



Item #6  
2-14-12 WS

## MEMORANDUM

---

February 9, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator

SUBJECT: Property Tax Exemption for the Franklin Theatre

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider a request of support from the Heritage Foundation of Franklin and Williamson County for the granting of a property tax exemption for the Franklin Theatre.

### **Background**

The Franklin Theatre re-opened its doors in June of 2011 following a privately-funded, \$8 million renovation. This renovation not only restored the historic facility, but also expanded its capability to accommodate a wide variety of performing arts. The theatre, which originally opened in 1937, closed its door in 2007 and was acquired by the Heritage Foundation of Franklin and Williamson County, a local non-profit organization. Under Tennessee law (TCA 67-5-223 – Attachment A), non-profit community and performing arts organizations are eligible for property tax exemption under certain conditions with the approval of a two-thirds vote from the county legislative body (County Commission). In considering this request, Williamson County has sought input from both the City of Franklin and the Franklin Special School District, other local government entities that receive property tax revenue. Attachment B is a letter from Heritage Foundation President Cyril Stewart, Executive Director Mary Pearce, and Franklin Theatre Director Dan Hays describing the request and the educational programming and benefit of the theatre.

While this is an action under the direct authority of county government, Williamson County has asked that the City of Franklin Board of Mayor and Aldermen indicate their support for the proposed property tax exemption. Resolution 2012-12 (Attachment C) provides for a formal statement of support for the granting of an exemption to the Franklin Theatre.

### **Financial Impact**

If the exemption is granted by the Williamson County Commission, the City would not received \$2,012 of property tax revenue from the Franklin Theatre. Other local, public entities impacted would include Franklin Special School District (\$5,081) and Williamson County (\$10,686). This amounts to a total property tax exemption of \$17,779 for the Franklin Theatre.

### **Recommendation**

Approval of Resolution 2012-12, A Resolution Supporting the Heritage Foundation of Franklin and Williamson County's Request for Property Tax Exemption for the Franklin Theatre, is recommended.

Attachment A:

TCA – 67-5-223

## T.C.A. 67-5-223

### Nonprofit Community and Performing Arts Organizations

Under T.C.A. § 67-5-223, upon approval of a resolution by a two-thirds vote of the county legislative body, certain property owned by a non—profit community arts organization is exempt from property taxation. Upon adoption of the provision of T.C.A. § 67-5-223 and subject to the application requirements of T.C.A. § 67-5-212, property owned by nonprofit community and performing arts organizations and used by them or other nonprofit community and performing arts organizations is eligible for property tax exemption as a charitable or educational use of property upon compliance with the provisions of T.C.A. § 67-5-223. Real property owned by these organizations is eligible for exemption to the extent that it is used for public museums, art galleries, performing arts auditoriums and theaters, and any uses necessary and incidental to the foregoing. Personal property owned by these organizations is eligible for exemption to the extent it is used by the organization to equip and operate real property as set out above. Other personal property, regardless of its location, is eligible for exemption to the extent it is used for business or office operations of the organization or used in shows, exhibits or productions of the organization.<sup>1</sup>

The organization seeking exemption shall meet the following requirements: (1) the property must be owned and used by a public benefit nonprofit organization established as either a nonprofit corporation or an unincorporated entity operating as an association, a trust or a foundation pursuant to written articles of governance; (2) the organization must be operated and governed by a board of directors of not less than 10 members, all of whom are natural persons, and all powers and affairs of the organization must be exercised under the authority of the board of directors; (3) not more than three members of the organization or its board of directors may be employees of the organization; (4) other than as an employee, no member, officer or director can be compensated for service as such; (5) other than for services as an employee, no member, director or officer of the organization, directly or indirectly,<sup>2</sup> may sell or provide, for monetary remuneration, any goods or services to the organization; (6) no member, director or officer of the organization may lend money to the organization if the loan is secured by the organization's property; (7) other than for services as an employee, no member, director or officer of the organization may profit from shows, exhibits or productions of the organization or have any monetary interest in shows, exhibits or productions of the organization; (8) in the event the organization sells any of its property which has been exempt from taxation, it must notify the attorney general and reporter of its intent to sell the property at least 21 but not more than 60 days before the date of sale; (9) the articles of governance of any unincorporated organization must include the provisions set out in T.C.A. § 67-5-223(b) or be specifically incorporated by reference; (10) the articles of governance of the organization, whether incorporated or not, and all amendments thereto must be filed with the assessor of property in the county in which the organization owns exempt property;<sup>3</sup> and (11) the organization must supply the assessor of property with an annual report which includes a listing of activities and uses of the property, current statements of financial condition, and any further information the assessor may require.<sup>4</sup>

