

Work Session

The Common Council of New Albany, Indiana, will be having a Work Session to discuss the 2017 Budget on Wednesday, August 24, 2016 at 6:00 p.m. in the third floor Assembly Room of the City County Building. Should you have any questions regarding this meeting please see the City Clerk in Room 332.

Vicki Glotzbach, City Clerk.

Work Session

The Common Council of New Albany, Indiana, will be having a Work Session to discuss the 2017 Budget on Wednesday, August 31, 2016 at 6:00 p.m. in the third floor Assembly Room of the City County Building. Should you have any questions regarding this meeting please see the City Clerk in Room 332.

Vicki Glotzbach, City Clerk.

THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY, INDIANA, WILL HOLD A REGULAR COUNCIL MEETING IN THE ASSEMBLY ROOM ON THE THIRD FLOOR OF THE CITY/COUNTY BUILDING ON THURSDAY, AUGUST 18, 2016 AT 7:00 P.M.

INVOCATION: To be given by ministers of different faiths, if present. If none are present, then a moment of reflection.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Regular Meeting Minutes for August 1, 2016

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

COMMUNICATIONS – COUNCIL:

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

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

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

G-16-01 Ordinance Amending Noise Control Ordinance – Chapter 96 of the City of New Albany Code

Knable/Barksdale

INTRODUCTION OF RESOLUTIONS:

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

ADJOURN:

INDIVIDUALS WITH DISABILITIES WHO MAY REQUIRE SPECIAL ASSISTANCE TO ATTEND THE ABOVE MENTIONED MEETINGS MAY MAKE THEIR REQUEST KNOWN BY CONTACTING THE CITY CLERK IN ROOM 332 OF THE CITY/COUNTY BUILDING OR BY CALLING 948.5336

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR
ASSEMBLY IN THE CITY/COUNTY BUILDING ON MONDAY, AUGUST 1,
2016 AT 7:00 P.M.**

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Caesar, Mr. Nash, Mr. Blair, Mr. Aebersold, Mr. Barksdale, Dr. Knable and President McLaughlin. Mr. Phipps was not present.

ALSO PRESENT: Mr. Lorch, Mrs. Moeller, Officer Davidson, Mr. Duggins, Mr. Warren Nash, Mr. Gibson, Mr. Hall and Mrs. Glotzbach

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

MOMENT OF REFLECTION

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Blair moved to approve the Work Session Meeting Minutes for July 21, 2016, **Mr. Caesar** second, all voted in favor with the exception of **Mr. Phipps** who was not present.

Mr. Barksdale moved to approve the Regular Meeting Minutes for July 21, 2016 with corrections, **Mr. Blair** second, all voted in favor with the exception of **Mr. Phipps** who was not present.

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

COMMUNICATIONS – COUNCIL:

Mr. Blair explained that he asked Christy Smallwood to put together a tool that they can use for budgetary hearings to prioritize the items that they talked about during the strategic planning meeting. He stated that he wanted to make sure they were in agreement with the order and how they had it laid out. He explained that they had livability ranked number one which was one of the pillars and under that pillar was infrastructure, streets and storm water.

Mr. Coffey asked if they are going any further with this and what the plans are.

Mr. Blair stated that they wanted to finish before the budget hearings so that they had some direction but it is really up to the council on how far they want to take it. He asked **Ms. Smallwood** if she had any suggestions on things that they need to work on.

Ms. Smallwood stated that she worked on developing the foundation, what the vision of the council was, and how to structure priorities in order to make better decisions. She explained that if they wanted a full-blown plan they would need to go in each of the departments and that would take an extensive period of time as well as more money than their budget could handle. She explained that what they did was the light version to get their feet wet and experience what the planning process would feel like. She stated that they didn't use a specific number when they prioritized, but through the filter of what she has been using to gauge their priorities she gave them a ranking. She explained that if they want to reassess and assign their own ranking she is more than happy to do it.

Dr. Knable stated that **Mr. Phipps** was concerned about walkability being at three and felt that it should be at four or five, and he agrees with **Mr. Phipps**, but didn't receive a reply email from **Ms. Smallwood**.

Ms. Smallwood stated that as far as that specific line item goes she based it on the group discussion but if they want to redo it and make it officially their ranking it may look differently.

Dr. Knable stated that he thinks this is something that would happen organically as they go through the budget process.

Mr. Blair stated that the administration will come to them with recommendations and plans but they have some leeway on whether or not they accept those plans.

Dr. Knable stated that the summary is at least a starting point.

Ms. Smallwood stated that it is meant to be a gauge for them to work from.

