

CITY COUNCIL MEETING

November 13, 2006

The Common Council of the City of Crawfordsville, Indiana, met in a regular session, 7:00 p.m., November 13, 2006. Present were Mayor John Zumer, who chaired the meeting, City Attorney Terry Harris, and Clerk-Treasurer Nellie Thompson. Also present were Council members Steve Frees, Dennis Cook, Roger Rockenbaugh, Charles Fiedler, Phil Michal, and Charlie Coons. Councilman Loren Rutledge was absent.

Other officials in attendance were Fire Chief Todd Barton, Chief of Police Hal Utterback, Wastewater Treatment Plant Manager Tom Mitchell, Park & Recreation Department Cheryl Keim, Interim Planning Community Development Director Brandy Allen and Street Commissioner Rodney Jenkins. The press was also present.

Chairman Zumer called the meeting to order; and led the pledge to the flag.

Chairman Zumer asked Clerk-Treasurer Nellie Thompson to call the roll for purpose of attendance, a quorum was present.

Councilman Cook moved to approve the minutes from the October 10, 2006 City Council meeting, seconded by Councilman Frees. The minutes were approved as presented.

The roll was called for the purpose of any additions to the agenda. Councilman Frees indicated he had comments to be addressed under miscellaneous.

SPECIAL REORGANIZATION MEETING

Chairman Zumer announced the following committees would be chaired as follows:

Fiscal Affairs	Ordinances & Petitions	Annexation	Traffic, Parking & Safety
Charles Fiedler, Chm	Denny Cook, Chm	Roger Rockengbaugh, Chm	Charlie Coons, Chm
Phil Michal	Charlie Coons	Loran Rutledge	Phil Michal
Denny Cook	Roger Rockenbaugh	Charles Fiedler	Steve Frees

Chairman Zumer opened the floor for nominations of new Council President. Councilman Cook nominated Councilman Frees. Hearing no other nominations a voice vote indicated the council approved the nomination. The nomination passed with a unanimous vote.

COMMITTEE OF THE WHOLE

Councilman Cook moved to adjourn as the Common Council and reconvene as the Committee of the Whole, seconded by Councilman Frees. A voice vote indicated the Committee in favor of adjourning as a Common Council and reconvene as the Committee of the Whole.

Chairman Zumer turned the meeting over to Council President Frees, to present an ordinance fixing the salaries for Mayor, Clerk-Treasurer, and elected officials for the City of Crawfordsville. Council President Frees moved to forward the ordinance to the Fiscal Affairs Committee. Seconded by Councilman Cook. Offering comments from the Council was Councilman Michal. Hearing no further comments a voice vote was called, the ordinance will move to the Fiscal Affairs Committee with a favorable recommendation.

Completing the business of the Committee of the Whole Councilman Michal moved to adjourn as the Committee of the Whole and reconvene as the Common Council. Seconded by Councilman Fiedler. A voice vote indicated the Committee in favor of adjourning as the Committee of the Whole and reconvene as the Common Council.

PUBLIC HEARING

Chairman Zumer opened the public hearing at 7:10 p.m. for comments regarding an additional appropriations for the year 2006 an ordinance for Park & Recreation Department – General Fund re: Lew Wallace Study salary for a Museum Assistant - \$6,449.18. Comments were offered from Councilman Rockenbaugh and Park and Recreation Director Cheryl Keim. Hearing no further comments from the public Chairman Zumer closed the public hearing at 7:11 p.m.

Chairman Zumer opened the public hearing at 7:11 p.m. for comments regarding an ordinance fixing the salaries for Mayor, Clerk-Treasurer, and elected officials for the City of Crawfordsville for the year 2007.

Mayor	\$63,184.00
Clerk-Treasurer	\$50,650.00
City Council	\$29,946.00 (\$4,278.00 each)

Comments were offered from Councilman Frees and Chairman Zumer. Hearing no further comments from the public Chairman Zumer closed the public hearing at 7:12 p.m.

FISCAL AFFAIRS

Chairman Zumer called on Councilman Fiedler to present the business of the Fiscal Affairs Committee.

