

City of Franklin Common Council
Meeting Minutes
April 2, 2012

The regular meeting of the Common Council of the City of Franklin, Indiana was called to order at 6:30 p.m. at City Hall, 70 E. Monroe Street, with Council President Steve Barnett presiding. Council members Joseph Abban, Joseph Ault, Kenneth Austin, Stephen Barnett, Robert Henderson, and Richard Wertz answered roll call. Clerk-Treasurer Janet P. Alexander, Records Clerk Kathy Cragen, City Attorney Lynnette Gray were also present. Council member Stephen Hougland, and Mayor McGuinness were absent.

Council President Barnett opened the meeting and asked the Clerk-Treasurer to call the roll. Councilor Abban offered an invocation, which was followed by a recitation of the Pledge of Allegiance.

Consent Agenda

Council President Barnett presented the consent agenda for approval.

- Approval of the March 19, 2012 Common Council Minutes
- Approval of March 22, 2012 Joint Council & FCSC School Board Meeting Minutes

Councilor Austin made a motion to approve the consent agenda as presented, seconded by Councilor Wertz. A voice vote was taken with all members stating Aye. No members stating Nay. The motion carried.

Old Business

Roaring Run Drainage Study presentation at last meeting

Councilor Barnett suggested that the Council should forward this project back to the Board of Works with a favorable recommendation. A discussion was held. Councilor Wertz made a motion to send this matter back to the Board of Works with a favorable recommendation to move forward, seconded by Councilor Austin. A voice vote was taken with all members stating Aye. No members stating Nay. The motion carried.

Common Council Ordinance No.: 12-07 - An Ordinance Approving Vacating a Sewer Easement Within The City of Franklin, Indiana (To be known as Bartram Parkway Sewer Easement Vacation)

Councilor Henderson made a motion to read by title only, seconded by Councilor Austin. Councilor Barnett read the title. Planning Director Krista Linke came forward and gave an overview of this ordinance. City Attorney Lynn Gray stated that the following conditions must be met for this to be approved: Tippmann Group takes responsibility for relocating the fire hydrant from the west side of Bartram to the east side, that Tippmann takes financial responsibility by changing the public hydrants within the affected area to private hydrants, that the deeds provided by Mac McNaught are recorded, that

the provisions of the written agreement presented be recorded and complied with by the parties prior to the vacation, and that written consent is obtained from all utilities or the appropriate easements for the utilities be recorded. Councilor Barnett announced that this is a public hearing and asked if anyone from the public wished to speak concerning the proposed ordinance. No one asked to speak. Councilor Ault made a motion to approve with the stipulations listed by City Attorney Gray; his motion was seconded by Councilor Austin. A voice vote was taken with all members stating Aye. No members stating Nay. The motion carried.

Common Council Ordinance No.: 12-08 - An Ordinance Approving Vacating Drainage & Utility Easements Within the City of Franklin, Indiana (To be known as Bartram Parkway D&UE Vacation)

Councilor Henderson made a motion to read by title only, seconded by Councilor Austin. Councilor Barnett read the title. Councilor Barnett announced that this is a public hearing and asked if anyone from the public wished to speak concerning the proposed ordinance. No one asked to speak. Councilor Henderson made a motion to approve subject to the same conditions listed by the City Attorney, seconded by Councilor Wertz. A voice vote was taken with all members stating Aye. No members stating Nay. The motion carried.