Mr. Coffey stated that they are continually taking money away from livability issues and services to spend it on things like WiFi. He explained that everyone says that they want to work together but he hasn't seen any steps in that direction, especially when they see someone come to them that has sewage backing up into their home and the administration says they don't know where the money is going to come from to fix the issue.

Dr. Knable stated that they did spend four hours in the work session and they came up with infrastructure as a priority which they intended to carry into the budget process.

Ms. Smallwood stated that livability has line items and each line item was transferred to the gauge so that way they can see the priorities that were discussed during the work session. She explained that whether or not they stick to that moving forward is completely up to them, but the gauge is there and the priorities are there.

Dr. Knable asked if the gauge was made public and if not could it be made part of the record.

Mrs. Glotzbach stated that she will put the attachment into the folder for this meeting and it will be on file in her office.

COMMUNICATIONS – MAYOR:

Mike Hall stated that Mayor Gahan would like to invite them to the Summer Celebration on August 6th at the riverfront amphitheater. He explained that this is the rain date for the July 3rd event and stated that it will feature Wildwood, The Louisville Crashers, and there will be fireworks at dark. He thanked the council and the Horseshoe Foundation of Floyd County for their support of these summer events.

Mr. McLaughlin asked what the status is on WiFi.

Mr. Hall stated that the initial cost was going to be around \$100,000.00-\$150,000.00 but after getting more details from Time Warner they believe it is going to be a lot lower and they came up with a better solution.

Mr. McLaughlin asked if it is going to be something like a satellite.

Mr. Hall explained that it will be a box that they mount in the areas where they want the service and as soon as he has the numbers for all of that he will let the council know.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

Mr. Duggins stated that Mayor Gahan would like him to talk to them about a potential project for the capital improvement monies that are allocated. He explained that they would like to get the council's input about improving/replacing/upgrading the entrances to neighborhoods such as Hedden Court. He stated that the administration is excited about the potential and they could either get a group together to discuss it or coordinate with him through emails. He informed the council that today on newalbanycityhall.com they put out a press release that on August 22nd at 6:00 p.m. they will have a project review and open house for the Mt. Tabor Road Project at Our Lady of Perpetual Help. He explained that they also have a rendering aerial that should clear up some of the misconceptions about the project, but in the meantime Mr. Summers and Mr. Rosenbarger will be contacting individuals that had questions.

Mr. Aebersold asked if Mr. Rosenbarger and Mr. Summers are going to contact a lot of the residents in the area and if that information would be on the website.

Dr. Knable replies yes and stated that it has already been released on the website.

Mr. Coffey stated that sometimes when we do a project of that magnitude they might want to add in the drainage aspect with it and asked Mr. Duggins if that is a possibility.

Mr. Duggins stated that they couldn't at this stage for this particular project because it is a federal aid project. He explained that they cannot add to it once it has been submitted to KIPDA without the environmental review being changed, which would mean they would have to start over from the beginning. He explained that INDOT has a new set of rules regarding federal aid and it can take several years to get the money, but if they do not make construction deadlines now they would lose the money. He stated that once the project is completed they can make changes but the real issue on Mt. Tabor Road is the slippage that is occurring towards the bend.

Mr. McLaughlin asked how the McDonald Lane project is going.

Mr. Duggins stated that everything is going well with the exceptions of a few small issues.

Mr. McLaughlin asked if the roundabout is going to be at the second bend.

Mr. Duggins stated that it is going to be next to Hickoryvale.

Mr. Blair stated that he would like to talk to the neighbors in the Oakwood and Watkins Prairie area to see what they would like to do with their entrances.

Mr. Aebersold stated that they would need to contact the residents in all areas before they start changing anything.

Mr. Blair stated that it might make sense to restore some areas because of historic value but others are brick columns that are falling over and need to be removed. He explained that he would like to have the opportunity to engage with the neighborhoods before anything is done.

Mr. Coffey stated that this goes back to what he said earlier. He explained that there are people out there with real problems and while he loves the idea of fixing these entrances there are so many that are hurting and have been denied help year after year. He stated that he is going to start making a list of these things and putting them on Facebook so that the tax payers know where their money is going.