Chairman Fiedler presented a third reading of an additional appropriation for the year 2006 an ordinance for Park & Recreation Department – General Fund, re: Lew Wallace Study salary for a Museum Assistant director - \$6,449.18 (received a grant to pay her salary). Chairman Fiedler moved to place this ordinance on third and final reading and so adopt. Seconded by Councilman Frees. Chairman Zumer called for comments from the Council and the public. Hearing no comments the roll was called for a vote. The ordinance passed on third reading with a unanimous vote.

AMOUNT	FROM	TO
\$6,449.18	General Fund/ Park & Rec. Dept (Unappropriated)	General Fund/Park & Rec. Dept Museum Asst. Director/Salary Acct #111

ORDINANCE NO. 19-2006

AN ORDINANCE MAKING ADDITIONAL APPROPRIATIONS
FOR THE YEAR 2006

WHEREAS, the Department of Parks & Recreation has, with the approval of the Common Council and as the result of receiving a grant through the Lew Wallace Study Preservation Society, made the position of Assistant Director of the Lew Wallace Study & Museum a full-time one;

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CRAWFORDSVILLE, INDIANA, that:

SECTION 1. The foregoing extraordinary conditions have developed since the adoption of the annual budget so that it is now necessary to appropriate more money than was originally appropriated in the 2006 annual budget for the various functions of City government, and an extraordinary emergency is hereby declared to exist to justify such appropriations.

SECTION 2. To meet this emergency, there is hereby appropriated from the Park & Recreation General Fund (Unappropriated) the following specified amount for the following purpose and account:

AMOUNT	FROM	TO
\$6,449.18	General Fund/Park & Rec. Dept. (Unappropriated)	General Fund/Park & Rec. Dept. Museum Asst. Director/Salary Acct. #111

Adopted and passed by the Common Council of the City of Crawfordsville, Indiana, this 13th day of November, 2006.

Signed/// John P. Zumer
John P. Zumer, Mayor & Presiding Officer

PRESENTED TO ME BY THE MAYOR OF THE CITY OF CRAWFORDSVILLE, INDIANA, THIS 13th DAY OF November, 2006.

Signed/// Nellie Thompson
Nellie Thompson, Clerk Treasurer

THIS ORDINANCE APPROVED AND SIGNED BY ME, THIS 13th DAY OF November, 2006.

Signed///John P. Zumer
John P. Zumer, Mayor

ATTEST:

Signed/// Nellie Thompson
Nellie Thompson, Clerk Treasurer
City of Crawfordsville

The second item presented was an ordinance fixing the salaries for Mayor, Clerk-Treasurer, and elected officials. Chairman Fiedler moved to place the ordinance on first reading. Seconded by Councilman Cook. Chairman Zumer called for comments from the Council and the public Hearing no comments the roll was called for a vote. The ordinance passed on first reading with a unanimous vote.

FIRST READING

The third item presented was an ordinance establishing a fund for the Golf Course Authority (including transfers of Park & Rec non-reverting funds for the golf course). Chairman Fiedler moved to place the ordinance on first reading. Seconded by Councilman Cook. Chairman Zumer called for comments from the Council and the public. Hearing no comments the roll was called for a vote. The ordinance passed on first reading with 5-1 vote with Councilman Coons casting a dissenting vote.

FIRST READING

The fourth and final item presented was an ordinance establishing a fund for downtown sidewalk grant monies. Chairman Fiedler moved to place the ordinance on first reading. Seconded by Councilman Cook. Chairman Zumer called for comments from the Council and

public. Offering comments from the council were, Councilman Frees, Mayor Zumer and Attorney Harris. Hearing no further comments the roll was called for a vote. The ordinance passed on first reading with a unanimous vote.

FIRST READING

Completing the business of Fiscal Affairs Committee, Chairman Fiedler turned the meeting over to Chairman Zumer.

ORDINANCES AND PETITIONS

Chairman Zumer called on Councilman Cook to present the business of the Ordinances and Petitions Committee.

Chairman Cook presented an Ordinance Prohibiting Drug Nuisances as amended. He moved to place on third reading as amended and so adopt. Seconded by Councilman Frees. Chairman Zumer called for comments from the Council and the public. Hearing no comments the roll was called for a vote. The ordinance was passed on third reading with a unanimous vote.

