of these entities obtains a substantial portion of its operating revenues through taxation. A characteristic a public school district shares, whereas most developers are not taxing bodies.

Given the above discussion, there is no basis to conclude that exclusion of public schools from application of the impact fees would impact the conclusions reported in the Impact Fee Study or its subsequent update or amendment. Additionally, at the time of the preparation of this amendment, no clear statutory prohibition against an exemption of public schools from application of an impact fee was identified by the City Attorney.

PART 2. SUSPEND, FOR 2014, THE ANNUAL INCREASE IN IMPACT FEE RATES.

Section §92-9 L. of the Municipal Code of Franklin provides that “The impact fees imposed under this section shall be increased annually at the rate of 5%, with the adjustment effective January 1 of each year.” The ordinance does not specify the intent of this annual increase, but it is clearly understood from the historical record that this annual increase serves to ensure that the fee remains up-to-date with costs and inflationary factors that will impact the expenditure side of impact fee related projects.

As noted in the “Introduction” above, in 2013 Ruckert & Mielke, Inc. prepared an “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013. That study updated the original needs assessment to revise the land use, population and development projections. It also updated the park impact fee project lists, costs and identified any new park projects or improvements that may be required due to new development. It then applied both sets of revised information to an updated calculation of the parks, playgrounds, and other recreational facilities impact fee. The end result after amendment to the ordinance was a reduction in the parks, playgrounds, and other recreational facilities impact fee from \$3,799 to \$2,816 per dwelling unit for single-family or two-family residential development and from \$2,534 to \$1,942 per dwelling unit for multi-family residential development.

Both sets of adjustments impacted the final rates as determined in the review of the parks, playgrounds, and other recreational facilities impact fee. Obviously the final calculated fee was impacted by the park development specific data and plans. The land use, population and development projections, however, will have broader implications across all the impact fee types included in Section §92-9 of the municipal code. An amendment to each of these sections is currently contracted for and underway with Ruckert & Mielke, Inc. The parks-related fee was simply accelerated due to a specific project need; otherwise all impact fee areas would have been addressed within one amendment.

The updating of the population projections, for example, “are extremely important in the calculation of impact fees as future development is one of the driving factors in the impact fee calculation.” [Excerpt from the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013.] At the same time, the Common Council has an obligation to consider and determine that a proposed impact fee bears a rational relationship to the need for new, expanded and improved public facilities. Similarly, Section §92-9 L. of the Municipal Code anticipates that the Common Council needs to determine “that the amount of fees imposed continues to represent an equitable and reasonable apportionment of the cost of public improvements and requirements generated by land development.” To that end, it provides further that “Upon such considerations and for such purpose, the Common Council may make reasonable adjustments to the amount of such fees...”

Given the requirements of the statute and the expectation that the Common Council may make reasonable adjustments to the amount of such fees and in consideration of the results incorporated into the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, as prepared by Ruckert & Mielke, Inc., it is reasonable for the Common Council to conclude that the annual increase in the impact fee rates should be suspended for 2014.

The significant reduction in the park impact fee following the recent amendment suggests that it is possible that the remaining impact fee rates will experience a need for a reduction when the study is completed. The parks study, however, did not parse out the impact of each factor on the final rate adjustment. As such, one cannot conclude the degree to which the rate change was caused by adjustments to population, land use, and development rates; nor can one conclude exactly how other factors may influence the other impact fee rates. Even though a final determination cannot be reached until an amendment for the remaining impact fees is completed in early 2014, the parks impact fee amendment results are sufficient to warrant suspending the automatic annual increase in rates pending the final results of the outstanding study. In this regard it is more reasonable to err on the side of undercharging for a brief period than it is to increase the rate on January 1st only to, potentially, reduce it shortly thereafter.

In fact, in the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, Ruckert & Mielke notes that “the City and R/M came to an agreement that all future yearly fee escalations shall be based upon the Milwaukee CPI (Consumer Price Index).” Ruckert & Mielke suggested this course of action as a step in ensuring that “the most proper and justifiable impact fee is still in place” going forward. The park impact fee rate, therefore, was already set anticipating a lower annual rate increase than the 5% currently established in the municipal code.

In conclusion, pending completion of the impact fee review currently underway, the results of the park, playgrounds, and other recreational facilities impact fee amendment should be headed, and the annual increase in impact fee rates should be suspended for 2014.

IMPACT ON AFFORDABLE HOUSING

The exemption of public schools from application of impact fees will not impact housing affordability from that as discussed in the prior study, update, or amendment because, as discussed above, it should have no impact on the impact fee rates themselves.

The suspension of the annual, automatic 5% rate increase will not negatively impact housing affordability from that as discussed in the prior study, update, or amendment because, as discussed above and for the same reason as referenced in the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, proposing to eliminate the 2014 annual rate increase effectively decreases the 2014 fees and fee rates, and, as such, there should be no negative effect on housing affordability.

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<p>APPROVAL</p> <p><i>Slw</i> </p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>01/07/2014</p>
<p>REPORTS & RECOMMENDATIONS</p>	<p>An Ordinance to Amend §92-9 of the Municipal Code Pertaining to Impact Fees for the Purpose of Exempting Public Schools from Application of Each of the Various Impact Fees and to Suspend for 2014 Automatic Annual Rate Increases for Each of the Various Impact Fee Rates</p>	<p>ITEM NUMBER</p> <p><i>G. I.</i></p>

A Public Hearing took place at the January 7, 2014 Common Council Meeting to gain public input regarding proposed amendments to §92-9 of the Municipal Code pertaining to impact fees for the purpose of exempting public schools from application of each of the various impact fees and to suspend for 2014 automatic annual rate increases for each of the various impact fee rates.

