

**FRANKLIN CITY COUNCIL
FEBRUARY 4, 2013**

Members of the Franklin City Council met in regular session on Monday, February 4, 2013, 6:00 p.m. at the Franklin Municipal Building, Mayor Scott Lipps presiding.

Roll call showed:

Denny Centers	present
Matt Wilcher	present
Jason Faulkner	present
Scott Lipps	present
Carl Bray	present
Michael Aldridge	present
Todd Hall	present

There was no one from the press and 12 visitors at tonight's meeting. Also present; Ms. Sandra Morgan, Finance Director; Mr. Don woods, Zoning Official; Mr. Jonathan Westendorf, Fire Chief; Mr. Russ Whitman, Police Chief; Ms. Donnette Fisher, Law Director; Mr. Ross Coulton, Assistant Safety Director; Mr. Sonny Lewis, City Manager and Mrs. Jane McGee, Clerk of Council.

The Pledge of Allegiance was led by Mr. David Fornshell.

Mr. Faulkner made the motion to approve the Clerk's Journal and accept the tapes as the Official Minutes of the January 7, 2013 regular meeting; seconded by Mr. Aldridge. The vote:

Mr. Wilcher	yes
Mr. Faulkner	yes
Mr. Lipps	yes
Mr. Bray	yes
Mr. Aldridge	yes
Mr. Hall	yes
Mr. Centers	yes

Motion passed.

**PRESENTATION THE HONORABLE DAVID FORNSHELL - WARREN COUNTY
 PROSECUTOR**

The Honorable Fornshell presented to Council the 2013 Warren County Prosecutor's Annual Report. He noted that the Child Advocacy Center is a wonderful facility that is being used. A "Blue Ribbon Gala" is held each year to benefit the Center. Mr. Fornshell added for Council to contact him with any concerns or needs.

Mr. Fornshell noted the Prosecutor's office was responsible for more than 22,890 court cases, including 955 felonies, over 2,866 juvenile cases, 7,069 adult misdemeanors and over 12,000 child support cases. In addition, legal counsel is provided to 30 county agencies, 9 townships and 5 public libraries. Mr. Fornshell stated he is most proud of the decrease in expenditures for his office in 2012 and he is honored to be associated with all of Warren County law enforcement agencies. (copy of report attached).

RECEPTION OF VISITORS

John Lamb, 4280 Beal Road, thanked Council for supporting the River Ride Event and that the money was donated to the Food Pantry. He stated he would like to do the event again this year, the first weekend in October. Also, St. Jude Hospital has approached him about having an event the first or second weekend of June to raise money. He would like to have a bike night and/or bike parade, with vendors participating.

After some discussion, Mr. Faulkner stated that detailed plans need to be presented to the City Manager and/or Finance Committee. Mr. Lamb stated he would like to have it 2 p.m. to 10 p.m. Mr. Lewis stated he will work with Mr. Lamb -we need to know the number of vendors, street closings, etc.

Sergio Flores, 1341 Amy Beth Drive, Miamisburg, Ohio, addressed Council about Cazadores Restaurant, and noted the following:

- Passed out information to Council about a left turn lane into Cazadores
- Meet with Planning Commission about the issue with the median in front of Cazadores affecting their business
- U-turn is very dangerous, people turning around in Walgreens, which is illegal
- Proper access to a business is required per the ORC
- Lost money during the construction, no compensation received, been very patient
- Need to resolve the issue, don't know what to do, have documentation we lost business
- Talked to a contractor & he gave an estimated cost of \$18,000 to remove the median
- Presented over 1,000 signatures of Franklin voters to the Mayor
- He was never informed of the improvements; don't know about the property owner

Mr. Bray asked if this has been to Planning Commission lately. Mayor Lipps stated it has been to Planning Commission several times; said to give it 90 days, after completion of construction, to see what happens; and Mr. Johnson (property owner) has offered to pay to remove the median.

Mr. Flores stated we have looked at the entrance in back of the property to put in an access road, it is expensive and we will lose parking places; our entrances have changed and now we have to restripe the parking lot; can't stay in the City if it stays as it is, have no lunch business; and a big issue is the delivery trucks have to go thru Walmart to get to our restaurant.