ORDINANCE NO. 20 - 2006

AN ORDINANCE PROHIBITING DRUG NUISANCES

WHEREAS, there is a public safety and health interest in keeping the City of Crawfordsville free from illegal drugs and controlled substances and prohibiting the use of property to commit drug offenses;

WHEREAS, Indiana Code 32-30-8 authorizes municipalities to enact specialized drug nuisance ordinances and thereafter enforce those ordinances, all as set forth in set statute;

WHEREAS, as an additional tool to fight illegal drug use within the City, the Common Council of the City of Crawfordsville would like to adopt the provisions of Indiana Code 32-30-8;

WHEREAS, a new section, §96.06, should be added to Chapter 96, Nuisances; Health & Safety, of the Crawfordsville Municipal Code in order to prohibit drug nuisances and to allow for an action to abate those nuisances, all as provided by Indiana Code 32-30-8.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Crawfordsville that §96.06 of the Crawfordsville Municipal Code is hereby added to said Code, which new section reads as follows:

§96.06. Drug Nuisances.

(A) Drug Nuisances Prohibited. No person shall create, cause, continue, allow or maintain any drug nuisance, as defined herein, in the City of Crawfordsville.

(B) Definitions. For the purposes of this section, the following definitions apply:

1. A “drug nuisance” means:

(a) the use of a property to commit an act constituting an offense under IC 35-48-4; or

(b) an attempt to commit or a conspiracy to commit an act described in subdivision (a).

2. A "property" means a house, a building, a mobile home, or an apartment that is leased for residential or commercial purposes. The term includes an entire building or complex of buildings and mobile home communities, and all real property of any nature appurtenant to and used in connection with the house, building, mobile home, or apartment, including all individual rental units and common areas. The term does not include a hotel, motel, or other guest house, part of which is rented to a transient guest.

3. "Tenant" means a person who leases or resides in a property.

The term does not include a person who owns a mobile home, leases or rents a site in a mobile home community for residential use, and resides in a mobile home community; that person is an “owner”.

(C) Actions to abate drug nuisance; persons authorized to initiate. An action to abate a drug nuisance under this section may be initiated by the Prosecuting Attorney of Montgomery County, the Crawfordsville City Attorney, or the owner of the affected property.

(D) Notice. (1) A person initiating an action under this section to abate a drug nuisance existing on a property shall, at least **ten (10)** days before filing the action in court, to provide written notice to:

(a) each tenant of the property, and

(b) the owner of record;

that a drug nuisance exists on the property.

(2) The notice required under this section must specify the following:

(a) The date and time the drug nuisance was first discovered, and

(b) The location on the property where the drug nuisance is allegedly occurring.

(3) The notice must be:

(a) hand delivered, or

(b) sent by certified mail, return receipt requested;

to each tenant and the owner of record of the property where the drug nuisance

is allegedly occurring.

(4) A person initiating an action to abate a drug nuisance under this section shall:

(a) when notice is provided under this section, produce all nonprivileged or nonconfidential evidence in the person's possession or control of the existence of the drug nuisance, and

(b) if requested by the owner, assist the owner in the production of nonprivileged or nonconfidential witness and physical evidence concerning the drug nuisance.

(E) Action to abate nuisance initiated or joined by owner of record; exempt from notice requirement. If the owner of record of a property that is the subject of an action under this section initiates or joins in the action under this section, the requirement under section (D) of this chapter to provide notice at least ten (10) days before filing does not apply to the action.

(F) Application of trial rules to notice; posting requirement.

(1) Notice of a complaint initiating an action under this section must be made as provided in the Indiana Rules of Trial Procedure.

(2) Except in an action under this section in which the owner of record of the property that is the subject of the action initiates or joins the action as a party, the person who initiates an action under this section, not later than forty-eight (48) hours after filing a complaint under this section, shall post a copy of the complaint in a conspicuous place on the property alleged by the complaint to be a drug nuisance.