The purpose of these proposed amendments is to address two items. First, at the direction of the Common Council in accordance with Resolution 2013-6924, adopted November 5, 2013, the Common Council wishes to consider the exemption of public schools from application of each of the various impact fees. Second, based upon the results of the 2013 amendment to the impact fee for parks, playgrounds, and other recreational facilities, it is reasonable to suspend for 2014 the annual increase in impact fee rates as provided for by §92-9 L of the Municipal Code of Franklin, Wisconsin.

COUNCIL ACTION REQUESTED

Motion to adopt Ordinance No. 2014-____, "An Ordinance to Amend §92-9 of the Municipal Code Pertaining to Impact Fees for the Purpose of Exempting Public Schools from Application of Each of the Various Impact Fees and to Suspend for 2014 Automatic Annual Rate Increases for Each of the Various Impact Fee Rates".

DRAFT

STATE OF WISCONSIN CITY OF FRANKLIN MILWAUKEE COUNTY

ORDINANCE NO. 2014-_____

AN ORDINANCE TO AMEND §92-9 OF THE MUNICIPAL CODE
PERTAINING TO IMPACT FEES FOR THE PURPOSE OF EXEMPTING PUBLIC
SCHOOLS FROM APPLICATION OF EACH OF THE VARIOUS IMPACT FEES AND TO
SUSPEND FOR 2014 AUTOMATIC ANNUAL RATE INCREASES FOR EACH OF THE
VARIOUS IMPACT FEE RATES

WHEREAS, the Common Council adopted Ordinance No. 95-1341, An Ordinance Establishing Impact Fees Upon Land Development, on April 25, 1995 and the Franklin Impact Fee Task Force Impact Fees Needs Assessment – 1995 Report to the Mayor and Common Council dated March 21, 1995 recommended the periodic review by the City of impact fees established, especially if the factors affecting the volume and impact of growth change significantly; and

WHEREAS, such fees having been enacted and amended, respectively, pursuant to Ordinance No. 2002-1712, An Ordinance To Amend §92-9 of the Municipal Code Pertaining to Impact Fees, such Ordinance having been adopted pursuant to a public facility needs assessment, as contemplated by §66.0617(4), Stats., as entitled “Impact Fee Study” and as prepared by Ruekert/Mielke and dated April/2002; and

WHEREAS, such Ordinance and fees having been additionally amended in accordance with the Wisconsin Statutes and the actions of the Common Council of the City of Franklin; and

WHEREAS, a public hearing was held before the Common Council on January 7, 2014, to receive public input upon the proposed changes to the impact fee ordinance as set forth in the study amendment entitled “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update - December 2013;” and

WHEREAS, notice of the aforesaid public hearing was published as a Class I Notice under Ch. 985, Stats., which notice specified that the amendment to the public facility needs assessment was available for public viewing in the office of the City Clerk; said needs assessment having been so available in such office for at least 20 days prior to the public hearing; and

WHEREAS, adoption of this amendment to §92-9 of the Municipal Code pertaining to Impact Fees will have the effect of exempting public schools from application of each of the various impact fees which will, in part, eliminate the indirect pass through of such impact fee charges to property taxpayers of a public school system who would otherwise not be subject to such an impact fee and of suspending the annual increase in impact fee rates, as currently provided for in the ordinance to ensure such rates maintain pace with economic and inflationary influences over time, pending completion of review of each such fee in a revised facility needs study amendment, as was recently completed and adopted in 2013 for the park, playground and other recreational facilities, which study suggests that the facility needs assessment update underway for the remaining impact fees may conclude that such fees warrant adjustment downward and which, thereby, justifies a suspension of the automatic annual rate increase for 2014, retroactive to January 1, 2014, pending such results; and

WHEREAS, the Common Council having found and determined that the proposed impact fees it considered for adoption by way of amendment to §92-9 of the Municipal Code bear a rational relationship to the need for new, expanded and improved public facilities required to serve land development; that such fees, on the basis of the prior completed facility needs analysis and as addressed by the proposed amendment, do not exceed the proportionate share of the capital costs that are required to serve land development as compared to existing uses of land within the City; that the length of the planning period and update period are reasonable periods of time under all of the circumstances presented upon which to base, calculate, impose, and expend the proposed impact fees; and that the proposed impact fees are based upon reasonable estimates of the capital costs for new, expanded or improved public facilities and do not include amounts necessary to address existing deficiencies in public facilities.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: §92-9 K. of the Municipal Code of Franklin, Wisconsin, be amended by appending to the end thereof the following:

“Effective January 1, 2013, public schools are exempt from application of each of the various impact fees set forth above.”

SECTION 2: §92-9 L. of the Municipal Code of Franklin, Wisconsin, be amended to retroactively suspend the annual increase in impact fee rates by appending “, except 2014” to the end of the fifth sentence of said section resulting in a sentence as follows:

“The impact fees imposed under this section shall be increased annually at the rate of 5%, with the adjustment effective January 1 of each year, except 2014.”

SECTION 3: It is the intent of the retroactive effective dates herein that any such impact fee paid in excess of the required amount, after consideration of the applicable effective dates herein, shall cause reimbursement of any excess portion of such payments made.

SECTION 4: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 5: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 6: This ordinance shall take effect and be in force from and after its passage and publication.

