



City Council Meeting Minutes Tuesday, September 6, 2022 - 6:00 p.m. Council Chambers, City Hall

Council in attendance: Mayor Jo Brown, Councilor Jay Chandler, Councilor Bob Desrochers, Councilor George Dzujna, Councilor Vincent Ribas, Councilor April Bunker, Councilor Valerie Blake, Councilor Paul Trudel, Councilor Ted Starkweather and Councilor Olivia Zink

Absent: None

Others in attendance: City Manager Judie Milner, City Department Heads, and members of the public.

Mayor Brown called the meeting to order in Council Chambers at 6:00 p.m.

Salute to the Flag was led by Councilor Dzujna, followed by a moment of silence in remembrance of all of our veterans after the Labor Day weekend, led by Councilor Desrochers.

Public Hearing:

Resolution #02-23, condemning intolerance and hate.

Mayor Brown started off by reading a letter from the United States Attorney's Office District of NH, which is included at the end of these minutes.

Councilor Ribas then read Resolution #02-23 in its entirety.

The public hearing opened at 6:16 p.m.

Mayor Brown welcomed Franklin residents to speak on behalf of this resolution.

There were many citizens that spoke in support for the resolution and were glad that this was addressed by the council. There was some discussion about trying to legislate the condemnation of intolerance and hate since it is not possible to change people. A few residents were worried about singling out other dangerous hate groups, however, everyone seemed to agree that Franklin should be a welcoming community that is against attacks that are based on differences.

The public hearing on Resolution #02-23 closed at 6:54 p.m.

Councilor Ribas also read the below letter and email from two different residents that were unable to attend the meeting.

September 1, 2022

Franklin City Council
Town Hall
316 Central Street
Franklin, NH 03235

RE: Special City Council Meeting on September 6, 2022

Dear Council Members,

Franklin is an up and coming city, thanks to the visions and efforts of a lot of wonderful people. Let's not let some rotten underpinnings destroy that.

I applaud your desire to put a halt to the intolerance and hateful activities showing up in Franklin.

How can I help?



Patricia Duffy
Ward Three

Email:

From: Contact form at Franklin NH <cmsmailer@civicplus.com>

Sent: Tuesday, September 6, 2022 9:47 AM

To: Lisa Jones <ljones@franklinnh.org>

Subject: [Franklin NH] Public hearing re Resolution #02-23 (Sent by Ruth F Niven, ruthniven@hotmail.com)

Hello Ljones,

For health reasons, I can't attend the Franklin City Council meeting tonight, September 6, 2022. I hope it's not too late to include my support for Resolution #02-23, declaring that Franklin is opposed to intolerance, hate and racial/religious supremacist activity.

Thank you,

Ruth F Niven

Legislative Update:

Mayor Brown stated that there were no legislative updates.

Comments from the Public:

Mayor Brown asked if there were any other generic public comments.

Resident Leigh Webb, Ward III, stated that he is hoping that there will be some clarification on some items on the trash ordinance if it is to be taken off of the table in this meeting. He also mentioned that he would like to hear more discussions on recycling.

Webb also commented on the property at 599-601 S. Main Street, as there seems to be an offer on the table. If the man purchasing the property reaches out to him, he knows who originally built that barn in 1869 and also has a diary with dated entries from the whole construction of the barn that he can show him.

Lastly, Webb confirmed that when the city takes over a deeded property, the city is just trying to recover the amount of the overdue taxes.

Resident Janet Desrochers, Ward II, stated that she was looking for an update on the sign issue where there was a heart placed over it. She wanted to know if there was a plan to replace the signs in the city. City Manager Milner stated that the heart sign is not something that the city sanctioned so that is scheduled to come down tomorrow. The Economic Development Group has been working on a plan for the other city signs that are in very poor condition.

Mayor Brown thanked everyone for speaking about the resolution and handling it so well and with professionalism.

City Council Acknowledgement:

Mayor Brown asked if there were any City Council acknowledgements.

Councilor Dzujna wanted to recognize the 3 clerks that work at City Hall, as they are the face of the city and they are very accommodating and helpful.

Councilor Zink also recognized the clerks for getting everything ready for the election and working with the ballot clerks and supervisors.

Proclamation to Make Franklin a Purple Heart Community:

Mayor Brown read the below proclamation out loud:

A Mayoral Proclamation in Honor of Making Franklin A Purple Heart Community

WHEREAS, the people of the City of Franklin have great admiration and the utmost gratitude for all the citizens of our community who have selflessly served in the Armed Forces, which has been vital in maintaining the freedom and the way of life enjoyed by our citizens; AND

WHEREAS, citizens of our community who have been wounded or killed in action while serving in the Armed Forces and have been posthumously awarded the Purple Heart for their ultimate sacrifices; AND

WHEREAS, the Purple Heart is the oldest American military decoration and was created as The Badge of Military Merit, made of purple cloth in the shape of a heart with the word "Merit" sewn upon it, on August 7, 1782 in Newburgh, New York by General George Washington; AND

WHEREAS, the heritage it represents is sacred to those who know the price paid to wear the Purple Heart; AND

WHEREAS, August 7th is nationally recognized as Purple Heart Day;

NOW, THEREFORE, BE IT RESOLVED that I, Jo Brown, Mayor of the City of Franklin, New Hampshire, will recognize August 7th, annually, as Purple Heart Day, and urge the people and organizations of Franklin to display the American Flag as well as other public expressions of recognition of our Purple Heart recipients.