(G) Service upon defendant. (1) If the defendant has not been personally served with process despite the exercise of due diligence, the person initiating an action under this section, not more than twenty (20) days after the filing of a complaint and the filing of an affidavit that personal service on the defendant cannot be had after due diligence, may cause a copy of the complaint to be mailed to the defendant's last known address by certified mail, restricted delivery, return receipt to the clerk of court requested. Service is considered completed when the following are filed with the court:

(a) Proof of the mailing by certified mail to that last known address, and

(b) An affidavit that a copy of the complaint has been posted on the property alleged to be a drug nuisance.

(2) This subsection does not apply to transient guests of a hotel, motel, or other guest house. All tenants or residents of a property that is used in whole or in part as a business, home, residence, or dwelling who may be affected by an order issued under this section must be:

(a) provided reasonable notice as ordered by the court having jurisdiction over the drug nuisance action, and

(b) afforded an opportunity to be heard at all proceedings in the action.

(3) Except in an action under this section in which the owner of record of the property that is the subject of the action initiates or joins the action as a party, notice of lis pendens shall be filed concurrently with the initiation of an action under this section.

(H) Hearing; service upon owner of property. (1) Except as otherwise provided in the Indiana Rules of Trial Procedure, upon the filing of a complaint initiating an action under this section, the court shall schedule a hearing not later than twenty (20) days after the filing date.

(2) Service of process must be made upon the owner of the property that is alleged in the notice filed under section (D) of this section to be a drug nuisance at least five (5) days before the hearing. If service cannot be completed in time to give the owner the minimum notice required by this subsection, the court may set a new hearing date.

(I) Equitable relief. The court may issue an injunction or order other equitable relief under this section regardless of whether an adequate remedy exists at law.

(J) Order to vacate. Notwithstanding any other provision of law, and in addition to or as a component of a remedy ordered under subsection (I) of this section, the court, after a hearing, may order a tenant that created a drug nuisance on the property leased by the tenant to vacate the property within seventy-two (72) hours after the issuance of the order.

(K) Restitution; possession; removal of tenant's personal property. (1) The court, after a hearing under this chapter, may grant a judgment of restitution or the possession of the property found to constitute a drug nuisance to the owner if:

(a) the owner and tenant are parties to the action, and

(b) the tenant has failed to obey an order issued under subsections (I) or (J) of this section.

(2) If the court orders the owner to have possession of the property found to constitute a drug nuisance, the court shall require the sheriff to execute the order of possession not later than five (5) days after the order is issued.

(3) If the owner is awarded possession of the property found to constitute a drug nuisance, the owner may seek an order from the court allowing removal of a tenant's personal property under IC 32-31-4.

(L) Plan for correction. If the owner is a party to the action and knew of the existence of the nuisance prior to notice of a drug nuisance being given, the court may order the owner of the property found to constitute a drug nuisance to submit for court approval a plan for correction to ensure, to the extent reasonably possible, that the property will not again be used for a drug nuisance.

(M) Proof that defendant knew of drug nuisance not required. Except as provided in subsection (L) of this section, the court may order appropriate relief under this section without proof that a defendant knew of the existence of the drug nuisance.

(N) Evidence. In any action brought under this section:

(1) evidence of the general reputation of the property alleged to constitute a drug nuisance is admissible to corroborate testimony based on personal knowledge or observation, or to corroborate evidence seized during the

execution of a search and seizure warrant, but is not per se sufficient to establish the existence of a drug nuisance under this section; and

(2) evidence that the drug nuisance had been discontinued at the time of the filing of the complaint or at the time of the hearing does not bar the imposition of appropriate relief by the court under this section.

(O) Penalties. In addition to any specific remedies provided by this section, all other penalties applicable to nuisances generally, including fines, court costs, attorney fees, and restitution shall apply and may be ordered by the court.

IT IS FURTHER ORDAINED that this Ordinance shall be in full force and effect from and after its passage and any necessary publication.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF CRAWFORDSVILLE, INDIANA, THIS 13th DAY OF NOVEMBER, 2006.

Signed/// John P. Zumer
John P. Zumer, Mayor & Presiding Officer

PRESENTED TO ME BY THE MAYOR OF THE CITY OF CRAWFORDSVILLE, INDIANA, THIS 13TH DAY OF NOVEMBER, 2006.