Mr. Wilcher asked if he has provided financials to the City Manager, Council or Planning Commission. Also, when did he start the business and how many customers then and now? Mr. Flores stated he has financials tonight, started the business in January 2003 and the number of people varies daily, so is hard to say. He added it is hard to track people as there are many variables. He knows by the numbers (sales).

Mr. Wilcher stated the median is inconvenient; all restaurants are hurting; don't know if the median is the entire reason why sales are down; have no drive thru, not fast food; and questioned the number of accidents at Walgreens, prior to the median and for the last six months (Chief Whitman will provide).

Mr. Aldridge asked if he just wants a left turn lane (going west on Second Street) into his business. Mr. Flores stated yes. Mr. Aldridge stated he has safety concerns for people making a left turn coming out of the business onto Second Street.

Mr. Flores stated he needs access to his restaurant coming from I-75 only.

Mr. Faulkner asked Mr. Lewis what has happened at Planning Commission the last several months.

Mr. Lewis stated that 2 members of Council, Mr. Centers & Mayor Lipps, also serve on Planning Commission. Staff is looking at increasing the third lane from East Lawn, all the way down (to Conover drive), so the u-turn can be made. Mr. Aldridge asked if he feels this is safer than the left turn. Mr. Lewis stated yes, he does. Mr. Flores stated he disagrees. Mr. Centers stated the issue is stacking of cars into the intersection if there is a turn lane. If it wasn't for that, he would be for removing the median. It was discussed with the former City Engineer, Mr. Heitkamp, and it was his professional opinion, that it was a safety issue and did not recommend it. Mr. Flores stated why not remove the entire median. Mayor Lipps asked how much has to be removed to lessen the stacking. Mr. Centers stated that is another issue.

Mr. Bray stated we have to plan for the future and we have done that; the problem is CDS did a bad job in engineering this; trucks shouldn't be using Walmart parking lot to turn around to make deliveries and he has a problem with making u-turns. He wants to see the traffic flow, for the median to remain & can't believe that the delivery trucks have to use the Wal-Mart parking lot to turn around.

There was some discussion on how the other businesses along Second Street receive their deliveries. Mr. Wilcher stated, whatever we do here, his concern is that it may set precedence for the other businesses.

Mr. Flores stated Mayor, you promised something would be done the last time we spoke and would have a solution. I have been patient. Mr. Faulkner asked if his deliveries are made by a straight truck or semi-truck. Mr. Flores stated semi-truck. Mr. Faulkner then asked if a semi-truck could make the left turn, thru the median, to his business. Mr. Flores stated he did not know. Mr. Faulkner asked if a semi-truck would be able to make the u-turn if the third land is extended. Mr. Hall stated no, that the whole thing will have to be redone. Mr. Lewis stated it would depend upon the driver – would be dangerous. Mr. Lewis stated he wanted to get one thing straight. Mr. Flores keeps referring to an access plan. An access management plan is not a thoroughfare plan. An access management plan is the access getting into your business & asked how many accesses he has into his business. Mr. Flores stated one – Mr. Lewis stated you have two – Mr. Flores continued have one on each side. Mr. Flores said he wanted to talk frankly, quit putting hurdles in our way, and let us have our business that will have good service for the City of Franklin. All I want to do is serve the City and make business. This could have been avoided, we tried to stop this, and we talked to you. Mr. Lewis responded that you didn't talk to me, Mr. Johnson did. Mr. Flores continued I'm tired of this, want a solution or will find a solution elsewhere and he is tired of being jerked around.

Mayor Lipps stated he would like to send this back to the Planning Commission; the next meeting is Monday night at 5:30 p.m.; Council can't override Planning Commission's decision; and invited Council to attend. Mr. Hall stated either way, this will have to be re-worked to make both parties happy. Mayor Lipps added we said to give it 90 days after construction, he has done that, and council can attend if they are available, and you are invited to attend also.

