

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY, INDIANA,
HELD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR ASSEMBLY
ROOM OF THE CITY/COUNTY BUILDING ON MONDAY, MAY 1, 2017 AT 7:00
P.M.**

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Caesar, Mr. Phipps, Mr. Nash, Mr. Blair, Mr. Aebersold, Mr. Barksdale, Dr. Knable and President McLaughlin.

ALSO PRESENT: Ms. Stein, Mrs. Moeller, Mr. Gibson, Mr. Wood, Mr. Thompson, Mr. Hall, Mr. Gibson and Mrs. Glotzbach

Mr. McLaughlin called the meeting to order at 7:00 p.m.

MOMENT OF REFLECTION

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Caesar moved to approve the Regular Meeting Minutes for April 20, 2017, Mr. Barksdale second, all voted in favor.

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

COMMUNICATIONS – COUNCIL:

Mr. Caesar stated that tomorrow night there is an issue coming up on at the board of appeals regarding billboards that are currently scheduled to go up in the city. He has done research and is amazed at the percentage of people against these and there is one in particular tomorrow night that will literally be in a resident's backyard. He said that he just wanted to make the council aware of it and may want to look at codifying it in the future. He stated that he does not like where this one is going and in research he found that there are 48 affiliates to Scenic America that are extremely opposed to billboards and especially the electronic billboards. He explained that different cities and communities have taken different steps to try to combat this problem. He stated that in a pole in Texas 86% of the people thought that there are too many billboards in the state and he was astonished to see that figure.

Mr. Coffey stated that you get tired of the fact that the council or other officials are not there when someone is trying to put something in a neighborhood that is going to be extremely detrimental. He knows that people in the west end don't have the clout that some others have but things that affect their living should be equally as important as things in other parts of town. He said that they are not getting representation because one person can't do it all and it seems that everyone gets in agreement on stopping things but it depends on what area of the city it is or what the economical background of the area is. He hopes that some of the council members will attend the meeting tomorrow night, especially the ones that represent the city as a whole, because this doesn't just affect one neighborhood, it affects two. He said that the gentleman is requesting a haunted house and says that he wants to be part of the neighborhood but yet he is asking for a variance. He also said that the gentleman that lives next to it is going to have a six foot privacy fence almost abutted to his house.

Mr. Blair asked if it is in our code that billboards have to be a certain distance from residential properties.

Mr. Caesar replied yes and stated that this one is very close.

Mr. Blair stated that he has been looking into the acquisition of the QRS property by our sewer utility which is about 26 acres on the other side of the floodwall of the sewer utility. He said that he looked at Indiana code and it was clear to him that you can only fund sewer projects with sewer funds. He contacted Mr. Todd Caldwell at state board of accounts and he agreed with him and sent him an email stating that. He read the email response which said their audit position regarding the expenditure of utility monies is expenses paid from utility funds should be directly related to the operation of the municipality owned utility and expenditures from city and town operating costs should not be paid by utility funds. Costs of equipment, land, etc. between a city or town and its utilities or between utilities should be prorated in a rational manner. He thinks at the very least we need to justify the need for a portion of that property as future expansion for the utility and the remainder of the property should be funded in another manner and not through the utility. He said there was an engineering report done in the first quarter of last year for clarifiers, parking spots, pumps and a sanitation type system but the report did not mention the QRS property. He said that it did mention possibly expanding a little across 8th Street to extend the clarifiers but there is a set of secondary clarifiers in the report that is not addressed so he could see a need in the future for that. He stated that we need to get a justification on whether the land is appropriate for sewer expansion and it will have to be done in a report or engineering study so that we know it is appropriate for sewer usage. He also stated that we should find out if we should fund the entire acreage through other means or separate a portion and only fund the portion that is not being used for sewer through other means. He is concerned that when the books are audited this will be a major finding and will be a black mark against the city so he would rather self-police it and get it corrected upfront versus waiting for state board of accounts to come in and tell us that we have to do something. He said that he could ask the sewer board to come in and present the need for this property for sewer and figure out how we should go about funding this property appropriately. He also said that Mr. Gibson may have something from state board of accounts saying that it is appropriate financing but from his research and the email statement that he received from Mr. Caldwell, what we did was against Indiana code. He said that he will probably be bringing forth an ordinance as far as funding some of that purchase or the entire purchase through other means.