ORDINANCE 2014-_____

PAGE 3

Introduced at a regular meeting of the Common Council of the City of Franklin this 7th day of January, 2014, by Alderman_____.

PASSED AND ADOPTED at a regular meeting of the Common Council of the City of Franklin this 7th day of January, 2014.

APPROVED:

Thomas M. Taylor, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

**AMENDMENT TO THE 2002
IMPACT FEE STUDY
&
THE 2004 IMPACT FEE UPDATE
-
DECEMBER 2013**

**CITY OF FRANKLIN
MILWAUKEE COUNTY, WISCONSIN**

Prepared By:
Department of Administration,
City of Franklin, Wisconsin

INTRODUCTION

“In 2002, the City of Franklin hired Ruekert & Mielke, Inc. to prepare a public facilities needs assessment and impact fee study (2002 Impact Fee Study) for the construction of law enforcement and municipal court facilities and fire protection and emergency medical facilities, as well as library, park and recreation, transportation system and water system facilities. The needs assessment was prepared during February and March of 2002 in accordance with Wisconsin Statutes 66.0617, formerly Wisconsin Statutes 66.55, and was presented to the City on April 16, 2002. The City held a public hearing on the proposed impact fee ordinance on May 7, 2002. On May 7, 2002, the City adopted the impact fee ordinance imposing total impact fees in the amount of \$3,809. Since then a 2004 amendment updated the law enforcement/municipal court, and fire protection and EMS impact fees. Within the 2004 update most of the analyses remained unchanged with the exception of the development projections, land use projections, and a few of the estimated project costs for the police and fire facilities.” [Excerpt from the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, as prepared by Ruekert & Mielke, Inc.”]

Additionally, in 2013 Ruekert & Mielke, Inc. prepared an “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, which updated the original needs assessment to revise the land use, population, and development projections and which updated the park impact fee project lists, costs, and identified any new park projects or improvements that may be required due to new development. It then applied that revised information to an updated calculation of the parks, playgrounds, and other recreational facilities impact fee. The amendment was supplementary to and intended to be read in conjunction with the 2002 Impact Fee Study, and the 2004 amendment. The amendment acted as an updated public facility needs assessment for the Park and Recreation Facilities.

The purpose of this update is to address two items. First, addressed herein as Part 1, at the direction of the Common Council in accordance with Resolution 2013-6924, adopted November 5, 2013, the Common Council wishes to consider the exemption of public schools from application of each of the various impact fees. Second, addressed herein as Part 2, based upon the results of the 2013 amendment to the impact fee for parks, playgrounds, and other recreational facilities, it is reasonable to suspend for 2014 the annual increase in impact fee rates as provided for by §92-9 L of the Municipal Code of Franklin, Wisconsin. This amendment is supplementary to and intended to be read in conjunction with the 2002 Impact Fee Study and the 2004 and 2013 amendments. This amendment, in conjunction with the documents previously referenced, acts as an updated public facility needs assessment.

METHODOLOGY

“The public facilities needs assessment prepared in 2002 included the following, as required by Wisconsin Statutes 66.0617:

1. An inventory of existing public facilities including an identification of existing deficiencies in the quantity or quality of those public facilities, for which it was anticipated that an impact fee would be imposed.

2. An identification of new public facilities or improvements or expansions of existing public facilities that will be required because of new land development. The identification was based upon an explicitly identified level of service and standards.
3. A detailed estimate of the capital costs of providing the new public facilities or improvements or expansion previously mentioned.
4. A computation of the cost per capita of providing the new public facilities required because of new land development, and a recommended schedule of impact fees, including an estimate of the effect of imposing impact fees on the availability of affordable housing within the City.”

[Excerpt from the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013 as prepared by Ruckert & Mielke, Inc.”]

As noted in the introduction, the 2013 amendment updated such sections in relation to the parks, playgrounds, and other recreational facilities impact fee and calculated a new parks, playgrounds, and other recreational facilities impact fee. Specifically, the amendment noted that it “updated the original needs assessment to revise the land use, population and development projections and update the park impact fee project lists, costs and identify any new park projects or improvements that may be required due to new development.”

As such, this additional amendment to the 2002 Impact Fee Study and the 2004 Impact Fee Update, along with recommendations included in the September 2013 amendment, as adopted in October of 2013, incorporates all of the information required of a Public Facility Needs Assessment as identified in Wis. Stats 66.0617.

PART 1. EXEMPTION OF PUBLIC SCHOOLS FROM SUBJECTION TO IMPACT FEES.

As noted above, on November 5, 2013, the Common Council adopted Resolution No. 2013-6924, incorporated below, which directed that an ordinance be prepared for consideration to “provide for exemption of public school districts from application of impact fees applicable to institutional or non-residential development.”

STATE OF WISCONSIN CITY OF FRANKLIN MILWAUKEE COUNTY

RESOLUTION NO. 2013-6924

A RESOLUTION DIRECTING STAFF TO INVESTIGATE AND PREPARE AN ORDINANCE EXEMPTING PUBLIC SCHOOL DISTRICTS FROM SUBJECTION TO CITY-IMPOSED IMPACT FEES AS SET FORTH IN SECTION 92-9 OF THE MUNICIPAL CODE

WHEREAS, the City of Franklin previously adopted Impact Fees related to park, playground, and other recreational facilities; fire protection and emergency medical facilities; law enforcement facilities; transportation facilities; and the Southwest Sanitary Sewer Service Area extension facilities that require developers to pay for the capital costs that are necessary to accommodate land development; and