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

Bill No. **G-16-01**

Ordinance No. _____

**ORDINANCE AMENDING NOISE CONTROL ORDINANCE – CHAPTER 96 OF THE
CITY OF NEW ALBANY CODE**

WHEREAS, the City's legislative and fiscal body, the New Albany City Common Council (hereinafter "Common Council") has determined that the City's noise ordinance should be updated;

WHEREAS, the Common Council has reviewed the City's noise ordinance for potential updates and has determined that some changes are warranted as sections are outdated or repetitive;

WHEREAS, the Common Council feels that the hours for noise violations should be amended, the fines for violations adjusted, and other improvements implemented;

NOW, THEREFORE, the Common Council now amends the following section(s) 96.01, 96.02, and 96.99 of Chapter 96 as shown in the attached "Exhibit A" hereto;

FURTHER, the Common Council hereby repeals sections 96.03, 96.15, 96.16, 96.17 of Chapter 96;

FURTHER, BE IT ORDAINED BY THIS COMMON COUNCIL OF THE CITY OF NEW ALBANY, INDIANA, that upon passage, that this ordinance shall take effect on January 1, 2017;

SO ORDAINED by this Common Council of the City of New Albany, Indiana, this _____ day of _____, 2016.

**COMMON COUNCIL OF THE
CITY OF NEW ALBANY, INDIANA**

Pat McLaughlin, President

Attested by:

**Vicki Glotzbach,
New Albany City Clerk**

CERTIFICATE OF PRESENTATION TO MAYOR

The undersigned hereby certifies that on the ____ day of _____, 2016, the above Ordinance was PRESENTED by me, as the duly elected Clerk of the City of New Albany, Indiana, to the Mayor of the City of New Albany, Indiana.

**Vicki Glotzbach,
New Albany City Clerk**

APPROVAL BY MAYOR

The undersigned, as of this _____ day of _____, 2016, and as the duly elected Mayor of the City of New Albany, Indiana, hereby APPROVES the above Ordinance as evidenced by my signature affixed below.

**JEFF GAHAN, Mayor of the City of
New Albany, Indiana**

Attested by:

**Vicki Glotzbach,
New Albany City Clerk**

EXHIBIT "A"

**TABLE OF CONTENTS
PREVIOUS VERSION:**

CHAPTER 96: NOISE CONTROL

Section

General Provisions

- 96.01 Regulating nuisance created by noise
- 96.02 Exemptions
- 96.03 Vehicles weighing less than 8,000 pounds

Light Motor Vehicle Noise Control

- 96.15 Scope
- 96.16 Definitions
- 96.17 Causing excessive noise levels

- 96.99 Penalty

NEW VERSION:

CHAPTER 96: NOISE CONTROL

Section

General Provisions

- 96.01 Regulating nuisance created by noise
- 96.02 Exemptions
- 96.03 (Repealed)

- 96.15 (Repealed)
- 96.16 (Repealed)
- 96.17 (Repealed)

- 96.99 Penalty

PREVIOUS VERSION:

GENERAL PROVISIONS

§ 96.01 REGULATING NUISANCES CREATED BY NOISE.

(A) It shall be unlawful for any person within the city's corporate limits, to continue, or cause to be made or continued, any unreasonably loud, harsh or excessive noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, unless the making and continuing of the noise is necessary for the protection or preservation of property or the life, health, or safety of a person or persons. Any person who violates this chapter shall be subject to the penalty set forth in § 96.99.

(B) The following acts are hereby declared to be unreasonably loud, harsh or excessive noises in violation of this subchapter, but the enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn or other such audible signaling device on any automobile, motorcycle or other vehicle on any right-of-way, parking lot or other public place, except as a danger warning, for an unreasonable period of time;

(2) The use or operation of any radio, stereo, or other machine or device for the producing, reproducing or amplification of sound in any vehicle in such a manner as to create an unreasonably loud, harsh, or excessive noise, that disturbs the peace, quiet or comfort of others;

(3) The use or operation of, or allowing the use or operation of, any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to create an unreasonably loud, harsh or excessive noise which disturbs the peace, quiet, and comfort of others by creating or allowing a louder volume than is necessary for the convenient hearing of the person or persons who are voluntarily in the room, chamber, or vehicle in which any above described machine, device, or musical instrument is located;

(4) The use or operation of any vehicle in such manner as to produce any unreasonably loud, harsh or excessive noise, or to discharge into the open air the exhaust of any vehicle except through a muffler or other device which will effectively prevent any unreasonably loud, harsh or excessive noises therefrom;

(5) Creation of any unreasonably loud, harsh, or excessive noise in connection with the loading or unloading of any vehicle, or by the operation of any such vehicle;

(6) The use of any mechanical loud speaker, amplifier, sound system, stereo or radio on any moving or standing vehicle for advertising, entertainment or any other purpose, in such a manner as to create an unreasonably loud, harsh or excessive noise; and

(7) The unreasonably prolonged continuation of animal noises, including but not limited to, barking dogs.