Mr. Aldridge stated he'd like to have the City Engineer's opinion on the option with the cut out; don't think the concern is the delivery trucks using Walmart's lot, think you are more concerned about people coming there to eat.

Mayor Lipps asked for the City Engineer to be at the meeting, all concerned are invited and we will look at this next Monday at 5:30 p.m.

Mr. Bray stated he won't be there as he will be out of town and asked for the City Engineer to give what the impact – to the area - will be if we proceed with the left turn into the business.

Mr. Lewis stated there is a bigger issue – what are you going to do if Anderson's comes in and says they want one (turn lane) also. If you're going to provide one for him – we want one also as we have 3 times

as many cars as Cazadores does. Then we might as well remove the entire median and you've waste \$170,000+. If it hurts his business – then it does. I haven't attacked him as much as what people have told me – as they have attacked me because I have a different view point from what he has. I've been told, by my friends who have gone to the restaurant that they've been told to get on me – that I can change the median. Whether you have done this or not, only you know. The issue is when Council did the project, it was to move the traffic through the area from Commerce Center Drive safely and quickly through the intersection and it has done that. It is a safer intersection at Commerce/Conover Drive/Second Street, as the result of the Thoroughfare Plan. Hopefully, there is planned development in the future at I-75; if the median is removed, we've wasted money and our vision for the next 10 years is gone. Mr. Flores stated that this could have been avoided – when we approached you, no one would listen.

Mr. Faulkner stated this was started in 2006; property owners should have been notified then and apologized if the property owner didn't notify you.

Mr. Flores stated it does look better, need customers to get to our place.

Mayor Lipps stated we will meet with the Planning Commission & City Engineer, in a special meeting on Monday.

Ms. Fisher stated at the last Planning Commission meeting, they looked at the safety issue and will lose stacking; Planning Commission directed the City Manager to look at extending the turn lane, East Lawn to Conover – you said that would be okay? Mr. Flores stated we need access to the restaurant – questioned if the third lane would work, issue is access.

Mr. Wilcher stated it's not his agenda to run anyone out of the City; need a plan to make both of us happy and the traffic has to flow.

Mr. Centers stated we need 3 overlays showing: 1) third lane added, 2) left turn and 3) as is.

Mr. Hall stated Mr. Lewis is doing his job – our job is to decide what's done along with Planning Commission.

Discussion continued on possible options.

Mayor Lipps stated there will be a Special Meeting of Council, Monday, February 11, 2013, 5:30 p.m. at the City Building. Mayor Lipps also returned the information that Mr. Flores presented to Council tonight, to him.

Mayor Lipps recognized Mr. Time DeHart, AAA Wastewater, and his father Gene Dehart, in the audience tonight and thanked them for what they do for the community.

PUBLIC HEARING ORDINANCE 2013-01 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRANKLIN, OHIO, TO REZONE THE PROPERTY LOCATED AT 939 S. MAIN STREET FROM R-3, "CENTRAL RESIDENTIAL DISTRICT," TO C-2, "COMMUNITY COMMERCIAL DISTRICT"

Mr. Woods stated that this property is owned by Danny Lee and Billie Jean Philpot at 939 S. Main Street. They are asking to rezone the property from R-3 (Residential) to C-2 (Commercial). This will reflect the current use of the property. It has been used for vehicle-related purposes for at least 60 years. The Planning Commission has approved and recommends the rezoning.

Mr. Bray asked if there any other concerns in that area. Mr. Woods stated not that he knows of, but if there is, it will have to go to Planning Commission.

Mayor Lipps opened the Public Hearing and asked for any public comments. There being none, he closed the Public Hearing and asked for any Council comments. There were none.

Mr. Faulkner made the motion to adopt Ordinance 2013-01; seconded by Mr. Bray. The vote:

Mr. Faulkner	yes
Mr. Lipps	yes
Mr. Bray	yes
Mr. Aldridge	yes
Mr. Hall	yes
Mr. Centers	yes
Mr. Wilcher	yes

Motion passed.