The county governing body may impose a requirement of periodic local review or renewal of the exemption. The assessor of property must maintain with the records for the property an estimate of the market value of the property as of the date of the last county-wide reappraisal.<sup>5</sup>

Attachment B:

Heritage Foundation Request and  
Background Information



February 8, 2012

Dear Mayor Moore:

As a non-profit organization, The Heritage Foundation of Franklin and Williamson County is seeking property tax exemption for the Franklin Theatre in light of a number of programs that the venue offers the community and specifically to the local school systems. We appreciate the opportunity to work with local government to offer services at this newly restored community venue that will significantly outweigh the tax exemption, currently totaling \$17,779.

While the need for a performing arts center has been identified in recent years by both Williamson County and Franklin governing bodies, the Franklin Theatre represents a privately funded \$8.5 million facility that seats 300 and is an excellent venue for live music, community events and movies. Having just opened in June 2011, the Franklin Theatre has already proven to be a center of economic development in Downtown Franklin and has helped other non-profits raise more than \$500,000. We propose its increased use as a facility for students to experience live professional theater, as a performance venue for students, and of course as a place for seeing films when they fit into the school curriculum.

#### **Live Theatrical Performances at the Franklin Theatre:**

Local students will have the opportunity to experience professional live theater that now requires a drive to Nashville. Going to live performances at the Franklin Theatre will require less time out of the classroom and less transportation expense. There will be four live performances a year produced by Studio Tenn such as the upcoming *The Miracle Worker*, which is the story of Helen Keller. This will be offered to local schools at the same discounted rate as the Nashville theaters. All productions feature professional actors, and can include discussions or interaction with the actors after the performance. The cost to each child will be \$8 plus transportation costs which will be much less than a trip to Nashville. The usual performance cost is \$25 per seat paid to Studio Tenn (on a retail ticket price starting at \$45) so the Franklin Theatre are contributing over \$5000 for each performance, with a retail value of \$13,500. The number of performances would be up to the school systems.

### **Bringing the Franklin Theatre to the Schools**

Studio Tenn is its own non-profit and has as its mission to offer education. Actors for upcoming performances will be available to visit the schools and perform vignettes or songs from upcoming productions. There will be no cost to the schools for these visits.

### **Movies at the Franklin Theatre**

The Franklin Theatre can show movies that would enrich student’s educational experiences either during the weekday, after school or during the summer MAC programs at little cost.

### **Student Performances at the Franklin Theatre**

Prior to Saturday morning movies or other select movies or events, there is the opportunity to showcase student groups performing.

### **Fundraising for Local Schools at the Franklin Theatre**

New Hope Academy was able to rent the Franklin Theatre for three Sheryl Crow concerts that raised over \$100,000 for their school. They report that it was the easiest fundraiser they ever did! Public schools also have this opportunity.

### **The Heritage Foundation’s long standing commitment and contributions to educating our Williamson County young people:**

The Heritage Foundation has presented the Heritage Classroom Program to Franklin and Williamson County students for the past 30 years. Last year, the program served over 3,000 children with walking tours of downtown and classroom presentations on local history. The direct cost for this program is \$6,500 per year and is fully paid by the Heritage Foundation.

Most historic theaters have closed due the trends toward mega theaters. Saving the Franklin Theatre took the private investment of the entire community and is now supported as a non-profit entity, since there is no longer a way to make this theater economically viable as a “for profit” business. We have had great success in the first 6 months of operation attracting more people to downtown Franklin and gaining worldwide publicity for our community, but the venue is likely to be in a long-term struggle to break even.