WHEREAS, public school districts function similar to units of local government having the ability to levy property taxes and requiring the election of resident citizens to serve on the School Board and other units of government, specifically the United States, the State of Wisconsin, Milwaukee County, and the City of Franklin are exempted by local definition from paying such impact fees as may apply to institutional development; and

WHEREAS, any impact fee charged to a public school district would effectively be passed through to all of the property tax payers of the district thereby diluting the intended application of such fees upon developers, and, similarly, those land developers which cause growth and development of the public school district are already subject to impact fees through application of residential development impact fee rates; and

WHEREAS, a public school district may appeal the imposition or amount of imposition of an impact fee but failure to appeal or differences in the conclusions of such appeals could lead to inconsistent application of impact fees upon development by public school districts, which development should all be treated in a similar manner,

NOW, THEREFORE BE IT RESOLVED that the Common Council of the City of Franklin does hereby direct the Director of Administration, with the advice and direction of the City Attorney, to prepare an ordinance revision to Section 92-9 "Impact Fees" to provide for exemption of public school districts from application of impact fees applicable to institutional or non-residential development.

BE IT FURTHER RESOLVED that, unless otherwise restricted by law, such ordinance shall be retroactive to January 1, 2013, and shall provide that or allow for any such applicable impact fees collected since that date from or on behalf of a public school district be refunded.

Introduced at a regular meeting of the Common Council of the City of Franklin this 5th day of November, 2013 by Alderman Skowronski

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 5th day of November, 2013.

APPROVED:


Thomas M. Taylor, Mayor

ATTEST:


Sandra L. Wesolowski, City Clerk

AYES 6 NOES 0 ABSENT 0

Based on communication from Ruckert & Mielke, the City's impact fees, as currently established and applicable on a non-residential or institutional development basis, would be applied to schools "expanding for growth of student population." They noted that "if they are performing a renovation project to improve an older school or replace an outdated school this school would not be subject to impact fee charges unless there is an enlargement in student population or staff."

Upon inquiry, however, Ruckert & Mielke did not indicate that they specifically anticipated impact fee revenue to be generated by new public school development. A review of the 2002 Impact Fee Study does show that the "Governmental and Institutional" land use category is considered relative to existing and planned land uses and construction of additional floor area. This category specifically notes that it "Includes Institutional District." This distinction is relevant because the Institutional District has a broad range of facilities that are considered permitted or special uses within the district.

Section 15-3.0312 I-1 of the Unified Development Ordinance indicates that the "Institutional District is intended to: 1. Eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public, or quasi-public

purpose, is anticipated to be permanent.” As noted above, however, the district is not limited to such uses, the Institutional District has a broad range of facilities that are permitted or special uses including, but not limited to, the following: utilities, lumber yards, hardware stores, nurseries, gift shops, funeral services, dance studios, theatrical producers and services, various health care services and facilities, and convenience stores (Per Table 15-3.0603 of the Unified Development Ordinance). Additionally schools, governmental buildings, religious organizations, and libraries are included as permitted or special uses in this district. As a conclusion, it is easy to see that construction of additional square footage of floor space in the Institutional District, as contemplated in the Impact Fee Study, does not limit itself to governmental buildings, churches, schools, and the like. The additional square footage of floor space includes all of these potential other permitted and special uses that could occur with the Institutional District and which would logically be subject to impact fees.

That being the case, it is reasonable to conclude that the Impact Fee Study did not specifically consider and incorporate anticipated revenue from development of public schools.

There is also a logical consideration for the exemption of public schools from consideration of the application of impact fees. As noted by the Common Council in Resolution 2013-6924, “any impact fee charged to a public school district would effectively be passed through to all of the property taxpayers of the district thereby diluting the intended application of such fees upon developers, and, similarly, those land developers which cause growth...” Therefore, the intended cost of new development is passed directly to those causing new development under the ordinance if public school development is exempted, provided such revenue is not anticipated. In such an instance, the impact fee rates will be set at levels necessary to generate the necessary impact fee revenue from only those to whom the fee directly applies. They would not be set at a reduced level that incorporates impact fee revenue paid indirectly by non-new-growth property taxpayers of the school district. It is worth noting repeating, therefore, that the current fees as previously set were not set too low, if schools are now exempted, because there is no evidence that the anticipated revenue levels specifically anticipated or included a revenue stream from public school development.

In addition to the logical argument presented above, public school district’s share a similarity with other organizations already excluded from City of Franklin impact fees levied on institutional development. Chapter 92 provides in the definition of “Institutional Development” that “The construction or modification of improvements to real property by the United States, the State of Wisconsin, Milwaukee County and the City of Franklin are not institutional development for the purposes of this section.” The reasoning for this exemption is not identified, but each of these entities obtains a substantial portion of its operating revenues through taxation. A characteristic a public school district shares, whereas most developers are not taxing bodies.

Given the above discussion, there is no basis to conclude that exclusion of public schools from application of the impact fees would impact the conclusions reported in the Impact Fee Study or its subsequent update or amendment. Additionally, at the time of the preparation of this amendment, no clear statutory prohibition against an exemption of public schools from application of an impact fee was identified by the City Attorney.

PART 2. SUSPEND, FOR 2014, THE ANNUAL INCREASE IN IMPACT FEE RATES.

Section §92-9 L. of the Municipal Code of Franklin provides that “The impact fees imposed under this section shall be increased annually at the rate of 5%, with the adjustment effective January 1 of each year.” The ordinance does not specify the intent of this annual increase, but it is clearly understood from the historical record that this annual increase serves to ensure that the fee remains up-to-date with costs and inflationary factors that will impact the expenditure side of impact fee related projects.