Common Council Ordinance No.: 12-10 - An Ordinance Regulating Golf Carts

Councilor Wertz made a motion to read the proposed ordinance aloud by title only, seconded by Councilor Austin. Councilor Ault asked the Council if they thought it would be better to wait for the Mayor to be present. Councilor Barnett stated that he had talked to the Mayor and the Mayor said that it was up to the Council. Councilor Barnett stated that he would like to move forward on this item. A voice vote was taken with Councilors Abban, Austin, Barnett, Henderson and Wertz voting Aye, and Councilor Ault voting Nay. The motion carried, and Councilor Barnett read the title. Councilor Wertz requested two changes be made immediately to the proposed ordinance. The first amendment inserts the following phrase under Section 1) Definitions, Item b., "This ordinance shall not be applicable to private roadways and drives that are not dedicated public streets or right of ways." And further replaces the word "private" to "public" in reference to roads throughout the entire proposed ordinance. The second requested amendment would alter Section 3) Item g., amending the section to read as follows, "Crossing of U.S. 31, State Road 44/144 and any street with a speed limit above forty (40) miles per hour by personal transportation carts shall be permitted only at crossings having a stop sign or traffic control signal erected in accordance with Indiana Code 9-21-3. et seq.. Councilor Wertz made a motion for the Council to accept these two amendments, seconded by Councilor Henderson. The members were polled and all members stated Aye. No members stated Nay. The motion carried, and the amendments were approved.

Councilor Barnett asked Councilor Wertz to read the amended ordinance aloud and announced that there would be a public hearing held once the ordinance is read.

Councilor Wertz read the amended ordinance out loud. A discussion was held. Councilor Henderson asked about the two different terms used to describe types of carts including; slow moving work vehicle and personal transportation carts.

Councilor Wertz made a motion to change Section 3) Item g. from personal transportation carts to motorized carts, seconded by Councilor Henderson. The members were polled and all members stated Aye. No members stated Nay. The motion carried, and the amendment was approved.

Councilor Barnett opened the Public Hearing.

- Resident William Wheeler came forward and stated that he would like to see the ordinance changed to state that drivers of carts must cross at stoplights rather than stop signs.
- Mr. Bob Swinehamer came forward and stated he has a fear section (3f) designating SR44/144 could be interpreted as anywhere on Jefferson Street. Councilor Barnett stated that he would like to see this come back in a year if it does pass to have reports from the police department and citizens at that time. City Attorney Gray stated that if it is passed it can always be brought back at anytime in the future to be reviewed or changed.
- Resident Phil Barrow came forward and stated that he understands that these vehicles cannot be driven on state highways, but he wonders if there was a tragedy what the City's liability would be. City Attorney Gray stated that the City's liability would be related to negligent enforcement of the law once the ordinance was passed.
- Mr. Brian Lane Executive Director of the Masonic Home thanked the Council for changing the wording from private to public roads. He asked whether residents of the Masonic Home would be required to register if they plan to cross the street to the library or to Beeson Hall. City Attorney Gray stated that once they leave private property they would have to be registered.
- Resident Bob Sample explained that he lives in Camelot and asked if he could cross State Road 44 in his golf cart to go to the hospital? Councilor Barnett stated that he would not be able to cross State Road 44 since it is a state road.
- Resident Rene Olibo came forward and asked about the use of motorized wheelchairs. Councilor Ault stated that motorized wheelchairs are governed by the ADA and are exempt.

No one else asked to speak and the public hearing was closed.

A discussion was held. Councilor Wertz stated that 46 states have legalized golf carts for street use. Councilor Ault asked the City Attorney if she authored this ordinance. Ms. Gray stated that she did not author this document but had reviewed it upon request for Councilor Wertz. Councilor Ault asked the City Attorney if the Board of Works could enter into an agreement with residents permitting them to drive golf carts by signing a waiver instead of passing an ordinance. City Attorney Gray stated Indiana

Code 9-21-9-3.3 allows a city or county to adopt an ordinance authorizing the use of golf carts. Councilor Ault asked the other Council members why they think passing this ordinance will benefit the whole city. Councilor Austin said that he thinks that it will benefit the entire city. Councilor Abban agreed that it will benefit the entire city and especially a specific group of people that need options to get around. Councilor Wertz stated that this issue was brought up during his campaign and that is why he brought it back. Councilor Barnett stated that he doesn't know if it would benefit the entire city but said he thought it would benefit a lot of people. Councilor Barnett stated that there are more than a handful of citizens that are for this ordinance. Councilor Ault asked if public safety was improved or enhanced by this ordinance. Councilor Barnett responded that he does not think that this will make the streets any less safe than they are currently. Councilor Ault also asked Police Chief O'Sullivan to comment on the proposed ordinance. The Chief stated that he thinks allowing golf carts will create safety issues. He also stated that the department does not have the manpower to manage the added duties this ordinance will create.

