

**City of Franklin
COMMON COUNCIL MINUTES**

**City Hall
55 W. Madison St.
Franklin, Indiana 46131**

Monday January 10, 2005 @ 7:00 P.M.

Presiding Officer:	President Stephen D. Hougland
Roll Call Present:	Mr. Joseph R. Ault Mr. Kenneth W. Austin Mr. Phillip R. Barrow Mr. Jeffrey C. Eggers Mrs. Ann Gordon Dr. William T. Murphy
Absent:	Mayor Norman P. Blankenship, Jr.
Also present:	Clerk-Treasurer Janet P. Alexander

After the Invocation and the Pledge of Allegiance Mr. Ault seconded by Dr. Murphy made a motion to approve the minutes of the meeting held December 13, 2004. The motion carried.

PETITIONS AND PUBLIC COMMENTS

Council President Stephen Hougland asked if anyone from the Public wished to comment on any matter not on the agenda. No one asked to speak.

APPOINTMENTS

President Hougland announced that the Councils appointments to the Police and Fire Merit Commission have expired. Mr. Hougland asked Mr. Ault to contact both Gene White and Joan Pfifer to ask them if they are willing to serve another term. Mr. Ault agreed. Tabled.

ELECTION OF COUNCIL PRESIDENT

Mr. Hougland also announced that the Council should hold an election to determine who will serve as Council President for 2005. He requested that the Council Members submit nominations. Dr. Murphy made a motion nominating Mr. Hougland for the position of Council President. The motion was seconded by Mr. Eggers. Mr. Ault made a motion to close the nominations, seconded by Mrs. Gordon. The motion carried. By acclamation the council members voted to re-appoint Mr. Hougland President for 2005.

OLD BUSINESS

PUBLIC HEARINGS

Ordinance No. 04-20 – Amending Ordinance 00-23 and increasing the threshold of abandoned vehicles and/or parts to \$500.00

The City Attorney presented the proposed ordinance on behalf of the Chief of Police John Borges. Mr. Schafstall explained that pursuant to Indiana Code § 9-22-1-13 the Common Council has the authority to establish the market value below which an officer may dispose of vehicles and/or vehicle parts abandoned within the City's corporate limits. He also stated that the Police Department has indicated that the One Hundred Dollars (\$100.00) default statutory market value below which such vehicles and parts may be disposed is inadequate and does not permit the disposal of the majority of vehicles and parts abandoned in the City.

The proposed ordinance states that the City's best interests will be served by increasing the market value threshold from the default statutory amount of One Hundred Dollars (\$100.00) to the maximum permitted value of Five Hundred Dollars (\$500.00). Discussion held. A motion and a second were made to read the ordinance aloud by title only. The motion carried. Dr. Murphy seconded by Mr.

Barrow made a motion to approve the proposed ordinance. The motion carried and the ordinance was approved. The Council was polled and the votes cast were as follows:

Aye: Ault, Austin, Barrow, Eggers, Gordon, Hougland, Murphy

Nay: None

Budgetary Ordinance No. 05-01 – Additional Appropriation for purchase of Air Packs

Fire Chief Herron and Firefighter David Porter gave a brief demonstration on the operation and features of the new air packs which the Fire Department received last week. They reported that the new pack is lighter weight, has a harness that is rated for rescue, a smaller face mask, and a number of other technical features that will aid rescues and greatly enhance firefighter safety. Following the presentation Chief Herron presented the proposed budgetary ordinance requesting an additional appropriation for the purchase of Air Packs for \$200,000 from two separate funds \$123,070.93 from the Riverboat Gaming Revenue Sharing Fund and the balance of \$76,929.07 from the Fire Medic Fund. A motion and a second were made to read the ordinance aloud by title only. The motion carried. Mr. Ault seconded by Dr. Murphy made a motion to approve the proposed ordinance. The motion carried and the ordinance was approved. The Council was polled and the votes cast were as follows:

Aye: Ault, Austin, Barrow, Eggers, Gordon, Hougland, Murphy

Nay: None

GENERAL DISCUSSION

Performance Based Zoning

As requested at the last meeting, the City Attorney Robert H. Schafstall reported that he has briefed the Plan Commission Attorney about the Council's concerns about the application of Performance Based Zoning ordinance. The City Attorney also stated that he had found that portions of the Performance Based Zoning Ordinance make ambiguous and / or conflicting statements. He reviewed the conflicting sections with the Council Members and recommended that the Council resolve these issues within the ordinance.

