

Sponsors:
Mayor Clark
Commissioner Powell
Date Emergency & Only Reading 09-10-12
Date Published 9-13-12

**CITY OF FRANKLIN, KENTUCKY
ORDINANCE NO. 620.16-09-2012**

**AN ORDINANCE TO CLOSE AN ALLEY BETWEEN WEST
KENTUCKY AVENUE AND WEST WASHINGTON STREET KNOWN
AS "PRESBYTERIAN CHURCH ALLEY" AND DECLARING AN
EMERGENCY TO EXIST**

WHEREAS, at the request of The Franklin Presbyterian Church, Inc., it has been determined that the alley known as the Presbyterian Church Alley will serve a more useful public purpose if the herein described portion of said alley is closed and no longer used as a public alley; and,

WHEREAS, the City Commission has identified the property owner in or abutting the portion of the alley to be closed to be the The Franklin Presbyterian Church, Inc.; and,

WHEREAS, pursuant to KRS 82.405(2) (b) and (c), written notice of the proposed closing was given to the property owner in or abutting that portion of the alley that is described in Exhibit A, and the property owner in or abutting that portion of the alley has agreed to the closing of the alley, with said consent being attached hereto as Exhibit B; and,

WHEREAS, the City Commission has determined that it is in the best interest of the City to close the alley which is described more specifically in the attached Exhibit A, and to authorize the City Attorney for the City of Franklin to take any and all actions necessary to convey the alley to be closed to The Franklin Presbyterian Church, Inc. to be used in conjunction with a building expansion in the existing right-of-way, and in order to relieve all obligations on the City for continued maintenance of the property to be conveyed, with the exception of granting the City an easement for the maintenance and repair of the sewer line; and,

WHEREAS, it is provided in KRS 83A.060(7) that publication of an Ordinance, in order to make it effective, need not be done in an emergency, upon the affirmative vote of two-thirds (2/3) of the membership of the City's legislative body, provided that the legally required publication requirement is carried out within ten (10) days of the date of enactment of the emergency ordinance; and,

WHEREAS, it is essential and in the public interest that the City issue this ordinance immediately and any postponement would be detrimental to the residents of the City due to the delay in the development and/or use of the property, and, therefore, an emergency exists so that it is necessary and in the public interest to issue this ordinance immediately, and the City hereby declares such emergency to exist.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Franklin, Kentucky, as follows:

**SECTION I.
DECLARATION OF AN EMERGENCY**

1. It is hereby found, determined, and declared that the facts and recitals set forth in the preamble of this ordinance are true and correct and are hereby affirmed, and all acts described in preamble are hereby ratified. Such facts and recitals, including any terms defined therein, are adopted and incorporated as a part of this ordinance.

2. In accordance with KRS 83A.060(7), an emergency is hereby declared to exist for the reasons described in the preamble of this ordinance and the Board of Commissioners suspends the requirement of publication of the ordinance (or Summary thereof) in order for it to become effective, so that the ordinance is and shall be effective upon the adoption of this ordinance; and further, this ordinance, because of said emergency hereby declared, shall be effective upon its adoption on first reading, without publication, as provided in KRS 83A.060(7), and the Board of City Commissioners having hereby suspended the requirements of second reading and publications. The ordinance

shall be published within ten (10) days of the adoption of this ordinance as provided by law.

SECTION II.
**ADOPTION/APPROVAL TO CLOSE ALLEY BETWEEN WEST KENTUCKY AVENUE
AND WEST WASHINGTON STREET KNOWN AS "PRESBYTERIAN CHURCH ALLEY"**

1. The preambles to this Ordinance are true and correct and incorporated herein by reference.
2. The portion of the Presbyterian Church Alley described in Exhibit A is hereby accepted by the City as a public way, as having been opened to the unrestricted use of the general public for more than five (5) consecutive years pursuant to KRS 82.400 and, further, said portion of the alley shall be hereinafter closed as a public way, street, and/or thoroughfare, and shall no longer be maintained by the City of Franklin, Kentucky.
3. The City Attorney is hereby directed to take any and all actions necessary, and/or all of his actions with respect to this ordinance are hereby ratified pursuant to this ordinance to close said alley and to convey the alley, more particularly described in the attached Exhibit A, to The Franklin Presbyterian Church, Inc. in exchange for releasing the City from any and all further maintenance responsibilities for the alley, and allowing the City to retain an easement for the maintenance and repair of the sewer line.
4. The City Commission authorizes and directs the Mayor to sign any and all documents necessary to effectuate the intent of this ordinance.