PROCLAIMED this 6th day of September 2022 by the Mayor of Franklin.

Given by my hand with the authority of the People of Franklin and under the Great Seal of Their City in the year of Our Lord two thousand and twenty-two, and the Independence of the United States, two hundred and forty-six.

Mayor Brown thanked Councilor Desrochers for the purchasing the signage for the City of Franklin.

Mayor's Update:

Mayor Brown stated that she had a few updates:

- She thanked the former Drug Task Force Coordinator, Kandyce Tucker, for a wonderful National Night Out event. It was very well attended.
- Brown stated that she was able to speak at a Webster Lake Association annual meeting this past August and let them know what was going on downtown, using the Economic Development briefing that the council heard back in January.
- She also spoke with the Superintendent and the High School Principal about some possible funding opportunities for the school.
- The 200th year anniversary of the Congregational Church was a great event. It was well organized and they had a lot of support. She congratulated everyone from that community.
- The City Manager and her met with Lilly Johnson from the high school honor society about recycling. She has some great ideas and options and will be meeting with MSD Director Hanscom to discuss more.

- Last Friday Governor Sununu was in Franklin and had the opportunity to meet with her, Eric Chimborg, Marty Parichand and City Manager Milner to talk about not only what has been done so far at Mill City Park, but also some other potential resources that have recently become available to Merrimack County.

Agenda Item I.

Approval of Minutes:

Council to consider the minutes of the June 27, 2022 City Council Special Meeting, the August 1, 2022 City Council Meeting, and the non-public minutes from the August 1, 2022 City Council Meeting.

Motion - Councilor Dzujna moved that the Franklin City Council approve the minutes of the June 27, 2022 City Council Special Meeting, the August 1, 2022 City Council Meeting, and the non-public minutes from the August 1, 2022 City Council Meeting. Seconded by Councilor Bunker.

Councilor Ribas stated that he sent a few corrections to Executive Secretary Jones for revisions.

All in favor; motion passes.

Agenda Item II.

School Board Update:

Superintendent Dan LeGallo gave a school board update:

- LeGallo wanted to start by recognizing Councilor Desrochers and his wife, Janet, for donating school supplies and Mayor Brown and Chief Goldstein for coming on Thursday for the opening day for all of the staff members.
 - He introduced the 3 new Principals and this was the first day of school for them as well.
 - o High School Principal, David Levesque
 - o Middle School Principal, Virginia Everett
 - o Paul Smith Elementary School Principal, Robert LaRoche
- Each principal introduced themselves to the council and expressed their excitement to be a part of the Franklin SAU.
- Business Administrator Braman gave the council some new information from the Department of Education. They received their final adequacy aid grant for this year based on the end of year enrollment numbers. The total amount of aid ended up coming out to \$8,630,249. This is good news since it comes out to be more than expected by about \$360,164.
 - Braman stated that during a cleanup of reconciliation they found an extra \$431,870 from what was originally budgeted. This is due primarily to the special education costs being less than originally contracted.
 - Braman also mentioned that district received an additional \$165,000 from the Barr

foundation.

- LeGallo gave a hiring update:
 - o There is a paraprofessional shortage. They raised wages and added benefits and were able to hire 12 new paraprofessionals so this worked out very well.
 - o For the Makerspace collaboration there are short-term and long-term goals that they are continuing to try and integrate into the school.
 - o The school board and the custodial union have agreed on a two-year contract, which would go to FY25. There will be a CAR coming in October asking to set a public hearing with the details on the custodial contract.
- LeGallo invited Jule Finley to provide some information that she had on the downtown crosswalk art project after all of the comments at the last few meetings.
 - o Finley passed out a packet to the Mayor, Council and the City Manager, which is included at the end of these minutes. She stated that she is aware of the fact that art can be seen differently by people and she wanted to clarify the timeline of the crosswalks that were entirely designed by the students. None of the students or staff had painted a crosswalk before, so there was a learning curve to mixing the paint colors to get what they wanted. This was a city driven project and there was no ulterior motive whatsoever.
- LeGallo stated that Councilor Trudel had four questions at the last city council meeting that he was able to provide answers for:
 - o How many students are using pronouns? LeGallo stated that he has no idea as they do not promote pronouns or track this kind of information.
 - o How many parents know that their children are using pronouns? This is not something that the staff could ask parents. The 12 students that are members of the diversity club did get permission slips from their parents so that would be the only information he has on that subject.
 - o Are the parents of K-9th grade students aware of these clubs? LeGallo looked into this and they had decided to list all of the clubs in the student handbooks with a description of each club for parents and students to review.
 - o Why are these clubs not listed on the website? These clubs are in the handbook, which are posted on the school website.
 - o Councilor Trudel added one more question, asking how many of the Franklin schools have these diversity clubs and LeGallo answered that the clubs are only in the middle and high school.