Signed/// Nellie Thompson
Nellie Thompson, Clerk Treasurer

THIS ORDINANCE APPROVED AND SIGNED BY ME, THIS 13TH DAY OF NOVEMBER, 2006.

Signed/// John P. Zumer
John P. Zumer, Mayor

ATTEST:

Signed/// Nellie Thompson
Nellie Thompson, Clerk Treasurer

The second item presented was an ordinance Establishing An Unsafe Building Fund. Chairman Cook moved to place this ordinance on second reading. Seconded by Councilman Fiedler. Chairman Cook offered the following amendment – monies used for expenses from the UDAG fund be returned to the UDAG fund. Seconded by Councilman Fiedler. Hearing no further comments the roll was called for a vote on the amendment. The amendment passed with a 4-2 vote, with Councilmen Coons and Michal casting dissenting votes. Then Chairman

Zumer called for comments from the Council and the public. Offering comments from the Council were Councilman Frees and Attorney Harris. Offering comments from the public was Jim Amindon. Hearing no further comments; the roll was called for a vote. The ordinance passed as amended on second reading with a 4-2 vote, with Councilmen Coons, and Michal casting dissenting votes.

SECOND READING

The third item presented was the second reading of an Ordinance regulating Abandoned Vehicles Within The City of Crawfordsville. Chairman Cook moved to place the ordinance on second reading. Seconded by Councilman Rockenbaugh. Chairman Zumer called for comments from the Council and public. Offering comments from the Council were Chairman Zumer, offering comments from the public was Don Swearingen. Hearing no further comments the roll was called for a vote. The ordinance passed on second reading with a unanimous vote.

SECOND READING

The fourth and final item presented was an ordinance rezoning 602,604,606,608, 610, and 612 Dunn Ave. Councilman Fiedler moved to place the ordinance on first reading. Seconded by Councilman Frees. Chairman Zumer called for comments from the Council and public. Offering comments from the Council was Chairman Zumer, Councilman Cook, offering comments from the public were David Peebles and Don Swearingen. Hearing no further comments the roll was called for a vote. The ordinance passed on first reading with a unanimous vote.

FIRST READING

Completing the business of Ordinances and Petitions Committee, Chairman Cook turned the meeting over to Chairman Zumer.

ANNEXATION

Chairman Zumer called on Councilman Rockenbaugh to present the business of the Annexation Committee.

Chairman Rockenbaugh presented an annexation ordinance for a section of the Eastfield Court/Autumn Trace area of Crawfordsville. Chairman Rockenbaugh moved to table the ordinance, seconded by Councilman Cook. Chairman Zumer called for comments from the Council and public. Offering comments from the Council were Councilmen Cook and Coons, offering other comments were Chairman Zumer, Rodney Jenkins, Todd Barton, and Attorney Harris. Offering comments from the public was David Peebles. Hearing no further comments a voice vote indicated the Council approved tabling the annexation ordinance.

Completing the business of the Annexation Committee, Chairman Rockenbaugh turned the meeting over to Chairman Zumer.

TRAFFIC, PARKING & SAFETY

Chairman Zumer called on Councilman Coons to present the business of the Traffic, Parking & Safety Committee.

Chairman Coons presented for first reading an ordinance prohibiting parking in a designated area of Illinois Street. Chairman Coons moved to place the ordinance on first reading. Seconded by Councilman Rockenbaugh. Chairman Zumer called for comments from the Council and public. Offering comments from the Council were Councilmen Frees, Michal, Cook and Chairman Zumer. Hearing no further comments the roll was called for a vote. The ordinance passed on first reading with a unanimous vote.

MISCELLANEOUS

Councilman Frees thanked the Council for the vote of confidence for the Council President nomination.

Councilman Frees asked questions relating to Polyglot and payments made to the UDAG Fund, and items sold at a recent Sheriff's sale.

Chairman Zumer responded the first payment from Polyglot is due April 2007.

There being no further business, Councilman Cook moved to adjourn, seconded by Councilman Frees. The meeting was adjourned at 8:00 p.m.

Signed by me this ____ day of _____, 2006.

John Zumer, Mayor

ATTEST: _____
Nellie Thompson, Clerk/Treasurer