

Monday September 26, 2005 @ 7:00 P.M.

Presiding Officer: Mayor Brenda Jones-Matthews

Roll Call Present: President Stephen Hougland
Mr. Joseph R. Ault
Mr. Kenneth W. Austin
Mr. Jeffrey C. Eggers
Mrs. Ann Gordon
Dr. William T. Murphy
Mr. Phillip R. Barrow

Also present: Deputy Clerk-Treasurer Sue Midkiff, City Attorney Robert H. Schafstall

Roll Call, the Invocation and the Pledge of Allegiance were offered.

SPECIAL ANNOUNCEMENTS

Mr. Hougland apologized for his absence at the last meeting. He explained that earlier that day his return flight from Las Vegas, was delayed for five hours.

PUBLIC COMMENTS

Mayor Jones-Matthews asked if anyone from the public wished to comment on any matter not listed on the agenda. No one asked to speak.

CONSENT AGENDA

Mr. Ault seconded by Dr. Murphy made a motion to approve the consent agenda items.

1. Minutes of the special meeting held September 8, 2005
2. Minutes of the regular meeting held September 12, 2005.

The motion carried and the consent agenda was approved.

PRESENTATIONS

None were made.

OLD BUSINESS

Adoption of Resolution No. 05-20: A Resolution Establishing an Economic Revitalization Area and Designating a Tax Abatement for Femco Magnet Wire Corporation: Planning Department Director David Weir reviewed the proposed resolution with the Council. He reported that on September 6, 2005 the Franklin Economic Development Commission held a public meeting and considered the request for an economic revitalization area designation (ERA) and seven (7) year tax abatement on personal property for the real estate and the manufacturing project described in the tax abatement request. They also recommended that the ERA designation should be in place for the duration of the tax abatement approved through this resolution.

A discussion was held. A first and a second were made to read the ordinance by title only. The motion carried. Mr. Austin made a motion to approve the proposed ordinance, seconded by Mr. Hougland. The motion carried and the ordinance was approved. The Council was polled and the votes cast were as follows:

Voting Aye: Hougland, Ault, Austin, Barrow, Eggers, Gordon, Murphy
Voting Nay: None

This matter will be advertised and set for public hearing and confirmation at the regular meeting schedule October 24, 2005.

Resolution 05-21: A Resolution Setting Forth Final Action in Determining an Economic Revitalization and Confirming Resolution No. 05-20 for Femco Magnet Wire Corporation:
This matter was placed on the agenda in error and was tabled until October 24, 2005.

PUBLIC HEARINGS

Ordinance 05-22: An Ordinance Regulating Abandoned Vehicles, Demolition Derby Cars and Junk Vehicles and Repealing Ordinance 05-13.

City Attorney Robert H. Schafstall and Police Chief John Borges summarized the proposed ordinance. The proposed ordinance stipulated the following:

1. Adoption of Indiana Code 9-13-2 et seq. and 9-22-1 et seq. This ordinance specifically adopts the provisions of the Indiana Code 9-13-2 et seq. and 9-22-1 et seq., as periodically amended.
2. Disposition of Abandoned Vehicles and/or Parts Valued of Less than \$500.00: The market value of an abandoned vehicle and/or part below which an officer of the Police Department may dispose of the vehicle and/or parts is Five Hundred Dollars (\$500.00).
3. Demolition Derby Cars: Vehicles in an operable condition specifically adapted or constructed for exclusive operation on privately owned raceways, or parts thereof, shall not be stored on private or public property unless stored inside a closed structure out of public view. Demolition derby cars that are scheduled to participate in the Johnson County Fair are exempt from this provision for a three-week period beginning seven (7) days prior to the start of the Johnson County Fair and ending seven days subsequent to the end of the Johnson County Fair.
4. Junk Cars: It shall be unlawful for any person to park a motor vehicle without current license plates or in an inoperable condition on private or public property unless stored inside a closed structure out of public view.
5. Other Ordinances or Statutes:
 - a. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency, specifically including, but not limited to, Ordinance No. 05-13. Provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the ordinance or parts of ordinances are hereby ratified, re-established, and confirmed.
 - b. This ordinance shall not limit the authority of the City of Franklin from towing a vehicle prior to the seventy-two (72) hour period if authorized by another ordinance or statute.

A discussion was held. Mr. Austin asked whether this ordinance addresses the definition of “parked”, which he stated has been the subject of debate by some of his constituents. Chief Borges explained that this issue was addressed in the street and sidewalk ordinance adopted earlier in the year.