Mayor Brown called for a 10-minute break at 7:46 pm.

The meeting reconvened at 7:59 pm.

Agenda Item III.

Council to consider Resolution #02-23 Condemning Intolerance & Hate:

Motion – Councilor Bunker moved that the Franklin City Council adopt resolution 02-23, stating that the City of Franklin does not condone any form of hate speech and condemns those who use such speech or attacks anyone via any means based on their race, creed, color, gender, sexual orientation, gender identity or national origin. Seconded by Councilor Zink.

Mayor Brown asked if there was any discussion on this.

There was a discussion about being able to condemn hate and intolerance through legislation. A few councilors mentioned that they don't think that they have the authority to pass a resolution on this matter. There were also other councilors that felt this was a necessary step to show that they are in support of this and hope that the citizen task force will aid in more ideas to keep hate and intolerance out of the City of Franklin.

Councilor Zink pointed out that the year was typed incorrectly on the resolution and should be changed from 'September 6, 2023' to 'September 6, 2022'.

RESOLUTION #02-23

A Resolution Condemning Intolerance and Hate.

In the year of our Lord, Two Thousand Twenty-Two,

WHEREAS, there has been a significant rise in intolerance in our nation over the last several years, and

WHEREAS, such intolerance has led to attacks on citizens, physical, emotional and virtual, including Franklin residents and business owners, simply because of their race, creed, color, gender, sexual orientation, gender identity or national origin, and

WHEREAS, the Declaration of Independence affirms that we all are equal and endowed with "certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness," and

WHEREAS, the New Hampshire Constitution reaffirms this, stating "Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin," and

WHEREAS, at a special City Council meeting held on August 8, 2022 to address this issue, where there was unanimous public outcry against such attacks,

THEREFORE, BE IT RESOLVED, that at the scheduled meeting of the City Council on Tuesday, September 6, 2022, the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #02-23 stating that

The City of Franklin does not condone any form of hate speech and condemns those who use such speech or attacks anyone via any means based on their race, creed, color, gender, sexual orientation, gender identity or national origin, and

In particular, the City condemns white supremacists who have attacked our citizens based on an ideology that is in opposition to our country's and our state's founding documents, and

The City encourages all elected officials, but especially our governor and our federal delegation to condemn such attacks, and

The City recommends the formation of a citizen task force, to include residents, business owners, and city officials, to address this intolerable action.

An Increase in Revenue:

None.

An Increase in Expenditures:

None.

Roll Call Vote:

Councilor Starkweather	<u>yes</u>	Councilor Dzujna	<u>yes</u>	Councilor Ribas	<u>yes</u>
Councilor Blake	<u>yes</u>	Councilor Bunker	<u>yes</u>	Councilor Trudel	<u>abstained</u>
Councilor Desrochers	<u>abstained</u>	Councilor Chandler	<u>abstained</u>	Councilor Zink	<u>yes</u>

6 in favor; 3 abstained; motion passes.

Agenda Item IV.

City Council to consider setting a public hearing to accept scholarship money from the Women's Club in Franklin:

Motion – Councilor Zink moved that the Franklin City Council set a public hearing for Tuesday, October 11, 2022, at 6:00pm regarding resolution 04-23 to accept approximately \$12,646.07 from Franklin Women's Club for the purpose of setting up an expendable scholarship fund with the City's Trustees of Trust Funds called "Franklin Women's Club Scholarship". Seconded by Councilor Ribas.

Mayor Brown asked if there was any discussion on this motion.
There was no discussion.

All in favor; motion passes.

Agenda Item V.

City Council to consider setting a public hearing on Resolution #03-23 regarding one time bridge

aid from the State of NH:

Motion – Councilor Trudel moved that the Franklin City Council set a public hearing for Tuesday, October 11, 2022, at 6:00pm regarding resolution #03-23, appropriating \$600,986 in one-time additional Highway Block funds from the State of New Hampshire. Seconded by Councilor Blake.

Mayor Brown asked if there was any discussion on this motion.

Milner clarified that this is one-time bridge aid money for the bulk of it, which is \$425,445 of the \$600,986. It can be used later to match a state fund bridge aid grant that the city may apply for. The recommendation is to put it into the capital reserve fund for bridges and save it for that match.

All in favor; motion passes.

Agenda Item VI.

Council to consider offer for sale of 599 South Main Street:

Motion – Councilor Dzujna moved that the Franklin City Council authorizes the sale of 599-601 South Main Street to Ryan Dillon for \$60,000. Seconded by Councilor Starkweather.

Mayor Brown asked if there was any discussion on this motion.