As noted in the “Introduction” above, in 2013 Ruckert & Mielke, Inc. prepared an “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013. That study updated the original needs assessment to revise the land use, population and development projections. It also updated the park impact fee project lists, costs and identified any new park projects or improvements that may be required due to new development. It then applied both sets of revised information to an updated calculation of the parks, playgrounds, and other recreational facilities impact fee. The end result after amendment to the ordinance was a reduction in the parks, playgrounds, and other recreational facilities impact fee from \$3,799 to \$2,816 per dwelling unit for single-family or two-family residential development and from \$2,534 to \$1,942 per dwelling unit for multi-family residential development.

Both sets of adjustments impacted the final rates as determined in the review of the parks, playgrounds, and other recreational facilities impact fee. Obviously the final calculated fee was impacted by the park development specific data and plans. The land use, population and development projections, however, will have broader implications across all the impact fee types included in Section §92-9 of the municipal code. An amendment to each of these sections is currently contracted for and underway with Ruckert & Mielke, Inc. The parks-related fee was simply accelerated due to a specific project need; otherwise all impact fee areas would have been addressed within one amendment.

The updating of the population projections, for example, “are extremely important in the calculation of impact fees as future development is one of the driving factors in the impact fee calculation.” [Excerpt from the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013.] At the same time, the Common Council has an obligation to consider and determine that a proposed impact fee bears a rational relationship to the need for new, expanded and improved public facilities. Similarly, Section §92-9 L. of the Municipal Code anticipates that the Common Council needs to determine “that the amount of fees imposed continues to represent an equitable and reasonable apportionment of the cost of public improvements and requirements generated by land development.” To that end, it provides further that “Upon such considerations and for such purpose, the Common Council may make reasonable adjustments to the amount of such fees...”

Given the requirements of the statute and the expectation that the Common Council may make reasonable adjustments to the amount of such fees and in consideration of the results incorporated into the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, as prepared by Ruckert & Mielke, Inc., it is reasonable for the Common Council to conclude that the annual increase in the impact fee rates should be suspended for 2014.

The significant reduction in the park impact fee following the recent amendment suggests that it is possible that the remaining impact fee rates will experience a need for a reduction when the study is completed. The parks study, however, did not parse out the impact of each factor on the final rate adjustment. As such, one cannot conclude the degree to which the rate change was caused by adjustments to population, land use, and development rates; nor can one conclude exactly how other factors may influence the other impact fee rates. Even though a final determination cannot be reached until an amendment for the remaining impact fees is completed in early 2014, the parks impact fee amendment results are sufficient to warrant suspending the automatic annual increase in rates pending the final results of the outstanding study. In this regard it is more reasonable to err on the side of undercharging for a brief period than it is to increase the rate on January 1st only to, potentially, reduce it shortly thereafter.

In fact, in the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, Ruckert & Mielke notes that “the City and R/M came to an agreement that all future yearly fee escalations shall be based upon the Milwaukee CPI (Consumer Price Index).” Ruckert & Mielke suggested this course of action as a step in ensuring that “the most proper and justifiable impact fee is still in place” going forward. The park impact fee rate, therefore, was already set anticipating a lower annual rate increase than the 5% currently established in the municipal code.

In conclusion, pending completion of the impact fee review currently underway, the results of the park, playgrounds, and other recreational facilities impact fee amendment should be headed, and the annual increase in impact fee rates should be suspended for 2014.

IMPACT ON AFFORDABLE HOUSING

The exemption of public schools from application of impact fees will not impact housing affordability from that as discussed in the prior study, update, or amendment because, as discussed above, it should have no impact on the impact fee rates themselves.

The suspension of the annual, automatic 5% rate increase will not negatively impact housing affordability from that as discussed in the prior study, update, or amendment because, as discussed above and for the same reason as referenced in the “Amendment to the 2002 Impact Fee Study & The 2004 Impact Fee Update,” September 2013, proposing to eliminate the 2014 annual rate increase effectively decreases the 2014 fees and fee rates, and, as such, there should be no negative effect on housing affordability.

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<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">January 7, 2014</p>
<p style="text-align: center;">REPORTS AND RECOMMENDATIONS</p>	<p style="text-align: center;">A Resolution Authorizing the Assignment or Transfer of the Developer's rights and obligations under the Development Agreement for Hampton Inn & Suites Milwaukee/Franklin to FF&E, LLC</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>6.2.</i></p>

People's Choice Corporation, by Edward W. Eldridge, President, has requested a transfer of the Developer's rights and obligations under the Development Agreement for Hampton Inn & Suites Milwaukee/Franklin, between People's Choice Corporation and the City, which Agreement was approved by the Common Council at its regular meeting on November 19, 2013, to FF&E, LLC, a Wisconsin limited liability company. The factual support for the request is set forth in the attached correspondence.

Paragraph 19. of the Agreement provides as follows: "[t]his Agreement shall be binding upon the parties hereto and their respective successors and assigns, excepting that the parties hereto do not otherwise intend the terms or provisions of this Agreement to be enforceable by o[r] provide any benefit to any person or entity other than the party of the first part and the party of the second part. Developer shall not convey or assign any of its rights or obligations under this contract whatsoever without the written consent of the City, which shall not be unreasonably withheld upon a showing that any successor or assignee is ready, willing and able to fully perform the terms hereof and the Developer remains liable hereunder."

The estimated development costs of \$340,961.40 under the Agreement shall be secured by a letter of credit to be provided by FF&E, LLC, upon approval of the request for transfer. Staff recommends approval. Attached is a draft resolution to authorize the transfer.