### **Just the Numbers**

The Franklin Theatre has been open since June 3, 2011. The current annual taxes are:

City of Franklin	\$2,012
Williamson County Property Tax	\$15,767*
Total Annual Property Tax	\$17,779

\* Includes \$5,081 for FSSD

The Franklin Theatre is the only historic theater in Williamson County listed on the National Register of Historic Places. It is eligible for property tax exemption as a multi-use performing center if this request is approved by a super majority vote of the Williamson County Commission. The Williamson County Tax Study Committee asked that we come before the Franklin Special School District Board of Education and the Franklin Board of Mayor and Aldermen before presenting a resolution for tax exemption to the Williamson County Mayor and Commission. It is our intent for the offerings and advantages of the Franklin Theatre to more than offset the loss of property tax revenue.

Respectfully Submitted,

Cyril Stewart, AIA  
President  
[Cyril.stewart@vanderbilt.edu](mailto:Cyril.stewart@vanderbilt.edu)  
615-322-4276 office  
615-207-5959 cell

Mary Pearce  
Executive Director  
[mpearce@historicfranklin.com](mailto:mpearce@historicfranklin.com)  
615-300-7218

Dan Hays  
Theatre Director  
[dan@franklintheatre.com](mailto:dan@franklintheatre.com)  
615-538-2078

**Many Tennessee counties have adopted this law, including:**

- Davidson County adopted it for multiple facilities Feb. 21, 2007
- Sumner County adopted it for The Palace Theatre (among the first)
- Cumberland County Commission for the Cumberland County Playhouse and the Plateau Creative Art Center (unanimously approved)
- Bedford County in March 2010 for an unspecified performing arts organization
- Lawrence County passed it for an unspecified facility in January 2011
- Rutherford County Commission adopted it in June 2011 for unspecified facilities
- McMinn County passed it unanimously in June 2009 for the Athens Art Center
- Coffee County Commission approved it for the Manchester Arts Center
- Cocke County approved it by a vote of 12-2 for the Newport Theatre Guild
- Montgomery County passed it in February 2009
- For all of the above, we have found public records where the law has been adopted by the county commission. We've also been told by staff of the historic Tennessee Theatre and Bijou Theatre in Knoxville that they have been exempt from property tax. There are likely many others, these are just the cases which have published public records of the county commission adopting the state law to exempt performing arts centers.





## THE FRANKLIN THEATRE

### “Creating A Public Trust through Partnership”

The non-profit Franklin Theatre has a keen understanding of the responsibility to create and leave new legacies relevant to our lives today and for those that follow. In saving the historic structure, a **public trust** has been created through the generosity of **partners in the community which have raised over \$8.5 million** to create a new institution which will **generate benefits and the quality of life for the public for generations to come.**

Our daily focus is on being...

- *A place for education and learning*
- *A medium to raise much needed funds for social and charitable causes*
- *An economic development asset and resource that enhances job creation*
- *An anchor for Franklin's Historic Main Street and tourism*
- *A catalyst for creativity in the arts, business and personal lives*

### Social and Charity Impact

The Franklin Theater will host hundreds of events including:

- **Scores of charitable events to raise over \$500,000 for worthy causes each year**

Following is a partial list of organizations which hosted events in 2011 or plan to host events in the near future:

*Children's Organ Transplant Association*  
*New Hope Academy*  
*Bridges Domestic Violence Center*  
*Franklin Classical School*  
*Battle Ground Academy*  
*Blood & Water Misson*  
*Porter's Call*  
*Alex LeVasseur Memorial Fund*  
*Heritage Foundation of Williamson County*  
*A Vintage Affair (Women & Childrens Charities)*  
*Saddle Up!*  
*Keith DeArmond Benefit*  
*Williamson Christian College*  
*The Downtown Franklin Association*  
*Leadership Franklin*  
*The Williamson County Parks & Recreation Department*  
*The Americana Music Association*  
*Williamson County Convention & Visitors Bureau*  
*Tennessee Department of Tourist Development*  
*Franklin Tomorrow*

These functions – and especially entertainment focused fundraisers - are now able to happen on our historic Main Street in a unique non-profit facility designed for such purposes and with capabilities that would not have existed without the extraordinary partnerships that revived the Franklin Theatre.

### Focusing on Education

We are proud that a high percentage of the \$500,000 projected to be raised during events or charitable causes...a major portion has been and will continue to be for educational institutions and initiatives in our own community.