Mr. Coffey suggested that the sewer board come in and explain because they may have a reason for purchasing it through the sewer utility.

Mr. Blair stated that he would be happy to make a motion to request that the sewer board come in and explain why it was done that way. He added that he would just as soon do it in front of the council and make it an open type meeting.

Mr. Coffey stated that they may have a legitimate reason that has not been shared with us.

Mr. McLaughlin stated that he thinks that they are coming in next month anyway.

Mr. Blair stated that the only urgency that he has on this is that The Horseshoe Foundation has made a donation to the city to spend money on this property so it is probably a question that they would like to have answered too.

Dr. Knable stated that he thought Mr. Caesar and Mr. Aebersold were going to take that back to the Horseshoe at their next meeting.

Mr. Aebersold stated that they don't meet until next Wednesday, May 10th.

Dr. Knable stated the he thought that had passed an internal review. He then asked Mr. Blair about requesting the engineer report and if he received it.

Mr. Blair stated that he did and Mr. Gibson has been very good about getting him information.

Dr. Knable asked if the report supported the fact that the land was suitable for the purpose that it was stated to be suitable for.

Mr. Blair said that the engineer report did not state that we need additional land for expansion of the sewer facility but the purpose of the report was to look at wet water clarifiers which are the ones that are used during heavy rains but not at the secondary clarifiers which are the ones that could be expanded.

Mr. Gibson stated that the report was to look at the clarifiers because there have been questions or efficiency issues about the clarifiers and the need for improvement. He said that the report was first and foremost to address that and also the site itself of the sewer plant because it is fairly compact down there now. He explained that the opportunity to purchase QRS came after that and while that was going on and if you look at the site there is not very many areas to expand because you have Globe Mechanical on the east side and you have only a little bit of room before you get some creek area on the west side. He stated that a lot of this was opportunity that arose during a process and was identified by the sewer board as there being a need for so if there are any expansions needed, it is an opportunity. He also stated that the report was not to see where you could do these. He added that staff has told them that you can't put the clarifiers a mile away and they need to be in a vicinity close to the plant for cost, production and productivity aspects. He said that is how the purchase and process started because the sewer board felt it would make no sense not to purchase the property in that vicinity for expansion if and when it is needed somewhere down the road. He added that the board can't foresee what will happen but the property became available and the seller was very generous and cooperative in the process and basically wanted to give back to the city in some fashion. He said that the seller is getting paid for it but the price was discounted.

Dr. Knable asked Mr. Blair if he has reached out to The Horseshoe Foundation since his chief concern is their reaction to that.

Mr. Blair stated that his chief concern after he heard from the state board of accounts is that it will be a finding in our audit.

Dr. Knable stated that he does not sit on the Horseshoe board anymore but feels it would be nice if they heard directly from the council on this.

Mr. Blair stated that there are two council members on the board.

Mr. Gibson stated that it is no different in his opinion than Bicentennial Park because those are things that will hopefully stay in those impacts in some fashion. He also stated that he doesn't always agree with state board of accounts in some certain fashions and he doesn't know what all was said.

Mr. Blair asked if the city got an opinion from them.

Mr. Gibson replied no.

Mr. Blair asked if the city got an opinion from anyone such as a consultant as far as if it was an appropriate purchase for the sewer department.

Mr. Gibson replied no and stated that he honestly doesn't know if he feels it was necessary for stated board of accounts to okay a purchase by the sewer utility of something that they believe they will need in the future.

Mr. Blair stated that he could let this thing ride until it shows up in the audit and looks bad on our part.

Mr. Gibson stated that he doesn't care because the sewer board came to the decision that this was a property that became available that they can use in the future because they don't have the ability to expand anywhere else. He also stated that state board of accounts can say they don't like it was done but they can't second guess the judgement of the sewer board and what they see they may need in the future.