COUNCIL ACTION REQUESTED

A motion to adopt A Resolution Authorizing the Assignment or Transfer of the Developer's rights and obligations under the Development Agreement for Hampton Inn & Suites Milwaukee/Franklin to FF&E, LLC.

January 1, 2014

Mayor Thomas M. Taylor and Common Council
City of Franklin
9229 W. Loomis Road
Franklin, WI 53132

RE: Development Agreement Assignment Request
Hampton Inn & Suites Project

Dear Mayor and Common Council:

Pursuant to the terms and provisions of paragraph 19 of the Development Agreement between People's Choice Corporation and the City of Franklin, Wisconsin, I hereby request a transfer of the Developer's rights and obligations under the Development Agreement for the Hampton Inn & Suites Milwaukee/Franklin to FF&E, LLC, a Wisconsin limited liability company. The new entity (FF&E, LLC) was created to facilitate the project's financing needs and to allow for additional equity investment. As a Member of FF&E, LLC with a controlling interest, I can attest that the company is ready, willing and able to fully perform the terms of the Development Agreement for the Hampton Inn & Suites Milwaukee/Franklin.

Thank you for your attention to this matter and please contact me if you have any questions on this assignment request.

Sincerely,



Edward W. Eldridge
President
People's Choice Corporation

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2014-_____

A RESOLUTION AUTHORIZING THE ASSIGNMENT OR TRANSFER OF THE
DEVELOPER'S RIGHTS AND OBLIGATIONS UNDER THE DEVELOPMENT
AGREEMENT FOR HAMPTON INN & SUITES MILWAUKEE/FRANKLIN
TO FF&E, LLC

WHEREAS, People's Choice Corporation, by Edward W. Eldridge, President, has requested a transfer of the Developer's rights and obligations under the Development Agreement for Hampton Inn & Suites Milwaukee/Franklin, between People's Choice Corporation and the City, which Agreement was approved by the Common Council at its regular meeting on November 19, 2013, to FF&E, LLC, a Wisconsin limited liability company; and

WHEREAS, the request for the transfer was based upon project financing needs, and the estimated development costs under the Agreement shall be secured by a letter of credit, and the Common Council having determined such request and action authorizing same to be reasonable.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the assignment or transfer of the Development Agreement for Hampton Inn & Suites Milwaukee/Franklin developer rights and obligations from People's Choice Corporation to FF&E, LLC, pursuant to the terms and provisions of paragraph 19. of the Agreement, be and the same is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized to execute and deliver such documents as may be approved by the City Attorney and executed by People's Choice Corporation and FF&E, LLC, a may be necessary to effectuate such transfer.

BE IT FINALLY RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of such transfer documents(s) with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2014.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2014.

RESOLUTION NO. 2014-_____

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APPROVED:

Thomas M. Taylor, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>January 7, 2014</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>A Resolution in Opposition to 2013 Assembly Bill 522 Requiring Local Municipalities to Share Payments in Lieu of Taxes Received from Tax Exempt Entities with Overlying Taxation Jurisdictions (Mayor Taylor)</p>	<p>ITEM NUMBER</p> <p><i>G. 3.</i></p>

Attached is a draft of the above-entitled resolution and a copy of AB 522. The League of Wisconsin Municipalities opposes this bill.

COUNCIL ACTION REQUESTED

A motion to adopt A Resolution in Opposition to 2013 Assembly Bill 522 Requiring Local Municipalities to Share Payments in Lieu of Taxes Received from Tax Exempt Entities with Overlying Taxation Jurisdictions.

LRB-3105/1

MES:kjf:jf

2013 - 2014 LEGISLATURE

2013 ASSEMBLY BILL 522

November 22, 2013 - Introduced by Representatives WEATHERSTON, BIES, T. LARSON, A. OTT and SMITH, cosponsored by Senators TIFFANY, HANSEN, LEHMAN and SCHULTZ. Referred to Committee on State and Local Finance.

1 **AN ACT** *to create* 66.0629 of the statutes: relating to: requiring
2 a city, village,
3 town, or county to share with overlying taxation jurisdictions
 certain payments
 for potential services received from a tax-exempt entity.

Analysis by the Legislative Reference Bureau

This bill requires a city, village, town, or county (political subdivision) that receives a payment from a nonprofit entity, for a service it might render to tax-exempt property owned by the entity, to share that payment with all of the overlying taxation jurisdictions. Under the bill, the political subdivision and each of the overlying taxation jurisdictions may retain only the same proportional amount that they would have received from the entity if the property in question was not tax-exempt and had in fact paid property taxes to all of the relevant taxation jurisdictions.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 66.0629 of the statutes is created to read:
5 66.0629 Payments for potential services. (1) DEFINITIONS. In
this section:

1 (a) "Agreement" means any type of agreement entered into
2 between an entity
3 and a political subdivision under which the entity agrees to make
4 payments to the
5 political subdivision for a service that the political subdivision may
6 provide to the
7 property that is owned by the entity and subject to the property tax
8 exemption.

9 (b) "Entity" means a nonprofit entity that claims a property
10 tax exemption
11 under s. 70.11 (4), (4a), or (4d) for property owned by the entity.

12 (c) "Political subdivision" means a city, village, town, or
13 county.

14 (d) "Service" has the meaning given in s. 66.0627 (1) (c).