There was a discussion about why the property was not being put up for public auction to possibly make more money on it. Milner explained that there has not been any other offers and it is a Brownfields property so this is the best offer received.

All in favor; motion passes.

Agenda Item VII.

Council to consider taking properties via tax deed:

Motion - Councilor Ribas moved that the Franklin City Council accept the tax deeds on the following parcels: Map/Lot: 112-015-000 (Building/Land), Map/Lot: 078-006-002 (Building Only), Map/Lot: 135-115-000 (Building/Land), Map/Lot: 118-024-000 (Land Only), Map/Lot: 128-066-000 (Building/Land), Map/Lot: 116-026-000 (Building/Land), Map/Lot: 117-005-000 (Land Only), and Map/Lot: 096-412-018 (Building Only). Seconded by Councilor Bunker.

Mayor Brown asked if there was any discussion on this motion.

There was no discussion.

Roll Call Vote:

Councilor Starkweather	<u>yes</u>	Councilor Dzujna	<u>yes</u>	Councilor Ribas	<u>yes</u>
Councilor Blake	<u>yes</u>	Councilor Bunker	<u>yes</u>	Councilor Trudel	<u>yes</u>
Councilor Desrochers	<u>yes</u>	Councilor Chandler	<u>yes</u>	Councilor Zink	<u>yes</u>

All in favor; motion passes.

Agenda Item VIII.

Other Business:

1. Mayor & Council Appointments

Mayor Brown re-appointed Kenneth Duguay to the Trustees of the Trust Funds, seat TT2, term of service to September 2025.

Mayor Brown appointed Elizabeth Cote to the Conservation Commission, seat CC1, term of service to September 2024.

Motion – Councilor Dzujna moved that the Franklin City Council appoint Laurie Cass to the Supervisors of the Checklist, Ward II, to fill in for seat SCW22, term of service to October 5, 2022 and appoint Tina Nelson to the Supervisors of the Checklist, Ward II, to fill in for seat SCW23, term of service to October 5, 2022. Seconded by Councilor Ribas.

All in favor; motion passes.

2. Committee Reports

Councilor Dzujna stated that at the last MSD Committee meeting on August 24, 2022, they talked about the many positions that are still not filled and a big part of that is the fact that MSD employees are grossly underpaid.

He also mentioned that they were not able to talk about Ordinance 03-23, since it had been tabled. He did have all of the typos revised instead and would like to take this ordinance off of the table, since there is going to be a public forum on this subject on September 19, 2022 at the Elks Lodge.

Motion – Councilor Blake moved that the Franklin City Council take Ordinance 03-23 off of the table. Seconded by Councilor Ribas.

8 in favor; 1 opposed; motion passes.

Motion – Councilor Blake moved that the Franklin City Council set a public hearing for Ordinance 03-23. Seconded by Councilor Ribas.

All opposed; motion fails.

Motion – Councilor Blake moved that the Franklin City Council refer Ordinance 03-23 back to the MSD Committee for discussion. Seconded by Councilor Ribas.

All in favor; motion passes.

3. City Manager's Update:

- a. Contingent Grant Line Activity – Received \$1,515.84 from Sex Offender Compliance, \$75 from a Rec Scholarship Donation, \$300 from the Lion's Club for police K-9's, \$250 from FSB National Night Out.
- b. Trust fund for school funding – \$265.61
- c. Congratulations: Police Chief Goldstein, who received the Fisher Cat's 1st Responder Award and threw the 1st pitch of the game on August 22nd.
- d. Welcome Aboard: Michael Provencher, Nicholas Santy and Bryant Carbone to the Fire Department.
- e. Reminder – City Council Meeting Dates for October & November are Tuesday, 10/11 and Monday, 11/14.
- f. Committee meetings – September:
 - Parks & Rec – September 22nd at 10am at the Bessie Rowell
 - Police – September 15th at noon at the Police Department
 - Finance – October 3rd at 5:30pm in the Blue Conference Room
 - CIP – September 21st at 5:30pm in the Blue Conference Room
- g. Shout out – To the hiring committee, Christine Dzujna, Jamie Bryant, Police Chief Goldstein, Kandyce Tucker and Pat Tucker for helping with the hiring of a new Drug Task Force Project Director. Stephanie Wolff has been offered the position and she is tentatively scheduled to start on October 3rd.
- h. City Clerk's Office will be closed on 9/13, 10/4 & 11/8 due to elections.
- i. Ward Line Change Ballot Question – This has been approved by State agencies for the ballot and there will be educational material left in City Hall and the Library.
- j. Purple Heart Community Signage – Looking to have 5 signs purchased to be placed coming in and out of North and South Main Street, both sides of Central St. and Rte 127, as long as there is no objection. There was no objection and Milner thanked Councilor Desrochers again for purchasing these signs.