Mr. Blair stated that he doesn't think that in any time period 26 acres is going to be needed for sewer expansions and the fact is that we are putting money into improvements in a part of that acreage and we should just separate the piece that is going to the parks and fund that separately from the piece that is going to the sewer utility expansion.

Mr. Gibson stated that there are all kinds of alternatives if you want to look at it from that perspective. He also stated that we have made one payment.

Mr. Blair stated that we could always reimburse the sewer board.

Mr. Gibson stated that the sewer board just felt that it was an opportunity that presented itself in a timely manner and it would not have been responsible of them to not take advantage of that opportunity.

Mr. Coffey stated that he can remember when there was talk about another treatment plant in the northeast part of the city and he feels that should be revisited because that is where all of the growth is. He asked Mr. Gibson if there has been any discussion of that at all.

Mr. Gibson replied no, not in years. He stated that he thinks that was back in Mayor England's first term.

Mr. Coffey stated that when plans and figures were looked at, it was significantly cheaper to do that than to continually expand this one.

Mr. Gibson stated that was before him but he does remember that it was brought up and kicked off to the side because it wasn't feasible.

Mr. Coffey stated that financially it was.

Mr. Gibson then told Mr. Blair that sewer board would discuss this purchase with him.

Mr. Blair stated that it just looks like to him that we are violating state code and he doesn't want to willingly do that so he wants to make sure that we are doing things properly and if we are not then get it corrected and allocate the money the way it should be.

Mr. Gibson stated that his problem is that state board of accounts occasionally puts on their law hats and he doesn't feel that they should do that but they do. He also stated that he has disagreed on some of their findings before on different issues but that is another side issue. He told Mr. Blair that if it is something that he feels he needs to speak with the sewer about, he is sure they will listen. He also told him that the structure of it is \$250,000.00 for 10 years with no interest which is really reasonable

Mr. Blair stated that we are coming off a bond issue and rate increase and sewer revenue is about \$12M and to run \$250,000.00 a year for 10 years out of the sewer department is significant and he doesn't feel that the sewer department should be burdened with that additional expense which basically the ratepayers are paying. He also stated that we need to make sure that it is put in its appropriate place. He added that we can like or dislike state board of accounts and auditors but ultimately we have to live under their rules and he feels that it is prudent on our part to get it corrected if it needs to be corrected.

Mr. Barksdale stated that there are several ladies in the audience tonight that will speak on the billboard intrusion. He also stated that the annual historic preservation awards ceremony is going to be happening on Wednesday, May 17th at 6:15 p.m. at the theater works building which is the old state bank building and they have five awards that they will be giving out. He then reported that Mr. Ed Wilkinson has graciously stepped up to the plate with the tree board and is funding the planting of numerous trees in Suellen's memory. He added that she is Mr. Wilkinson's late wife and was a wonderful, wonderful person. He explained that the first group of trees went in about a month and a half ago on 8th Street between Spring Street and Elm Street and they are flowering cherry trees because that is the type of tree that he is wanting to plant. He said that he is looking for more land on city property to do more because he wants to continue this in her memory. He then noted that the New Albany National Day of Prayer is this Thursday, May 4th from 12:00 p.m. until 12:40 p.m. and the location has been moved to the Salvation Army.

Ms. Stein reported that New Albany has a new postmaster named Mr. Kenneth Glumb and she has invited him to attend the June 15th meeting to talk about McDonald Lane.

Mr. Caesar stated that he just drove by there yesterday and it is just awful with all of those mailboxes in cans and half of them turned over.

Mr. Nash said to drive down McDonald Lane and then drive down Scheller Lane and notice the difference. He noted that Scheller Lane is not as nice, not as wide and is further out of town but they deliver to both sides of the street.

Mr. Aebersold asked Mr. Caesar if there is anything in the 20 year comprehensive plan that addresses billboards.

Mr. Caesar stated that he did not but he will look at it.

Mr. Aebersold asked how many are too many and how many is not enough. He stated that is something that needs to be addressed.

Mr. Caesar stated that is what the Scenic America group has been arguing all over the United States.