A motion and a second were made to read the ordinance by title only. The motion carried. Mr. Eggers made a motion to approve the proposed ordinance, seconded by Mr. Austin. The motion carried and the ordinance was approved. The Council was polled and the votes cast were as follows:

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

Voting Nay: None

Ordinance 05-23: An Ordinance Increasing Greenlawn Cemetery Fees and Establishing a Capital Improvement Fund for Cemetery Maintenance

Parks and Recreation Department Superintendent Suzanne Findley and Greenlawn Cemetery Sexton Mark Webb presented the proposed ordinance increasing Greenlawn Cemetery fees. Mrs. Findley explained that the park board intended that the additional fees collected should be placed in a reserve fund to offset losses when the existing cemetery is at full capacity. However she stated that the park board members are willing to withdraw the request to establish a capital improvement fund for future cemetery maintenance if the Council believes that the additional revenue is needed in the general fund. The proposed ordinance read as follows:

- 1) Fee Schedule: The fee schedule attached as Exhibit “A” is adopted by the Common Council, effective upon the adoption of this ordinance, and is subject to periodic review and amendment as required.
- 2) Establishment, Management, and Use of a Capital Improvement Fund for Cemetery Maintenance.
 - a) There is hereby established the Capital Improvement Fund for Cemetery Maintenance of the City of Franklin (the “Fund”).
 - b) The Fund shall be a non-reverting fund and shall receive any and all sums collected pursuant to this Ordinance that are designated on Exhibit “A” for deposit into said fund.
 - c) Interest earned on the Fund or on any account within the Fund shall be deposited and maintained within the Fund or the separate account.
 - d) The Clerk-Treasurer shall maintain records of the status of the Fund or any account(s) which may be established therein.
 - e) Monies in the funds are to be used only:
 - i) For Cemetery maintenance when other sources of Cemetery revenue are insufficient to pay for such maintenance; or
 - ii) For special cemetery projects approved by the Parks and Recreation Board.

Mrs. Findley pointed out that the ordinance as presented would have to be rewritten. Mrs. Findley asked Mr. Webb to explain to the Council that private cemeteries like Greenwood and Nineveh are required by law to put 15% into a maintenance fund. She stated that Edinburgh has established such a fund. She stated that if the City does not purchase additional land for cemetery expansion, within thirty years or so the only income to the City would be from grave openings. The law is directed at privately owned cemeteries but municipalities do have these types of funds. A discussion was held. The proposed fee increases were listed in an attachment titled: Attachment to Cemetery Ordinance No. 05-23 Exhibit “A” Fee Disbursement.

Type of Site/Need	Total Fee	General Fund	Capital Improvement Fund
Lot Fee Resident	550.00	\$450.00	\$100.00
Lot Fee Non-resident	\$700.00	\$600.00	\$100.00
Lot Opening Fee	\$500.00	\$400.00	\$100.00
Cremations Lot Fee	\$150.00	\$100.00	\$ 50.00
Cremation Opening Fee	\$150.00	\$100.00	\$ 50.00
Baby Row Lot Fee	\$ 75.00	\$ 75.00	

Dr. Murphy made a motion to amend the ordinance by deleting the requirement to establish a capital improvement fund. Mr. Ault seconded this motion, and the motion carried. Dr. Murphy made a motion to read the ordinance by amended title only. This motion was seconded by Mr. Ault. The motion carried. Mayor Jones-Matthews read the title Ordinance 05-23: An Ordinance Increasing Greenlawn Cemetery Fees aloud. Mr. Barrow made a motion to approve the proposed ordinance as amended, seconded by Mrs. Gordon. The motion carried and the ordinance was approved. The Council was polled and the votes cast were as follows:

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

Voting Nay: None

NEW BUSINESS

Introduction of Ordinance 05-24: An Ordinance Restricting the Use of “Fireworks”:

Attorney Rob H. Schafstall and Police Chief John Borges introduced a proposed ordinance that would regulate the use of fireworks in the City of Franklin and allow for fees and fines for illegal use.