Councilor Austin made a motion to remove the words "Jefferson Street" found in section (3f) number (2). This motion was seconded by Councilor Wertz. The members were polled. All members stated Aye. No members stated Nay. The motion carried.

Councilor Wertz made a motion to change section (4b) from Indiana Uniform Traffic Citation to citation, seconded by Councilor Austin. A poll vote was taken with all members voting Aye. No members voting nay. The motion carried.

Councilor Ault asked if modified carts would be allowed. Councilor Ault made a motion to limit the carts to being non-modified. The motion failed for lack of second. Councilor Ault made a motion to restrict use to daytime hours only. The motion failed for lack of second. Councilor Ault played a tape from the meeting held September 19, 2011 with Councilor Abban, Councilor Austin, and Councilor Barnett speaking about the proposed golf cart ordinance.

Resident Sue Midkiff told the Council that there is another section (4b) which needs to remove Indiana Uniform Traffic Citation and change to citation. Councilor Wertz made a motion to approve this amendment, seconded by Councilor Austin. A poll vote was taken with all members stating Aye. No members stating Nay. The motion carried.

Police Chief O'Sullivan asked the Council to amend the ordinance by stating a maximum number of passengers. Councilor Barnett responded that if needed, the Council can come back and revisit these issues in a year. Councilor Barnett asked the Council if 45 days was enough time to get this program going. Clerk-Treasurer Alexander stated that she should be able to advertise the ordinance by April 14th.

Councilor Wertz made a motion to approve this ordinance with the (5) amendments, seconded by Councilor Austin. The council members were polled and the votes cast were as follows:

Ayes – Barnett, Abban, Austin, Henderson, Wertz
Nays – Ault

The motion carried by a vote of 5-1.

New Business

There was no New Business presented.

Other Business

Council Member Comments Concerning Board & Commission Activities

Councilor Henderson reported that the RDC had been speaking with the Best Buy Group concerning the escrow funds held by Mutual Bank. He also stated that the next RDC meeting will be held April 19th.

Councilor Barnett stated that the members had received an FDC report from Councilor Houglan. Councilor Barnett stated that the Board of Public Works and Safety discussed the Red Carpet Inn demolition could begin as soon as next week.

Announcements & Presentations

Resident Fran Leeper asked the Council what happened to money that was supposed to be used to address flooding in her neighborhood. Councilor Barnett told Ms. Leeper that there is work being done to address the problem. He estimated that it will take about 18 months to get the project in motion. Ms. Leeper also asked who was in charge of the Parks Department so she could report that there is a weed issue in her neighborhood park.

Franklin School Board member John Wales thanked the Mayor and Council for having the joint meeting with the school board last month.

Resident Allen Paris came forward with a petition asking the Council to abandon the idea of extending the Greenways Walking Trail in the area where he lives on 100 north. Mr. Paris gave a list of reasons why the people in this area do not want the walking trail and stated that they do not think the City should use eminent domain to take land for these trails. City Attorney Gray told Mr. Paris that he needed to speak to the Park Board.

Adjournment

A motion and a second were made to adjourn. As there was no further business to come before the Common Council, the meeting adjourned at 8:14 p.m. The next regular meeting will be held Monday, April 16, 2012 at 6:30 p.m.

Respectfully submitted,
Janet P. Alexander, Clerk-Treasurer

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Enrolled 4/13/2012

Approved by Common Council: _____