Dr. Knable stated that Mr. Coffey mentioned relative affluence and there is also relative effluence in the city and sometimes the least affluent are the most effluent in regards to flooding. He said that last Sunday he received seven phone calls and visited seven sites and wanted to say that the Mr. Chris Gardner and the storm water folks jumped on everything that they talked about. He also said that there was a sewer overflow at our new station on McLean that he looks forward to hearing from Mr. Wilkinson on. He said that since we have a new director, he felt it would be worthwhile to have Mr. Gardner to discuss his overview of things. He also said that Mr. Gardner is going to talk with the storm water folks and he has run it by the mayor and they both feel that would be a good opportunity. He then asked President McLaughlin to extend the invitation and get that on the agenda at some when we are not overwhelmed with department heads.

Mr. Caesar added that a very good responsible friend of his that lives off Green Valley Road has a water gauge and he emptied it Friday afternoon because he knew the rain was coming and he measured 7 ½ inches of rain after it was over.

Dr. Knable stated that there were some areas that really got nailed.

Mr. Nash stated that Mr. Gardner has been very responsive to him and he has probably called him four times in the last month. He then explained that last year he brought up to Mr. Ham that things that fall from the trees in the spring time such as the little helicopters need to be cleaned off the streets. He stated that his street was cleaned on Friday and that generally only happens in the fall but that stuff was not in the gutters and on the street.

Mr. Coffey stated that two or three years ago we would have been flooded all over the place but they have done such good maintenance jobs on these creeks and storm sewers and it could have been so much worse. He added that there is always room for improvement but he says the improvement has been 90%.

Mr. McLaughlin stated that there were about 100 complaints in Clarksville and Jeffersonville but New Albany has come a long way.

Mr. Gibson stated that there was some flooding on Graybrook Lane at Binford Park and on Grant Line Road at the VFW which is the new project that we did and it was designed to handle heavy storms but not one quite like this. He said that there were approximately 4,500 Duke customers out of power due to the storm. He reported that we did not have flooding at the North Y but the water did get right up to the roadway so the project that we did there did substantiate a lot of that water. He stated that the police chief indicated that while there were some intersections that did have flooding, there were no distress type issues that they had to respond to. He also stated that the gauges at the sewer plant measured 4.3 inches in 17 hours and flood control measured about 3.5 inches in 3-6

hours. He will convey the reactions that the council had with staff. He then stated that they ended up calling out about 8-10 people to assist in clearing debris, blocking roads and those types of things that were necessary. He mentioned that the city is working with the Army Corp of Engineers for studies of Falling Run Creek and Fall Run Creek.

COMMUNICATIONS – MAYOR:

Mr. Hall stated that the neighborhood beautification day was this past weekend and there were quite a few volunteers that helped out with mulching, planting and painting. He said there is a pretty cool mural across the back of the parking lot down by Big 4 Burgers. He also said that Star Wars Day is coming on Thursday, May 4th at Silver Street Park and on Friday, May 12th Shakespeare in the Park will be back and will be at the riverfront theater. He then said that on Saturday, May 13th from 10:00 a.m. until noon at the firehouse the city have the touch a truck event for children so they can physically interact with machinery, fire trucks, construction vehicles and a helicopter.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

Mr. Thompson stated that Mr. Brewer couldn't be here tonight but he wanted him to let the council know that he will be at the next meeting or the one after that to give an update on the rental registration.

Mr. Phipps stated that there is a red light out at State Street and Cherry Street going southbound.

REPORTS – COMMITTEES, BOARDS OR OTHER OFFICIALS AS REQUESTED BY A MAJORITY VOTE OF THE COUNCIL:

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

Z-17-01	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156 (Docket P-04-16: William Sprigler request a PUDD at 3102 Blackiston Boulevard) As Amended	Phipps 3
----------------	--	-----------------

Mr. Phipps introduced Z-17-01 and moved to approve the third reading, Mr. Coffey second, all voted in favor with the exception of Mr. Caesar, Mr. Barksdale and President McLaughlin who voted no. Bill Z-17-01 becomes Ordinance Z-17-07.