(C) The standards which shall be considered in determining whether a violation of this section exists shall include but not be limited to the following:

(1) The volume of the noise;

(2) The intensity of the noise;

(3) The volume and intensity of back-ground noise, if any;

(4) The proximity of the noise to a residential area, place of public accommodation such as a hotel, motel, inn, campground and the like, health care facilities, churches or schools;

(5) The nature and zoning of the area within which the noise emanates;

(6) The density of inhabitation of the area within which the noise emanates;

(7) The time of day or night the noise occurs;

- (8) The duration of the noise;
- (9) Whether the noise is recurrent, intermittent or constant; and
- (10) Whether any applicable exemptions apply.

(Ord. A-03-53, passed 8-21-2003; Am. Ord. G-11-42, passed 12-15-2011) Penalty, see § 96.99

NEW VERSION:

GENERAL PROVISIONS

§ 96.01 REGULATING NUISANCES CREATED BY NOISE.

(A) It shall be unlawful for any person within the city's corporate limits, to continue, or cause to be made or continued, any unreasonably loud, harsh or excessive noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, unless the making and continuing of the noise is necessary for the protection or preservation of property or the life, health, or safety of a person or persons. Any person who violates **any section** of this chapter shall be subject to the penalties set forth in § 96.99.

(B) The following acts are hereby declared to be unreasonably loud, harsh or excessive noises in violation of this subchapter, but the enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn or other such audible signaling device on any automobile, motorcycle or other vehicle on any right-of-way, parking lot or other public place, except as a danger warning, for an unreasonable period of time;

(2) The use or operation of any radio, stereo, or other machine or device for the producing, reproducing or amplification of sound in any vehicle in such a manner as to create an unreasonably loud, harsh, or excessive noise, that disturbs the peace, quiet or comfort of others;

(3) The use or operation of, or allowing the use or operation of, **any radio, stereo, musical instrument, or other machine or device** for the producing or reproducing of sound in such a manner as to create an unreasonably loud, harsh or excessive noise which disturbs the peace, quiet, and comfort of others by creating or allowing a louder volume than is necessary for the convenient hearing of the person or persons who are voluntarily in the room, chamber, or vehicle in which any above described machine, device, or musical instrument is located;

(4) The use or operation of any vehicle in such manner as to produce any unreasonably loud, harsh or excessive noise, or to discharge into the open air the exhaust of any vehicle except through a muffler or other device which will effectively prevent any unreasonably loud, harsh or excessive noises therefrom;

(5) Creation of any unreasonably loud, harsh, or excessive noise in connection with the loading or unloading of any vehicle, or by the operation of any such vehicle;

(6) The use of any mechanical loud speaker, amplifier, sound system, stereo or radio on any moving or standing vehicle for advertising, entertainment or any other purpose, in such a manner as to create an unreasonably loud, harsh or excessive noise; and

(7) The unreasonably prolonged continuation of animal noises, including but not limited to, barking dogs **and crowing roosters;**

(C) The standards which shall be considered in determining whether a violation of this section exists shall include but not be limited to the following:

- (1) The volume of the noise;

- (2) The intensity of the noise;
- (3) The volume and intensity of back-ground noise, if any;
- (4) The proximity of the noise to a residential area, place of public accommodation such as a hotel, motel, inn, campground and the like, health care facilities, churches or schools;
- (5) The nature and zoning of the area within which the noise emanates;
- (6) The density of inhabitation of the area within which the noise emanates;
- (7) The time of day or night the noise occurs;
- (8) The duration of the noise;
- (9) Whether the noise is recurrent, intermittent or constant; and
- (10) Whether any applicable exemptions apply.

(Ord. A-03-53, passed 8-21-2003; Am. Ord. G-11-42, passed 12-15-2011) Penalty, see § 96.99

PREVIOUS VERSION:

§ 96.02 EXEMPTIONS.

The following are exempted from the provisions of this subchapter:

- (A) Sounds emitted from authorized emergency vehicles;
- (B) Lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts, power tools, when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m. only;
- (C) Burglar alarms and other warning devices when properly installed, providing the cause for the alarm or warning device sound is investigated and turned off within a reasonable period of time;
- (D) Events authorized by the New Albany Board of Public Works and Safety;
- (E) Noise associated with scholastic or athletic events;
- (F) Sounds emitted for emergency purposes;
- (G) Sounds associated with legal fireworks;
- (H) Sounds associated with the normal conduct of legally established non-transient businesses, organizations and governmental entities, when the sounds are customary, incidental and within the normal range appropriate for the use; provided, however, that, commercial enterprises shall not be entitled to this exemption between the hours of 11:00 p.m. and 6:00 a.m. However, it is noted that §§ 156.078(B)(7) and 156.078(C)(7) are applicable for light industrial use and heavy industrial use, respectively;
- (I) Garbage collection between the hours of 6:00 a.m. and 9:00 p.m.;
- (J) Sounds associated with equipment or animals lawfully utilized by disability persons to accommodate their disability;
- (K) Noise associated with an auction conducted by a licensed auctioneer;
- (L) Noises resulting from any and all transportation, flood control, utility company maintenance and construction operations at any time on rights-of-way and noises from situations which may occur on private real property, including in parking lots, deemed necessary to serve the best interest of the public and to protect the public's health and well being, including, but not limited to, street or hard surface sweeping or cleaning, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, snow removal, house moving, vacuuming catch-basins, removal of damaged poles and vehicles, repair of water hydrants and mains, gas lines, oil lines, and sewers; and

(M) Noises from activities conducted on public parks or playgrounds and public or private school grounds, including, but not limited to, school athletic and school entertainment events.

(Ord. A-03-53, passed 8-21-2003; Ord. G-11-42, passed 12-15-2011)

NEW VERSION:

§ 96.02 EXEMPTIONS.

The following are exempted from the provisions of this subchapter:

- (A) Sounds emitted from authorized emergency vehicles;
- (B) Lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts, power tools, when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m. only;
- (C) Burglar alarms and other warning devices when properly installed, providing the cause for the alarm or warning device sound is investigated and turned off within a reasonable period of time;
- (D) Events authorized by the New Albany Board of Public Works and Safety;
- (E) Noise associated with scholastic or athletic events;
- (F) Sounds emitted for emergency purposes;
- (G) Sounds associated with **consumer fireworks permitted by state law under I.C. 22-11-14 et seq;**
- (H) Sounds associated with the normal conduct of legally established non-transient businesses, organizations and governmental entities, when the sounds are customary, incidental and within the normal range appropriate for the use; provided, however, that, commercial enterprises shall not be entitled to this exemption between the hours of **10:30 p.m. and 6:30 a.m.** However, it is noted that §§ 156.078(B)(7) and 156.078(C)(7) are applicable for light industrial use and heavy industrial use, respectively;
- (I) Garbage collection between the hours of 6:00 a.m. and 9:00 p.m.;
- (J) Sounds associated with equipment or animals lawfully utilized by disability persons to accommodate their disability;
- (K) Noise associated with an auction conducted by a licensed auctioneer;
- (L) Noises resulting from any and all transportation, flood control, utility company maintenance and construction operations at any time on rights-of-way and noises from situations which may occur on private real property, including in parking lots, deemed necessary to serve the best interest of the public and to protect the public's health and well-being, including, but not limited to, street or hard surface sweeping or cleaning, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, snow removal, house moving, vacuuming catch-basins, removal of damaged poles and vehicles, repair of water hydrants and mains, gas lines, oil lines, and sewers; and
- (M) Noises from activities conducted on public parks or playgrounds and public or private school grounds, including, but not limited to, school athletic and school entertainment events.

PREVIOUS VERSION:

§ 96.99 PENALTY.

(A) A violation of this chapter for which another penalty has not been provided shall, upon conviction, be subject to a fine of \$50 for the first offense, and \$100 for each subsequent offense.

(B) A person who violated §§ 96.01 through 96.04 shall be fined \$25 for the first offense; and \$50 for the second and each subsequent offense, and in addition to the fine, on the second or subsequent offense a law enforcement officer may confiscate any offending instrument used in violating §§ 96.01 through 96.04.

(C) Every person convicted of a violation of §§ 96.15 through 96.17 shall be punished by a fine of \$50 for the first offense, and \$100 for each subsequent offense.

(Ord. G-79-730, passed 2-5-1979; Ord. A-03-53, passed 8-21-2003; Ord. G-11-42, passed 12-15-2011)

NEW VERSION:

§ 96.99 PENALTY.

(A) A first violation of any section of this chapter shall, upon conviction, be subject to a fine of One Hundred Fifty Dollars (\$150.00) for the first offense. The date of the citation is the date for use to determine whether (B) and (C) herein should apply;

(B) A second violation of any section this chapter by the same person or entity within a six (6) month period from the first violation shall, upon conviction, be subject to a fine of Three Hundred Dollars (\$300.00);

(C) A third or more subsequent violations of this chapter by the same person or entity within a six (6) month period from the first violation shall, upon conviction, be subject to a fine of Five Hundred Dollars (\$500.00) per violation thereafter;