15 (2) PAYMENTS FOR SERVICES. (a) If a political subdivision
16 receives any payment
17 from an entity under an agreement, the political subdivision may not
18 retain the
19 entire amount of the payment. The political subdivision may retain
20 the amount
21 received multiplied by a fraction, the denominator of which is the total
22 amount of
23 property taxes that the entity would have paid, in the taxable year to
which the
exemption applies, on the property to which the agreement applies if
the entity did
not claim the tax exemption, and the numerator of which is the
amount of property
taxes the political subdivision would have received from the entity for
that property
in that taxable year.

(b) Any payment received by a political subdivision, as
described under par. (a),
that the political subdivision may not retain shall be forwarded to the
overlying
taxation jurisdictions that would have collected property taxes on the
property in
that taxable year if the entity did not claim the tax exemption. Each
overlying
taxation jurisdiction may retain the amount received by the political
subdivision
multiplied by a fraction, the denominator of which is the total amount

24 of property
taxes that the entity would have paid, in the taxable year to which the
25 exemption
applies, on the property to which the agreement applies if the entity
did not claim

1 the tax exemption, and the numerator of which is the amount
of property taxes the
2 overlying taxation jurisdiction would have received from the entity for
that property
3 in that taxable year.

4 **SECTION 2. Initial applicability.**

5 (1) This act first applies to an agreement that is entered into
on the effective
6 date of this subsection.

7 (END)

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2014-____

A RESOLUTION IN OPPOSITION TO 2013 ASSEMBLY BILL 522
REQUIRING LOCAL MUNICIPALITIES TO SHARE PAYMENTS IN LIEU OF
TAXES RECEIVED FROM TAX EXEMPT ENTITIES WITH OVERLYING
TAXATION JURISDICTIONS

WHEREAS, 2013 Assembly Bill 522, has been introduced in the Wisconsin Legislature to create Section 66.0629 of the Wisconsin Statutes, requiring a city, village, town, or county to share with overlying taxation jurisdictions certain payments for potential services received from a tax-exempt entity; and

WHEREAS, property tax exemptions are created by state law; some municipalities try to address the tax shift to residential homeowners that occurs when a tax exempt entity locates in the community by negotiating with the tax exempt owner for a payment in lieu of taxes; some tax exempt entities, such as churches, non-profit health care facilities, and non-profit elderly housing facilities, voluntarily make payments in lieu of taxes to municipalities to cover the costs the municipality incurs in providing police, fire, plowing and other services to the property; and

WHEREAS, the amount of the payment in lieu of taxes paid to the municipality is typically calculated based on the municipality's tax rate applied to the estimated fair market value of the property; and

WHEREAS, because the tax exempt property is located in the municipality, typically counties do not provide any services to the property; also, often there are not any students served by the school district residing at the tax exempt property; and

WHEREAS, traditionally, the municipality directly negotiates with the tax exempt owner for the payment in lieu of taxes; if the other taxing jurisdictions want to receive a payment in lieu of taxes, they should negotiate for one; and

WHEREAS, if the Legislature is concerned about the growing number of tax exempt properties locating within municipalities in this state and the impact such properties have on other taxpayers, the solution is not to limit a municipality's ability to negotiate and collect a payment in lieu of taxes payment, but rather to reduce the number and breadth of tax exemptions the Legislature has created over the years.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Common Council hereby declares its opposition to Assembly Bill 522, as is necessary to protect and promote the health,

RESOLUTION NO. 2014-_____

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safety and welfare of the City of Franklin and fairness and efficiency in the payment for and provision of governmental services.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to send a certified copy of this Resolution to Wisconsin Governor Walker, Wisconsin State Senate President Michael Ellis, Wisconsin State Assembly Speaker Robin Vos, and Representative Duey Stroebel, Chair of the Committee on State and Local Finance.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2014.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2014.

APPROVED:

Thomas M. Taylor, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

<p style="text-align: center;">APPROVAL <i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE 1/7/14</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">Update on the State required property reassessments including geographic distribution of tax valuation increases. (Aldermen Wilhelm and Taylor)</p>	<p style="text-align: center;">ITEM NUMBER <i>G.4.</i></p>

Assessor Mark Link will be available at the meeting to discuss property reassessment requirements and practices. The discussion will address both State requirements that bring about reassessments and the factors that influence property revaluations. The Director of Administration and Assessor will prepare a memo summarizing these issues as well and will endeavor to provide it in advance of the meeting so that Aldermen may be more prepared with any further questions they may have.

Using previously prepared documents, the Director of Administration is in the process of reviewing these documents and other pertinent data to present an effective, accurate, and consistent presentation of detailed data related to the geographic distribution of tax valuation increases for the Council's review. We will attempt to have this completed by the time of the meeting as well.

COUNCIL ACTION REQUESTED

None

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<p style="text-align: center;">APPROVAL</p> <p><i>Slw</i> </p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">01/07/2014</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">An Ordinance to Amend the Municipal Code to Provide for the Prevention of Blight Created by the Boarding Up of Windows Upon Unoccupied Dwelling Structures (Ald. Taylor)</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G.5.</i></p>

This item was referred to staff for review. The following additional comments are provided. The original packet and ordinance for this item is attached for your convenience and consideration.