- k. Community Forum on Solid Waste – 9/19/22 at the Lodge of Elks at 6pm. This will be an informational discussion on what's to come.
- l. Communications Center Project Update – They are still waiting on equipment but everything else is moving along and almost complete.
- m. Broadband Committee Update – There was a meeting held on this. Some of the ARPA money was used for the study on this to be able to link broadband to all citizens in Franklin. There is a company coming in to map everything out in October. There should be a public hearing on the final map and data sometime in the month of December. The final presentation after applying the set priorities will be sometime in the month of February. The funding for this project will be from grant money and not the City of Franklin.
- n. City Hall Committee Update – This committee was formed and will be meeting aggressively biweekly so that they can come up with solutions by the January 25th deadline. There will be some public forums expected in either October or November to discuss this further.
- o. Media contacts – NH Magazine, Concord Monitor, and Daily Sun
- p. The Fire Department is short staffed right now and experiencing some burnout so they have decreased the day shifts to have 3 people instead of 4 people per shift. This may cause some longer lead times.
- q. Eversource Project – A111 Corridor project is complete.
- r. ARPA Fund Update – They are applying for the DOT grant and also applying for a targeted Brownfields grant to clean up contaminated properties. InvestNH is another grant that they are applying for as well, which they can use for demolition of Stanley Mill.
- s. Shout Out for National Night Out – There was over 1,000 people at that event and were all having a good time. She thanked everyone that participated in that event.
- t. Last Friday there was a surprise visit from Governor Sununu. His people called Marty from ONE and said that the Governor wanted to come see the White Water Park and also wanted to take a look at the Chinburg project. It was a very productive visit, as they discussed some other avenues for funding the White Water Park.
- u. NHMA delegate for voting – The legislative policies that were sent out to the council in July didn't have any changes to them. That voting happens on September 23rd at 9am and we will need to vote for a delegate to vote on our behalf. Milner's recommendation is that they vote for the Mayor as a delegate to vote on our behalf for NHMA. That needs to

be done at this meeting. Milner stated that without any objections the Mayor will be our delegate. There was no objection.

v. Late Item – There is one late item for this meeting.

4. Late Items:

Mayor Brown stated that this had been put in front of the Planning Board and needs approval from the City Council.

Motion – Councilor Trudel moved that the Franklin City Council approve the issuance of a Building Permit and year-round Certificate of Occupancy for 41 Riverview Dr., Map-Lot 115-024, and authorize the City Manager to execute the Agreement and Notice of Release from Municipal Responsibility and Liability between the City of Franklin and the owners. Said fully executed agreement is to be recorded at the *Merrimack County Registry of Deed*; the recording and recording fees are the responsibility of the applicant. Recording must be complete before permits can be issued. Seconded by Councilor Ribas.

Mayor Brown asked if there was any discussion.

P&Z Director Creighton approached the council to let them know that the motion had the wrong address listed. It should read ***“14 Dotties Lane, Map-Lot 115-093-000”*** like it is written in the subject line. This was a copy and paste error.

Amended Motion – Councilor Trudel moved that the Franklin City Council approve the issuance of a Building Permit and year-round Certificate of Occupancy for 14 Dotties Lane., Map-Lot 115-093-000, and authorize the City Manager to execute the Agreement and Notice of Release from Municipal Responsibility and Liability between the City of Franklin and the owners. Said fully executed agreement is to be recorded at the *Merrimack County Registry of Deed*; the recording and recording fees are the responsibility of the applicant. Recording must be complete before permits can be issued. Seconded by Councilor Ribas.

There was a discussion about what this means for the property if there are any issues with the unmaintained private road. The city would not be liable. The owner originally removed a 1960 mobile home and started rebuilding a new home without permits. P&Z went out and the work had to be stopped until they pulled the appropriate permits. It is at a point now that they are ready to resume construction and will need to know if this request will be approved.

All in favor; motion passes.

Motion to adjourn was made by Councilor Bunker and seconded by Councilor Ribas.

All in favor; motion passes.

The meeting adjourned at 9:20 p.m.

Respectfully submitted,

Lisa Jones
Executive Secretary

**United States Attorney's Office
District of New Hampshire**



**New Hampshire
Attorney General's Office**



Federal and State Hate Crimes – An Overview & Resources

It has come to our attention that flyers espousing hate speech have been placed in various communities in New Hampshire. When hate speech constitutes a crime or violation of a person's civil rights it cannot be tolerated. This memo is intended to provide guidance on when such actions rise to criminal acts or violations of a person's civil rights.

Episodes of leafletting by extremist organizations that espouse hatred toward a particular group or class of people confront law enforcement and community leaders with a challenging question: When do extreme expressions of opinion or forecasts of future violent actions based on political, social, or religious ideologies or bias against a specific group cross the line from First Amendment protected speech to federal or state hate-motivated criminal threats? To help address that question, the following is a brief overview of the types of speech that violate federal and state law and the factors law enforcement, prosecutors, and courts weigh to determine whether speech is protected or a violation of criminal or civil rights statutes.