Mr. Phipps stated that the traffic study came back and there was no indication for a need for a traffic signal at Blackiston Mill and Blackiston Boulevard. He said it did indicate that there is a need at the intersection of Charlestown Road and Payne Koehler Road but that was there already prior to this application.

Mr. Jason Copperwaite reported that the traffic study indicated that this development would have very little impact on traffic.

Mr. Blair asked if that traffic study could be passed on to Mr. Rosenbarger so that he is aware of the need for something in that intersection.

Mr. Phipps stated that he didn't see any reason why it couldn't be passed on to him.

Mr. Blair stated that he would like for it to be passed on to him just so it is on his radar because it is really hazardous trying to make a left hand turn there.

Mr. Phipps stated that sometimes when you add additional traffic lights you end up with a situation like State Street that backs up often. He said that is not always the best option unless you synchronize it.

Mr. Caesar stated that he brought up in redevelopment a few weeks ago that the change needs to be made at Innovation Way and the city engineer is aware of it.

INTRODUCTION OF RESOLUTIONS:

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Ms. Linda Murphy, 3402 Lancaster Drive, stated that she understands that the city council has no influence on zoning board but wanted to voice her concerns. She said that Ms. Lynn Getrost saw a man pounding a white sign in the vacant field behind her home so she investigated which was difficult because the sign was placed hundreds of feet from any public road or sidewalk. She explained that it was a request for a zoning variance to erect an electronic billboard on I-265 and we later learned that the Columbus, Indiana based billboard company, JR Promotions, requested the variance. She said that the billboard will not be compliant and is against the law. She distributed fliers with this information to the Lancaster Woods neighborhood and every neighbor she contacted also signed a petition opposing the granting of the variance which she gave to Mr. Scott Wood. She stated that they have also distributed fliers to other neighborhoods and everyone they spoke with opposes these eyesores. She also stated that they have urged them to attend the zoning meeting tomorrow night to support them in their opposition so that the zoning board will deny JR Promotion's request to grant variances to our existing laws. She said that they oppose digital electronic billboards for many reasons but the following are just a few examples from various studies. She said that they have a negative effect on property values and economic prosperity of cities, they cause light pollution which affects human health and animal behaviors, they can be hazardous to motorists, they magnify the issue of objectionable ad content and the content is protected by the 1st Amendment, they can negatively alter neighborhood and community character and they use more electricity than 15 homes in one 24 hour period. She pointed out that there are alternatives to billboards that provide the same information at less cost without degrading our landscape. She added that they are one of the least effective forms of advertising. She then quoted the professor of advertising at U of K who says that "outdoor advertising is more than an eyesore; it's a hoax. It wastes advertiser's dollars and clutters the landscape".

Ms. Lynn Getrost, 3406 Lancaster Drive, stated that there is already one electronic billboard up and glowing on I-265 which looks larger than the average billboard and is only .7 miles from the location where JR Promotions is asking for a land use variance to erect one more electronic sign. She also stated that the community will be affected by this and there will be a greater impact on her family and neighborhood. She said that there are 21 homes on Lancaster Drive which runs along Squire Boone Properties off Mt. Tabor Road and feels that the location of the boards will be a serious nuisance to their

wellbeing and it will be a light glow infringement. She explained that the Billboard Blight website found that some homes next to these signs could drop in value up to \$31,000.00. She also explained that the signs will be in a view path of their living rooms and pool areas which will diminish their quality of life because their backyards are where they enjoy their summers with their pools. She stated that it will also be a nuisance to sit in their living rooms and bedrooms with constant changing of light levels because of the different backgrounds and colors of the ads that research has shown typically change every 6-8 seconds. She said that people living close to the digital boards have complained that the constant changing of lights in their windows is highly annoying. She said that they are also concerned about the content on the boards because federal courts have ruled that any attempt by cities to regulate the contents of these billboard ads on private property is a violation of the constitution. She is opposed to having the sign on this site and any others in New Albany and asked the council to stay on track with beautifying New Albany.