PUBLIC HEARING ORDINANCE 2013-02 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FRANKLIN, OHIO, TO REZONE THE PROPERTY LOCATED AT 1107 S. MAIN STREET FROM R-3, "CENTRAL RESIDENTIAL DISTRICT," TO C-2, "COMMUNITY COMMERCIAL DISTRICT"

Mr. Woods stated that this rezones the property located at 1107 S. Main Street from R-3 to C-2. The property is currently owned by Aster & Rita Northern. It has been used for vehicle related uses for at least 60 years. The Northern's are present tonight.

Mayor Lipps opened the Public Hearing and asked for any public comments. There being none, he closed the Public Hearing and asked for any Council comments. There were none.

Mr. Bray made the motion to adopt Ordinance 2013-02; seconded by Mr. Centers. The vote:

Mr. Lipps	yes
Mr. Bray	yes
Mr. Aldridge	yes
Mr. Hall	yes
Mr. Centers	yes
Mr. Wilcher	yes
Mr. Faulkner	yes

Motion passed.

PUBLIC HEARING ORDINANCE 2013-04 ESTABLISHING A SEVEN-MONTH MORATORIUM ON THE ESTABLISHMENT OR COMMENCEMENT OF OPERATIONS OF CHECK-CASHING BUSINESSES, CREDIT SERVICE ORGANIZATIONS, SHORT-TERM LOAN LENDERS, MORTGAGE LOAN LENDERS AND SIMILAR ALTERNATIVE FINANCE SERVICE PROVIDERS

Ms. Fisher stated that this was passed as an emergency at the last meeting and will expire on March 9th. This is the permanent ordinance which will keep the seven month moratorium in place until July 31. The Planning Commission has started studying these establishments.

Mayor Lipps opened the Public Hearing and asked for any public comments. There being none, he closed the Public Hearing and asked for any Council comments. There were none.

Mr. Hall made the motion to adopt Ordinance 2013-04; seconded by Mr. Wilcher. The vote:

Mr. Bray yes
Mr. Aldridge yes
Mr. Hall yes
Mr. Centers yes
Mr. Wilcher yes
Mr. Faulkner yes
Mr. Lipps yes

Motion passed.

LIQUOR PERMIT NOTICE DALEY’S IRISH PUB, LLC, SEEKING NEW D5 AND D6 PERMITS FOR 544 S. MAIN STREET, FRANKLIN, OHIO

Ms. Fisher stated that Daley’s has a new owner incorporated as a domestic limited liability company. The permit is for a D5, on premises until 2:30 a.m. and a D6, Sunday sales. Under the Zoning Code, bars & taverns in a C-3 District are a conditional use. To date, a conditional use permit has not been applied for. As they don’t have the approved zoning for the business, Ms. Fisher recommended to request a hearing on this liquor permit.

Mr. Bray asked if Planning Commission has seen this. Ms. Fisher stated no, as they haven’t applied for a conditional use permit. Ms. Fisher added that we are also looking at the connection between the new and old owners of Daley’s. The question is, do we want them to get a permit or say there is a problem.

Mayor Lipps stated that a couple of business owners have expressed concerns about this business opening.

Mr. Faulkner made the motion to request a hearing on this Liquor Permit Notice, to be held in the County seat; seconded Mr. Wilcher. The vote:

Mr. Aldridge yes
Mr. Hall yes
Mr. Centers yes
Mr. Wilcher yes
Mr. Faulkner yes
Mr. Lipps yes
Mr. Bray yes

Motion passed.

PUBLIC HEARING RESOLUTION 2013-05 APPROVING DVAF, LLC’S RENEWAL APPLICATION FOR PLACEMENT OF 176.1842 ACRES OF FARMLAND WITHIN THE CITY OF FRANKLIN IN AN AGRICULTURAL DISTRICT

Ms. Fisher stated that this is a renewal application by DVAF, the DeHart family, for the placement of land within an agricultural district (CAUV). The property is located along Anthony Lane and has been in an agricultural district since 1988.

Ms. Fisher added, per the ORC, a Public Hearing must be held on the renewal.

Mayor Lipps opened the Public Hearing and asked for any public comments. There being none, he closed the Public Hearing and asked for any Council comments.

