

tion capacity in the amount of 1,000-1,500 gallons per minute, or about two million gallons per day, to help meet the

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garb at Cornell University, Ithaca, New York, taken this past summer. (NHU/Courtesy)

• Parking

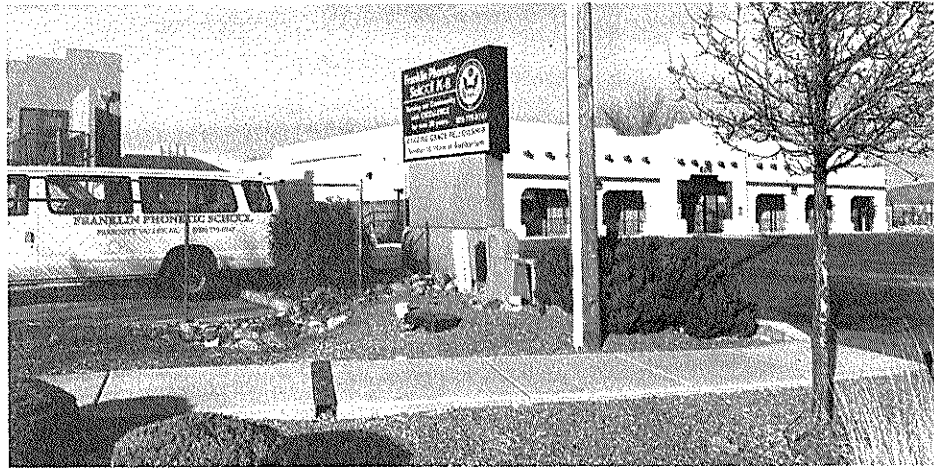
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LEGAL HISTORY

On Nov. 13, Judge Stevens had upheld a May 2016 ruling by Hearing Officer Peter Van Haren dismissing the town's initial citation against the school for not having enough parking spaces.

The town wants the judge to reconsider an "error" in interpreting Town Code 13-24-030(F), which states, "Other off-site parking in the Town right-of-way may be included for required parking if such parking and the use is part of an approved Improvement District or otherwise approved by a development agreement with the Town."

The town had asked the Court of Appeals to review Superior Court Judge



Franklin Phonetic School. (Matt Van Doren/Tribune)

Joseph Goldstein's March 2017 decision upholding the original hearing officer's decision, which the town called "arbitrary and capricious." The appellate court vacated the order and sent the case back to Superior Court, which

denied a rehearing in August 2017. The Court of Appeals also denied the town's request for rehearing the town filed in February 2018.

TOWN WANTS 'FAIRNESS'

Town Manager Larry Tarkowski has long held that the town only wants Franklin Phonetic School to pay for the benefit it receives - the parking spaces the town put in as part of the Parkway Community Improvement District (CFD) created in 2006.

"That's only fair," he said, adding that the town will continue its pursuit of payment from Franklin.

"When the town has been able to secure fairness for the members of the CFD, then we will be done," he said. "We have an obligation to the other people in the district that are paying the bill that they shouldn't have to pay for somebody else's landscaping and parking improvements."

All the other charter and public schools in town

pay for their own parking lots, he added, although none are located within an improvement district.

DISTRICT MEMBERS SPEAK OUT

Other property owners within the CFD feel strongly that Franklin should pay up.

Denny Hammond owns property along 1st Street. He is adamant that Franklin should pay because he says Cindy Franklin agreed at the very beginning to pay her share, then reneged. He acknowledged that property owners were presented with a payment that more than doubled when the assessments first came due, and tripled in subsequent years.

"This is not a tax; this was an improvement. That is a non-disputable fact," Hammond said, adding that he has followed the ongoing legal issues, which he calls "an absolute nightmare for the town as well as the property owners."

Another property owner along 1st Street, John Passamoni, feels similarly about paying one's fair share, especially when he feels property owners got "boondoggled" by Richard Parker, Community Development director.

The whole project was based on two promises, Passamoni said, access to Highway 69 and that property owners would be able

IMPROVEMENT DISTRICTS 101

Property owners within improvement districts are assessed a portion of the total cost of the improvements based on the square footage of their buildings. In the case of the Parkway Improvement District, the work consisted of putting in improved roadways, parking, landscaping and lighting on both sides of Highway 69.

The annual assessment levied against the owners within the district goes up or down based on the assessed value until the debt has been paid in full, said Prescott Valley Town Manager Larry Tarkowski.

A property owner operating a nonprofit business, by town code, does not pay property taxes or pay into an improvement district. This is not fair to the other district members, Tarkowski asserts. Likewise, when a property owner moves out, other owners take on the remaining debt.

In April 2006, after property owners expressed concerns over the cost, 70 percent of owners signed on to form the Parkway Community Facilities District 1. It called for the issuance of bonds in the amount of \$3,425,000, and a separate 30 cents per \$1 secondary assessed valuation Ad Valorem Property Tax for maintenance and operations purposes. The district began payments on the bonds in January 2007, and the bonds will be paid off by July 15, 2031.

In 2016-17, the Town Council approved using \$50,000 from the general fund to contribute to payments (\$150,000 total to date) so assessments would not be overly burdensome on the owners.

Tarkowski wants Franklin Phonetic to pay its share, and has been taking the school to court since 2016 in an effort to force the school to come up with what totals about \$483,000 to date, and will become about \$801,000 by 2031.

to add onto their existing buildings. The cost was to be \$5,000 per year for 25 years. He currently pays \$10,000 to \$11,000 a year, or about \$1,000 per month, for the improvements that consist of an empty parking lot that is useless to him.

"There is no value to me at all," Passamoni said. "What really chapped me was the misrepresentation by Richard Parker and the fact that nonprofits didn't pay it."

He wanted to sue the town and Parker, and remains unhappy with the town and with non-paying nonprofits.

OTHER NONPROFITS

Two nonprofits do pay into the district, Living Waters Church on 2nd Street and Stepping Stones, which owns the property where the Red Barn is located. Robin Burke, executive director

of Stepping Stones, said her board agreed to pay the assessment because "paying our share is the right thing to do."

The organization bought the property after the town created the CFD, and together they worked out a payment plan of about \$8,000 per year. She said nonprofits, churches and schools do not pay taxes, but this assessment pays for improvements and should not be considered a tax.

"We understand this is a burden on other companies if we don't do our share," Burke said.

Tarkowski denies that Franklin offered to pay a one-time settlement of \$50,000 to the town, as previously stated by Franklin. He conceded said they have "talked from time to time about payments."

Franklin said Jan. 15, the offer was made years ago and Tarkowski said it was too little. The school has not offered to pay anything since the town started its legal actions.

The stalemate could end soon, he said.

The town and Franklin are in negotiations to craft an "all-encompassing" agreement that would include parking spaces, improvement district assessments and property easements having to do with the existing water main owned by the town on Franklin's newer piece of property west of the school.

"We want to see Franklin succeed and expand," Tarkowski said.

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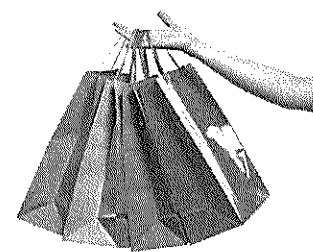
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