Ms. Cinda Harbeson, 3220 Green Valley Road, stated that she is proud of what our city has been doing to improve the roadways from Clarksville, the main streets, the historic districts, the new restaurants and shops, the riverfront greenway project and the parks. She said this is all bringing people into our community and promoting economic growth. She opposes the electronic billboards which she refers to as skyway junk mail. She explained that they deteriorate property values, junk up our roadways and the I-265 corridor which is the entry way to our community, where these billboards want to go, is beautiful at the moment and has very little clutter. She asked that we try to keep this area a scenic route so that it is a reflection of our community.

Mr. Caesar thanked the council for hearing these concerns because where this particular board is going, they have a legitimate complaint and he feels the council should look into it.

Mr. Blair asked what the chance is that this would get turned down tomorrow night.

Mr. Caesar said that he really doesn't know.

Mr. Coffey asked Mr. Phipps who used to sit on the board of zoning appeals if the council were to take a consensus that we were not happy with this and convey that to the board if he thought it would have any bearing.

Mr. Phipps replied that it might.

Mr. Coffey suggested doing it.

Mr. Phipps explained that when he was on the board they were not in a position go with majority rule or petitions because they had to look at the criteria laid out by the state and if they met that criteria they would generally grant the variance but if they failed on only one then they had right to deny.

Mr. Blair stated that the thing that surprised him was when they put the other electronic billboard that is there now, he was under the understanding that was the only location to put a billboard because of the vicinity of houses so he doesn't know how this one slipped in.

Mr. Coffey said that if you are asking for a variance then evidently you are not in compliance so he would like to take a consensus of the council and let someone speak for them at the meeting.

Mr. Blair stated that he would be willing to go as the representative of the district.

Mr. Phipps stated that they could pass a resolution tonight if they had a majority on amending the agenda. He then asked Ms. Stein if it would be wise for the council to take a stand on something like this.

Ms. Stein replied that it seems to be something that all of the members care about so she didn't think it could hurt.

Dr. Knable asked if they are asking for a variance based on proximity to the roadway.

Mr. Phipps stated that he hasn't seen the details of the variance.

Dr. Knable stated that they may have to request a variance in regards to light pollution as well.

Mr. Coffey motioned to amend the agenda to include a resolution in regards to the variance being heard tomorrow night at the board of zoning appeals for placement of an electronic billboard, Mr. Phipps second, all voted in favor.

Dr. Knable stated that it is not a step to take lightly to step on top of another agency's agenda so he would like to hear exactly what the council feels was not carried out in an orderly fashion. He said for example, there is a set manner in which notification is supposed to be given to the neighborhood and asked if we are convinced that letter was carried out. He has heard that there was a very small sign placed x number of feet away from the closest resident and again, he doesn't know if appropriate notification was carried out. He added that he feels that they need to be on very solid ground before they do this.

Mr. Caesar stated that all the law states now is that you have to notify the owners of the adjacent properties and the newspaper.

Mr. Blair stated that the location is zoned light industrial park but billboards are only allowed in C-1 and C-2 business so they are requesting a land use variance. He feels that is pretty substantial.

Dr. Knable stated that they do have the right to ask for that and asked the council what grounds we have to do a resolution. He added that he is not for this either but he wants to uphold the letter of the law.

Mr. Coffey stated that he understands what Dr. Knable is saying but feels that the council needs to look at how we got to this point because he remembers it being said that there was only going to be one and he knows for a fact that they have tried to put other electronic signs up. He added that he just wants the board of zoning appeals to table this long enough so we can put together an ordinance to keep these things from happening.

Dr. Knable stated that if that is the case then he feels that the resolution needs to be phrased in a way that it is not addressing this specific agenda item but more as a moratorium on all electronic billboards within the city until further notice.

There was a lengthy discussion on how the motion should be worded.

Dr. Knable motioned to write a letter of support to the matter at hand in the form of a resolution stating that the common council supports the residents who are presenting to the board of zoning appeals tomorrow night and that we strongly discourage the approval of electronic billboards as proposed in that particular project, Mr. Barksdale second, all voted in favor.

ADJOURN:

There being no further business before the board, the meeting adjourned at 8:10 p.m.

Pat McLaughlin, President

Vicki Glotzbach, City Clerk