Because the process of determining whether certain hate-motivated threats constitute criminal conduct or protected activity is fact-intensive and depends greatly upon the circumstances surrounding when, where, how, and by whom the speech was made, any person who believes that they have been the victim of a hate-motivated threat should report that to law enforcement. If any person is confronted by speech or conduct that makes them feel unsafe in their home, school, community, etc., they should report that to law enforcement.

Federal Hate Crimes: Categories of Hate-Motivated Criminal Threats

Generally, four types of threats of force violate federal criminal civil rights laws:

1. Threats to interfere with housing rights, including occupying a home, when the threat is based on race, color, religion, sex, sexual orientation, familial status (including a minor living with and under the care of an unrelated adult), or national origin. 42 U.S.C. § 3631.

2. Threats made to interfere with certain federally protected activities, when the threat is based on race, color, religion, or national origin. 18 U.S.C. § 245. Examples of federally protected activities are:
 - Enrolling in or attending any public school or public college
 - Enjoying public streets or parks
 - Working or seeking employment in the private or public sectors
 - Travelling in or using any facility of interstate commerce (e.g., using the services of a common carrier)
 - Serving as grand or petit juror in state court
 - Enjoying any public accommodation (e.g., hotel, restaurant, entertainment venue)
3. Threats made to interfere with the free exercise of religion, regardless of an additional bias motivation. 18 U.S.C. § 247.
4. Threats made to interfere with reproductive healthcare services regardless of an additional bias motivation. 18 U.S.C. § 248.

State Hate Crimes and Civil Rights Violations: Categories of Hate-Motivated Criminal Threats

Generally, four types of threats violate state criminal laws and are considered hate-motivated crimes:

1. Threats to commit any crime against another person with the purpose to coerce or terrorize *any* person when the threat is motivated by the victim's religion, race, creed, sexual orientation, national origin, sex, or gender identity. RSA 631:4, I(d); RSA 651:6, I(f).
2. Threats to commit any crime against another person's property with the purpose to coerce or terrorize *any* person when that threat is motivated by the victim's religion, race, creed, sexual orientation, national origin, sex, or gender identity. RSA 631:4, I(c); RSA 651:6, I(f).
3. Threats by physical conduct, when that threat is motivated by the victim's religion, race, creed, sexual orientation, national origin, sex, or gender identity, and the actor places or attempts to place any other person in fear of imminent bodily injury or physical contact. RSA 631:4, I(a); RSA 651:6, I(f).

4. Placing objects or graffiti on another person's property with the purpose to coerce or terrorize *any* person when the placement of the object or graffiti is motivated by the victim's religion, race, creed, sexual orientation, national origin, sex, or gender identity. RSA 631:4, I(b); RSA 651:6, I(f).

For the purposes of state law, "terrorize" means causing alarm, fright, or dread or the state of mind induced by the apprehension of hurt from some hostile or threatening event. RSA 631:4, II(b).

In addition to these criminal violations, the state's Civil Rights Act (RSA 354-B) prohibits hate-motivated threats that interfere with the rights of others and subjects violators to civil enforcement actions. These rights range from peacefully walking the streets or living in your home to the right to vote, to freely assemble, or to protest.

If the person threatens or actually: (1) uses physical force or violence, (2) engages in property damage, or (3) trespasses upon the property of another, and their threat is motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability, that person has violated the civil rights of another and can be subject to a restraining order, a civil penalty, and ordered to pay restitution to the victim(s). RSA 354-B:1. In this context, a threat means any communication of an intent to inflict harm on a person or a person's property by some unlawful act with a purpose to coerce or terrorize.

Requirement of a "True Threat"

Because threats often involve speech, they can raise First Amendment or other free speech related questions. The free speech provisions of the state and federal constitutions do not protect what the Supreme Court has defined as "true threats." To be considered a "true threat," the threat must communicate a serious expression of an intent to commit an unlawful act against a particular person, group, or property.

Determining whether speech conveys a "true threat" is often a fact-intensive inquiry. Law enforcement, prosecutors, and courts consider many factors when evaluating whether certain speech is a "true threat." No single factor is controlling or dispositive. This means that the presence of multiple factors does not necessarily make something a "true threat," nor does the absence of factors mean that something is not a "true threat." The factors serve as reference points that guide the analysis of whether certain speech constitutes a serious expression of an intent to commit an unlawful act against a particular person, group, or property.