Additionally, being a partner with area educational institutions (at all levels from pre-school to adult) is central to fulfilling our objectives and we are creating new initiatives to serve the unique needs of each partner.

Some examples:

- **Students attending live theater productions of "Miracle Worker" (Feb 2012) with added educational components. All at reduced cost in excess of \$ 15,000 for this play alone.**
- **Exploring collaborations between Nashville Symphony, Nashville Opera and Columbia State to host educational events in 2012 and 2013**
- **Hosting interns from area universities for educational experiences**
- **Have developed financial support to make sure youth and elderly programs have resources to make such programs are accessible.**

The Franklin Theatre is a bridge between education and arts organizations (e.g. live theatre, symphony, opera, museums) to serve as a venue for their educational initiatives. And again...our plans are to initiate conversations with leaders in education to help us design world-class programs to serve local, regional and national audiences which can emanate from the Franklin Theatre through our unmatched technical capabilities and the resources we created in a very unique setting.

## **Economic Impact**

It's important to note the Franklin Theatre's direct connection to the public and overall quality of life. Whether attending events for personal enrichment or from the tax revenues accelerated by the spike in economic activity, the Franklin Theater is the heartbeat of a thriving Main Street which attracts investment in our community, enhances property values and adds to our ability to attract high quality jobs of multi-national corporations.

- **Direct annual economic impact in excess of \$2,000,000.00**
- **Over 80,000 visitors annually**

The Franklin Theatre is an anchor investment in the greatest Main Street in America.

It brings people into the area at times they ordinarily wouldn't be there. As a result, it's generating economic activity that is boosting business among merchants and ensures a bright future for Main Street and all of Williamson County.

## **In Summary**

The Franklin Theatre is a public trust. It is a nonprofit 501c3 operation that exists to serve as a cultural, educational, economic and historic resource for the entire community. It does not generate profits for any company or individual.

**Everyone has a stake in the theater's future.**

The long term economics of operating a non-profit arts center to the standards the community aspires to will be especially challenging and, at 300 seats, we have limits to the amount of revenue we can raise through ticket sales.

What this means is that our partnerships with local businesses and others become vital to sustaining this non-profit operation.

What we are asking is that the county and municipal governments **join us as a partner**. Rather than commit an outlay of actual dollars, we're hoping that you might help us cut down on costs – in this case taxes.

Given the educational, economic, charitable and cultural contributions that the theater is already making to the entire community, **we believe the request for property tax abatement is a reasonable request.**

Attachment C:

**RESOLUTION 2012-12 - A RESOLUTION SUPPORTING  
THE HERITAGE FOUNDATION OF FRANKLIN AND  
WILLIAMSON COUNTY'S REQUEST FOR PROPERTY  
TAX EXEMPTION FOR THE FRANKLIN THEATRE**

**RESOLUTION 2012-12**

**A RESOLUTION SUPPORTING THE HERITAGE FOUNDATION OF  
FRANKLIN AND WILLIAMSON COUNTY'S REQUEST FOR PROPERTY TAX  
EXEMPTION FOR THE FRANKLIN THEATRE**

**WHEREAS**, Tennessee Code Annotated §67-5-223 allows for property owned by non-profit community performing arts organizations to be eligible for property tax exemption under certain stipulations as outlined by statute; and

**WHEREAS**, the Heritage Foundation of Franklin and Williamson County affirms that the Franklin Theatre and the operations conducted there meet the stipulations for property tax exemption as outlined in Tennessee Code Annotated §67-5-223; and

**WHEREAS**, such exemption may be granted by the County legislative body upon a 2/3 majority vote;

**WHEREAS**, the Heritage Foundation of Franklin and Williamson County has sought such property exemption from the Williamson County Commission, and has also asked the Board of Mayor and Aldermen of the City of Franklin to support this request.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND  
ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE THAT:**

The request to the Williamson County Commission by the Heritage Foundation of Franklin and Williamson County for property tax exemption for the Franklin Theatre has the support of the Board of Mayor and Aldermen of the City of Franklin, Tennessee.

**ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.**

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE**

**By: \_\_\_\_\_  
ERIC S. STUCKEY  
City Administrator/Recorder**

**By: \_\_\_\_\_  
DR. KEN MOORE  
Mayor**

**Approved as to form  
By: Kristen L. Corn  
Staff Attorney**