1. The Building Inspector and Director of Administration recommend that Section 2 of the ordinance be amended adding "frame and/or" before the word "sash". This incorporates wording to ensure that a technical definition issue is not raised and ensures that if portions of the window structure get knocked out leaving only a "frame" that enforcement can still be pursued.
2. The current form of the ordinance specifically restricts itself to "unoccupied dwelling structures" so, upon further consideration, it is clear that it is not applicable to accessory structures or "out buildings" (unless the accessory structure were to be also a "dwelling" such as with servant's quarters). As such, the ordinance is also not applicable to, for example, detached garages in subdivisions or commercial and manufacturing structures.
3. There is no issue relative to the issue of habitable versus uninhabitable.
4. From the prior Common Council discussion, staff understands that enforcement remains in the current order of priorities whereas, barring an immediate public health or safety risk (which would be promptly addressed), permit issuance, inspections, and plan review remain departmental priorities.
5. After discussion with the City Attorney, staff is comfortable that the ordinance as presented (with #1 above) provides sufficient flexibility and guidance to the Building Inspector to address the variety of circumstances which may arise. Additional internal documentation may be developed to further clarify such flexibility and guidance, but, as per the City Attorney, it is not necessary that such a level of detail be incorporated into the ordinance itself.
6. Enforcement will occur in accordance with Section 178-8 of the municipal code. In general and except in the case which will "threaten great and immediate danger to the public health, safety, peace, morals or decency," a property owner will receive, at a minimum, a public nuisance abatement order providing 10 days notice prior to a municipal citation being issued. [Please note that in following historical directives Building Inspection, generally, does provide an initial 10-day notice period followed by a second, more strongly worded 10-day notice period prior to issuing a citation.] Please recognize that the Municipal Court levy's fines and does not provide staff authority to enter a property to initiate the repair. As such, typically, if municipal fines are ineffective in provoking compliance, the City pursues a Circuit Court action that can result in a Court order enabling the City to enter the property and structure and perform the repair. If the Common Council is desirous of moving directly to Circuit Court action in such instances, such a directive should be provided.
7. In a severe or unique circumstance which does "threaten great and immediate danger to the public health, safety, peace, morals or decency," the City can consider immediate action.

COUNCIL ACTION REQUESTED

A motion to adopt An Ordinance to Amend the Municipal Code to Provide for the Prevention of Blight Created by the Boarding up of Windows upon Unoccupied Dwelling Structures, as amended by adding "frame and/or" before the word "sash" in Section 2 of the ordinance.

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>December 17, 2013</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>An Ordinance to Amend the Municipal Code to Provide for the Prevention of Blight Created by the Boarding Up of Windows upon Unoccupied Dwelling Structures (Ald. Taylor)</p>	<p>ITEM NUMBER</p> <p>G-13</p>

See attached draft ordinance which prohibits the boarding up of windows in lieu of glass window maintenance upon unoccupied dwelling properties. The Municipal Code already requires the same for occupied dwellings. In addition to public nuisance enforcement procedures being available under the proposed ordinance, the general penalty provisions of the Municipal Code with regard to forfeitures also apply.

COUNCIL ACTION REQUESTED

A motion to adopt An Ordinance to Amend the Municipal Code to Provide for the Prevention of Blight Created by the Boarding Up of Windows upon Unoccupied Dwelling Structures.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

ORDINANCE NO. 2013-_____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE TO PROVIDE FOR
THE PREVENTION OF BLIGHT CREATED BY THE BOARDING UP OF WINDOWS
UPON UNOCCUPIED DWELLING STRUCTURES

WHEREAS, the Municipal Code of the City of Franklin regulates housing structures pursuant to Ch. 154.1., which incorporates by reference the Building Officials Conference of America, Inc. Basic Housing Code; and

WHEREAS, the aforesaid Code does not apply to unoccupied dwelling structures, and the City has experienced the occurrence of some unoccupied dwelling structures due to economic circumstances which have occurred throughout the Country due to the economy recession, such properties being properties in the state of foreclosure and the like; and

WHEREAS, some of the unoccupied dwelling structures have been altered by way of boarding up windows, such alterations being unsightly and adverse to the aesthetics and property values of the surrounding areas and negatively impacting the peace and security of neighboring residents; and

WHEREAS, the Common Council having considered the ill effects upon neighboring persons and properties of such boarding up alterations and having determined that such alterations constitute a public nuisance and should be prohibited.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: §154-1. of the Municipal Code of Franklin, Wisconsin, entitled "Housing code adopted", be and the same is hereby amended to read as follows:

"The BOCA Basic Housing Code, 1st Edition 1964, as amended through 1968, published by the Building Officials Conference of America, Inc., is adopted by reference and made a part of this chapter as if set out in full. A violation of the provisions thereof shall constitute a violation of this chapter. Notwithstanding the foregoing or any provisions of the BOCA Code which only apply to occupied dwellings, see §178-5.H. of the Municipal Code which additionally requires windows to be glazed upon unoccupied dwelling structures."

SECTION 2: §178-5. of the Municipal Code of Franklin, Wisconsin, entitled "Dilapidated buildings", as a Subsection of the Section entitled "Public Nuisances affecting peace and safety", be and the same is hereby

amended to read as follows: "All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use, including, but not limited to unoccupied dwelling structures upon which every window sash is not fully supplied with glass window panes or an approved substitute which are without open cracks or holes, such window glazing maintenance thereby being a requirement hereunder. The aforesaid glazing maintenance requirement shall not be applicable in situations where the Building Inspector has determined that safety and/or security circumstances require the boarding up of windows."

SECTION 3: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 4: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 5: This ordinance shall take effect and be in force from and after its passage and publication; with regard to the application of this ordinance to property upon which unoccupied dwelling structure windows are currently boarded up upon the date of adoption hereof, this ordinance shall take effect on January 18, 2014.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013, by Alderman _____.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2013.

APPROVED:

Thomas M. Taylor, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____