Below are some examples of the factors that law enforcement, prosecutors, and courts consider when determining whether certain speech constitutes a “true threat”:

1. What was the recipient’s reaction to receiving the communication? Was he or she alarmed or scared? Did he or she act out of concern after receiving the communication (e.g., reporting to the police, relocating, taking protective or self-defense measures).
2. Was the threat conditional or predictive? Of course, most threats are conditional; harm is threatened unless the recipient does something or fails to do something. The focus here is on whether the condition or predictive harm is impossible or unlikely to occur. For example, the threat, “Do as I say, or I will turn you into a vampire,” is unlikely to be taken as a serious threat of future harm. But a threat to burn the recipient’s house down if they move into the neighborhood is likely a true threat even though it is conditional.
3. Was the threat communicated directly to the recipient? A direct communication is strong evidence that the threat was a serious expression of intended harm. But courts have also held that a generally communicated threat may be true threat. For example, a threat posted on social media that targets a specific person or group may be a “true threat” even though it is not directly communicated to the intended victim.
4. The context in which the threat was made, including the relationship between the person making the threat and the recipient, also informs whether the threat was serious. Context in this instance includes historical or political references. For example, a threat delivered to a Jewish temple that includes a reference to The Holocaust may be a strong indicator that the threat was serious.

Symbolic Expressions

The use of racist symbols may also constitute a prosecutable true threat. For example, delivering the image of a burning cross to a black person or burning a cross on his or her property may evince an intent to intimidate. Similarly, imagery associated with The Holocaust like a swastika or pictures of concentration camp cremation ovens may be evidence that a communication was intended as a serious threat.

Resources

The United States Attorney's Office is available to help address whether conduct or a communication is prosecutable as federal civil rights crime or a violation of another federal criminal statute. Please feel free to contact the U.S. Attorney's Office:

General Phone Number, 603-225-1552

Jane E. Young
United States Attorney
jane.young@usdoj.gov

Jay McCormack
First Assistant United States Attorney
jay.mccormack@usdoj.gov

Seth Aframe
Deputy Criminal Chief
Civil Rights Point of Contact
603-230-2532
seth.aframe@usdoj.gov

Mark S. Zuckerman
Criminal Chief
603-230-2579
mark.zuckerman@usdoj.gov

The New Hampshire Department of Justice's Civil Rights Unit is also available to help address whether conduct or a communication is prosecutable as a state hate-crime, a state civil rights act violation, or a violation of another state criminal statute. Please feel free to contact the New Hampshire Department of Justice at:

General Phone Number: 603-271-3658
General Email Address: doj.civilrights@doj.nh.gov

John M. Formella
Attorney General
john.m.formella@doj.nh.gov

James T. Boffetti
Deputy Attorney General
james.t.boffetti@doj.nh.gov

Sean R. Locke
Assistant Attorney General
Director, Civil Rights Unit
603-271-3650
sean.r.locke@doj.nh.gov

The United States Department of Justice Community Relations Service (CRS) is available to help prevent and respond to violent hate crimes based on gender, gender identity, sexual orientation, religion, disability, race, color, or national origin. Its services include:

- Facilitating engagement between community leaders, stakeholders, and interested parties to identify issues and solutions.
- Mediation to provide a structured process to resolve conflicts.
- Consultation on technical assistance, best practices, and evidence-based resources.
- Training.

Among its services, CRS is available to provide hate crime forums to discuss federal and state hate crimes and their prosecution, effective investigation methods, available resources, including grants and training opportunities, and community responses to bias incidents or hate crimes.

The Community Relations Service may be contacted through the United States Attorney's Office or directly at:

202-302-2935
www.justice.gov/crs

Crosswalk Project Timeline:

Fall of 2021: Arts and Culture Meetings began upon request of City

Numerous brainstorming sessions

Various ideas for bringing more art and culture to City

Ideas included:

Opera House

Regal Theater

Industrial Relic Art

Murals on Buildings

Art in the Parks

Crosswalk Painting

Art in empty windows

Artist in Residency

Art displays in library or other public buildings featuring local artists

Fall of 2022: Jule Finley agreed to head two projects:

Student Art in empty storefronts

Crosswalk project: Decided to implement in late May

to coincide with Spring Musical- An Arts

Integration weekend

When school started in September, Jule worked with

all three school art teachers with the May goal in mind

Winter 2022: Continued discussion and planning with art teachers

City set goal of Community Day to have windows full

of student art

Email conversations on crosswalk expectations:

Designs needed to be done prior and sent to

City (sent in early May)

March 2022: Continued planning and discussion on how to

make this project work

Confirmed with city that they would provide

supplies if we provided the students and designs

Was decided that art would go in windows by end of April and crosswalks

would be done on Saturday, May 21, 2022

April/ May 2022: Art work went up in windows of Regal from all three schools
Decided that trying to paint the crosswalks on a Saturday would be too great a disturbance to the weekend traffic and would be challenging to get staff or students to return
Changed date to Friday, May 20 during school
City arranged for traffic notices and routing
Jule arranged for students, busing, permission forms and all school related needs

Friday, May 20: Jule met PSS Art Teacher and Principal to tape off the PSS crosswalk to ensure success for all PSS 3rd graders
PSS and FMS painted from 7:45 am- 11:40 am
FHS students painted two crosswalks from 12- 4 pm

Things we Learned:

Complaints on traffic routes and road closures need to be addressed

None of us had ever painted crosswalks before!

We had no idea how long any of it would take to create, paint or Dry- especially with shifts of 3rd graders coming and going on buses

We had no idea how many supplies we would need- volunteers had to run out and get more brushes, cups, paint, etc.