Mr. Centers asked why this isn't a county issue. Ms. Fisher stated that it is, but the City has to give permission for the land that is located in the City.

Mr. Faulkner made the motion to adopt Resolution 2013-05; seconded by Mr. Wilcher. The vote:

Mr. Hall	yes
Mr. Centers	yes
Mr. Wilcher	yes
Mr. Faulkner	yes
Mr. Lipps	yes
Mr. Bray	yes
Mr. Aldridge	yes

Motion passed.

RESOLUTION 2013-06 SUPPORTING THE APPOINTMENT OF THE LEBANON CITY MANAGER TO THE WARREN COUNTY 9-1-1 PLANNING COMMITTEE

Mr. Lewis stated that they want to take away our 911 funds to use for the County courts. Currently, there are 3 dispatch centers in the County – Warren County, City of Lebanon & City of Franklin. Lebanon and we have the same idea – we have our own dispatch centers and we can do it better. We both object to any effort to reduce or stop disbursement of funds to us and maintain that the County has no right to keep those funds from us. We also agree that we will both work towards the next generation 911 system; we can provide 911 more efficiently than Warren County. We have found out that we are quicker than the County in dispatching. I have talked to Lebanon's City Manager, Mr. Clemens, and we have the same goals. We will also be attending the meetings.

Mr. Faulkner asked who determined the membership of the Committee. Ms. Fisher stated that the ORC states who is on the Committee. Ms. Fisher added that Warren County wants to keep the 911 monies to update their system and force us out. E-911 phases out the PSAP's.

Chief Whitman added that two dispatchers are funded out of the 911 monies.

A member of the audience asked if 911 calls go to Lebanon – not now they don't.

Mr. Hall made the motion to adopt Resolution 2013-06; seconded by Mr. Bray. The vote:

Mr. Centers	yes
Mr. Wilcher	yes
Mr. Faulkner	yes
Mr. Lipps	yes
Mr. Bray	yes
Mr. Aldridge	yes
Mr. Hall	yes

Motion passed.

CITY MANAGER'S REPORT

Mr. Lewis apologized to Council for losing his cool – but not sorry for what he said.

LAW DIRECTOR'S REPORT

Ms. Fisher stated that there is no Council meeting on Monday, February 18, 2013 because of the holiday.

Mayor Lipps thanked Mr. Abbott & Mr. Harris for attending tonight.

COUNCIL COMMENTS

Mr. Bray stated at the Finance Committee meeting tonight, Big Brothers/Big Sisters & the Historical Society, addressed the Committee about donations from the City; we need to be cautious as we will be owning the building soon; update on 309 Oxford Road; and he will not be at the March meetings.

Mr. Centers stated that he didn't think Mr. Lewis was out of line at all.

Mr. Aldridge thanked everyone for coming tonight; thanked Mr. Lamb for trying to bring events to the City; lost a special young man last week, the community has supported the family and our thoughts & prayers are with them; and the FHS boys basketball team won the league.

Mr. Faulkner thanked everyone for coming tonight; didn't think Mr. Lewis was out of line; Eli Nardi passed away last week; and thanks to staff.

Mr. Hall added good job done on the recent snow removal (Mr. Faulkner agreed, awesome job).

Mayor Lipps stated that there was a good turnout for River's Edge opening; Representative Maag attended the Chamber meeting; attended the Cincinnati State Event and they talked a lot about Franklin and asked to meet with Council; Cazadores asked to meet with Congressman Shabot, they meet and Congressman Shabot is not involved as it isn't a State issue.

Mayor Lipps stated the Special meeting will be held Monday night to resolve the issue.

Mr. Faulkner made the motion to adjourn; seconded by Mr. Hall. The vote:

Mr. Wilcher	yes
Mr. Faulkner	yes
Mr. Lipps	yes
Mr. Bray	yes
Mr. Aldridge	yes
Mr. Hall	yes
Mr. Centers	yes

Motion passed.

Mayor Lipps adjourned the meeting at 8:05 p.m.

Mayor

Clerk of Council