Chief Borges explained that the proposed ordinance lists all prohibited fireworks, requirements to use fireworks and proposed penalties for violations. The ordinance states the following:

- 1) **Prohibited Fireworks:** The use of “fireworks”, as defined by Indiana Code § 22-11-14 et seq., and devices substantially similar to such devices, are prohibited within the City’s corporate limits, unless a permit for such use is first obtained from the State Fire Marshall. However, the use of the following fireworks, novelties, and trick noise makers are permitted between the hours of 10:00 a.m. and 10:00 p.m.:
 - a) Dipped stick or wire sparkler. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
 - b) Cylindrical fountains.
 - c) Cone fountains.
 - d) Illuminating torches.
 - e) Wheels.
 - f) Ground spinners.
 - g) Flitter sparklers.
 - h) Snakes or glow worms
 - i) Smoke devices

- j) Trick noisemakers, which include:
 - i) Party poppers
 - ii) Booby traps
 - iii) Snappers
 - iv) Trick matches
 - v) Cigarette loads
 - vi) Auto burglar alarms.
- 2) **Required Insurance:** In the event that a permit is obtained from the State Fire Marshall for the use of devices otherwise prohibited by this Ordinance, the permittee or other user must first obtain and provide a copy of a certificate of insurance naming the City of Franklin, Indiana as an additional insured for the payment of all damages which may be caused either to a person or persons in an amount of One Hundred Thousand Dollars (\$100,000) for damages caused to a person or persons, and One Hundred Thousand Dollars (\$100,000) for damage to property.
- 3) **Violation of Ordinance Constitutes a Public Nuisance:** A violation of this Ordinance constitutes a public nuisance, and may be the subject of an enforcement action against same to enjoin future violations and abate continuing violations. Additionally, all other available legal remedies may be sought by the City to enforce this Ordinance.
- 4) **Penalties:** Any owner who violates any provision of this Ordinance shall be subject to the following monetary penalties, in addition reasonable attorney's fees incurred by the City in the prosecution of the violation:
 - a) For the first offense – a fine of Twenty Five Dollars (\$25.00).
 - b) For the second offense – a fine of Fifty Dollars (\$50.00).
 - c) For the subsequent offenses – a fine of One Hundred Dollars (\$100.00).

A discussion was held. The proposed ordinance was tabled and will be set for public hearing at the next regular meeting scheduled October 24, 2005.

Introduction of Budgetary Ordinance 05-11: A Budgetary Ordinance Requesting an Additional Appropriation for the Police Department:

Police Chief John Borges introduced a proposed ordinance requesting an additional appropriation of reimbursements from the Governors Task Force for Impaired and Dangerous Driving, the Criminal Justice Institute, and Johnson County Fair Board. The Chief explained that his request is for the council to appropriate grant reimbursements for department expenditures. The Chief listed the anticipated amounts and sources:

1. \$3,633.12, (199) Operation Pull Over (OPO) Blitz 42,
2. \$1,957.60 (199) OPO Blitz 43
3. \$486.88 (199) anticipated amount to be received.
4. \$1,963.64 (199) anticipated amount to be received.
5. \$477.63 (199) amount paid by the Johnson County Fair Board for week traffic control detail during the county fair.
6. \$628.25 (215) reimbursement for expenses to purchase the mouth pieces used with the intoxometer.

7. \$100.00 (445) a manufacturers rebate for a projector used for power point presentations.

If approved at the Public Hearing, the requested additional appropriations will be attributed to the following line items within the Police Department's 2005 annual budget.

Overtime - 101-7.00-199.00	\$ 8,518.87	\$ 8,518.87
Operating Supplies - 101-7.00-215.00	\$ 628.25	\$ 628.25
Office Equipment - 101-7.00-445.00	\$ 100.00	\$ 100.00

A first and a second were made to read the ordinance by title only. The motion carried. This ordinance will be advertised and set for Public Hearing on October 24, 2005.

Introduction of Budgetary Ordinance 05-10: A Budgetary Ordinance Amending the 2005 Salary Ordinance 04-03 Relative to the Reclassification of Exempt and Non-Exempt Employees:

Mayor Jones-Matthews introduced the proposed budgetary ordinance amending the 2005 salary ordinance 04-03 relative to the reclassification of exempt and non-exempt employees. A discussion was held. A first and a second were made to read the ordinance by title only. The motion carried. The ordinance was tabled and will be set for Public Hearing on October 24, 2005.

Introduction of Ordinance 05-25: An Ordinance Approving Pay of Services for Firefighters Involved in the IFAC Call to Action: Attorney Rob H. Schafstall stated this item was placed on the agenda in error and should be removed. The item will be discussed at the Board of Works meeting on September 27, 2005 as a resolution.

OTHER BUSINESS

There was no other business to discuss.

ADJOURNMENT

As there was no further business to come before the Common Council, the meeting adjourned at 7:45 p.m. The next meeting will be held October 24, 2005 at 7:00 p.m.

Signed copies available at the Clerk-Treasurer's Office:

55 W. Madison
Franklin, IN 46131