We had no idea how the paint itself would work

We were given 5 primary colors:

Blue, red, yellow, white, black

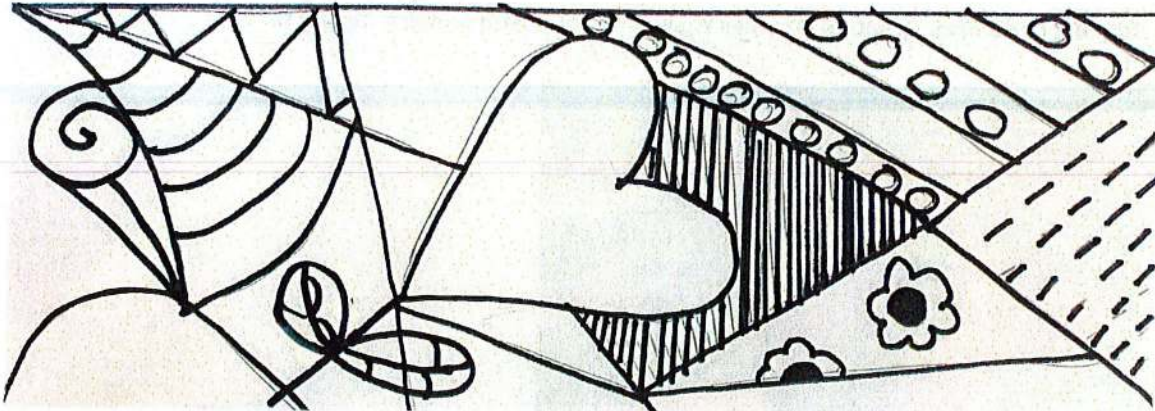
The colors did NOT mix as we had hoped

Jim Jones ran to get us green paint and more supplies- which is the ONLY reason the green band came out accurately as green

3rd graders and FMS devoured all of our brushes and paint cups before high school even started

PSS Art teacher had originally thought she would only bring a few students, but was told that she needed to include the entire 3rd grade. This was a great idea, but threw a whole new set of issues and required us to simplify the original idea

Original PSS Design done BY 3rd grade students:



Original PSS Design with color done BY 3rd grade student



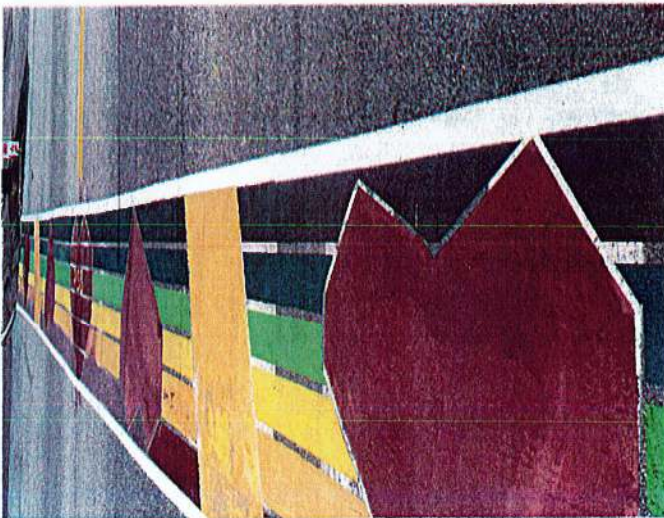
Initial Painting Job simplified to include all students:

We needed to be able to tape it all off into even sections so students could shift through (25 students per group) in ½ hour time spans- Art teacher, principal and Jule spent from 6:30 am until 8 am taping off the entire crosswalk to ensure it was ready for students to paint- each group of 3rd graders was given a taped off space to paint

Initial Painting Job did not turn out as we had planned or hoped due to the street paint not mixing as most paints do. The colors were remixed numerous times by the art teacher to try to get an orange (red/ yellow) and purple (blue/ red)- neither color turned out as planned. Side note: the art teacher had asked to get the paint ahead of time to mix colors, but we were not able to do that. It set up a rather rushed and stressful scenario trying to mix them on the spot.



Over time, the sun, weather and traffic has altered the last color band even darker than it was originally painted. Also not something we knew or planned on due to this whole project being a new experience for everyone involved.





The above picture was taken very recently. You can still see there is still a difference between the purple band and the black outlining that the city added.

There was absolutely no ulterior motive or hidden message. This was simply a design created by children that was simplified to ensure success and completion in a 4 hour time frame. This was an unawareness on paint mixing and how street paint blends (or does not). This was supposed to represent the colors of the rainbow per the children's design. No one was more disappointed in how the colors turned out than those of us who worked to create it- but we had to accept what we had to work with. Overall, the most important thing was that the children who painted from K-12 were SO proud of their work and excited every time they drove through town and saw their work again and again. It was engaging, it was a connection to school and community and gave those students a huge sense of pride. THAT is the most important outcome of this project.