SECTION III.
EFFECTIVE DATE


This Ordinance shall be effective immediately upon the reading of the ordinance at the meeting being specifically approved and adopted for the purposes of first and only reading and for the purposes of publication according to law.

If any section, subsection, sentence, clause, or phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF FRANKLIN, KENTUCKY, by the affirmative vote of at least two-thirds (2/3) of its membership upon one reading and upon declaration of an emergency as described above, all in accordance with and pursuant to KRS 83A.060(7) at a meeting held on Monday, September 10, 2012, and ordered to be published according to KRS 83A.060(7) within ten (10) days from the adoption of this ordinance and declared to be in full force and effect immediately according to law. On motion made by Commissioner Jamie Powell and seconded by Commissioner Larry Dixon, the foregoing ordinance was adopted, after full discussion, by the following vote:

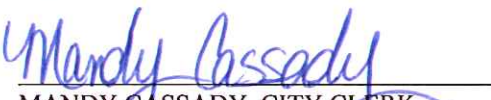
<u>YES</u>	LARRY DIXON	<u>YES</u>	JAMIE POWELL
<u>YES</u>	MASON BARNES	<u>YES</u>	HENRY STONE
<u>YES</u>	RONNIE CLARK, MAYOR		

APPROVED BY:



RONNIE CLARK, MAYOR
CITY OF FRANKLIN, KY

ATTEST:



MANDY CASSADY, CITY CLERK
CITY OF FRANKLIN, KY

EXHIBIT A

Description of Alley Being Closed

A portion of the alley between West Kentucky Avenue and West Washington Street abutting property owned by The Franklin Presbyterian Church, Inc. known more specifically as the "Presbyterian Church Alley." See drawing attached hereto. The portion of the alley to be closed is more specifically described as follows:

Beginning at an iron pin set at the southwestern point intersecting the right-of-way of West Kentucky Avenue and an unnamed alley known as the "Presbyterian Church Alley." Thence going north along the westernmost edge of said alley 126.93 feet to an iron pin set; thence east 10 feet to the easternmost edge of said alley; then south 126.93 feet to the intersection of the easternmost edge of said alley and the northern right-of-way of West Kentucky Avenue; thence west 10 feet to the point of beginning. Intending to describe a 126.93 feet portion of an alley running north and south between properties owned by The Franklin Presbyterian Church, Inc.

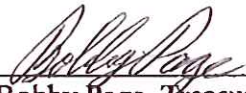
EXHIBIT B

CONSENT TO CLOSING A PUBLIC WAY

I, Bobby Page, the Treasurer of The Franklin Presbyterian Church, Inc., 201 North College Street, Franklin, Kentucky, a property owner abutting the Presbyterian Church Alley, hereby consent to the closing of that certain portion of the public way as provided in the Notice of Intent to Close a Public Way given to me on August 21, 2012, and the undersigned understands, acknowledges, and agrees that the portion of the alley to be closed shall remain the property of The Franklin Presbyterian Church, Inc., but the City of Franklin shall retain an easement for the maintenance and repair of the sewer line.

Dated this August 23, 2012.

THE FRANKLIN PRESBYTERIAN CHURCH, INC.



Bobby Page, Treasurer

COMMONWEALTH OF KENTUCKY

COUNTY OF WARREN

Subscribed and sworn to before me by Bobby Page, the Treasurer of The Franklin Presbyterian Church, Inc. on this August 23, 2012.



Notary Public

My Commission Expires: 1/6/2015