Responding to the Council's question about invoking a moratorium on the use of the ordinance, the Attorney reported that generally the law protects the rights of property owners and restricts government from changing the rules whenever they choose. He explained that existing projects would not be affected by a moratorium. However the Council may enact a moratorium on the use of the ordinance limiting future application of the point system. Mr. Ken Webb (a resident) was asked and replied that as of today (Monday January 10, 2005) the developer of the Ashbourne Subdivision had not exercised their option to buy the land.

The Council Members by a voice vote, voted to put a stay on the Plan Commission approval of proposed primary plats using Performance Based Zoning ordinance guidelines until June 30, 2005. They decided that an ordinance should be adopted by the Council outlining the specifics of the moratorium but that in the interim a voice vote would be sufficient.

Upon reaching a consensus as to the wording of a motion, Mr. Hougland made a motion *"to instruct the City Attorney to draft an ordinance declaring a moratorium for a period of six months ending June 30, 2005 on new subdivisions using the Performance Based Zoning, and further instruct the City Attorney to carry these concerns regarding Performance Based Zoning to the Plan Commission along with the moratorium, and that this moratorium applies to all entities seeking plat approval who do not have protected property rights and who have not already commenced the application process."* This motion was seconded by Dr. Murphy. The Council was polled and the votes cast were as follows:

Aye: Ault, Austin, Barrow, Eggers, Gordon, Hougland, Murphy

Nay: None

NEW BUSINESS

INTRODUCTIONS

Budgetary Resolution No. 05-01 – A resolution authorizing a transfer from 400 series to 200 series to cover end of 2004 gasoline purchases

The Clerk Treasurer presented a proposed resolution authorizing a transfer in the Board of Works budget to cover 2004 year-end gasoline purchases. A motion and a second were made to read the ordinance aloud by title only. The motion carried. Mr. Barrow seconded by Mr. Ault made a motion to approve the proposed resolution. The motion carried and the resolution was approved. The Council was polled and the votes cast were as follows:

Aye: Ault, Austin, Barrow, Eggers, Gordon, Hougland, Murphy

Nay: None

Ordinance No. 05-01 – An Ordinance requesting to rezone +/- 20.25 acres from PUD to RR:

Planning Director David Weir introduced a proposed ordinance rezoning an area incorrectly identified as belonging to the Indiana Masonic Community and placed in the Masonic Home PUD in error. Mr. Weir stated that the Plan Commission voted unanimously to recommend that the properties be rezoned to Rural Residential. A motion and a second were made to read the ordinance by title only. Mr. Hougland read the title aloud and stated that the ordinance will be set for public hearing on January 24, 2005. Tabled.

OTHER BUSINESS

Council Member Comments

Mr. Austin stated that he wanted to comment concerning Ashbourne Subdivision specifically to the parties here (tonight) that “something will go into that property, something will be there”.

Mr. Ault said that he wanted to commend all of the City employees who drove the snow plows during the recent snow emergency. He was very impressed with their efforts in the face of very difficult circumstances.

Clerk-Treasurer’s Comments

The Clerk Treasurer reported the total amount of 2004 budget appropriations that were encumbered from 2004 budget appropriations into 2005. She explained that encumbrances are for invoices, contracts, or other obligations made in the prior budget year which were not paid because the project or service has not been completed, or that the product purchased has not been delivered.

2004 Encumbrances	
General Fund	\$334,306.31
Street	\$395,092.80
Parks	\$19,907.62
Sewer	\$22,689.50
CCI	\$6,491.75
Total all funds	\$778,487.98

Common Council Minutes
Monday January 10, 2005

She also reported that the City earned \$216,129.70 in interest on deposits and investments. These reports were made to comply with State Board of Accounts and Department of Local Government guidelines.

Adjournment

As there was no further business to come before the Common Council, the meeting adjourned at 8:00 p.m. The next meeting will be held on January 24, 2005 at 7:00 p.m.

Signed copies available at the Clerk-Treasurer's Office:
55 W. Madison
Franklin, IN 46131