

THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY, INDIANA, HELD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR ASSEMBLY ROOM IN THE CITY/COUNTY BUILDING ON MONDAY, JANUARY 7, 2019 AT 7:00 P.M.

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

ALSO PRESENT: Ms. Stein, Police Officer Schultz, Mr. Thompson, Mrs. Moeller, Mr. Streips, Mr. Wood, Mr. Gibson and Mrs. Glotzbach

President Knable called the meeting to order at 7:00 p.m.

MOMENT OF REFLECTION:

Mr. McLaughlin stated that he would like to remember Mr. Bill Cochran during the moment of reflection.

PLEDGE OF ALLEGIANCE:

ELECTION OF COUNCIL PRESIDENT AND VICE PRESIDENT:

Dr. Knable stated that he has enjoyed serving as president of the council and would welcome an opportunity to do so again after 2019.

Mr. Aebersold nominated Mr. Blair for Council President, all voted in favor with exception of Mr. Caesar abstained.

Mr. Barksdale nominated Dr. Knable for Council Vice President, Mr. Barksdale, Dr. Knable, Mr. Blair and Mr. Coffey voted yes; Mr. Caesar, Mr. Phipps, Mr. McLaughlin, Mr. Nash and Mr. Aebersold voted no.

Mr. Aebersold nominated Mr. Caesar for Council Vice President, Mr. Caesar, Mr. Phipps, Mr. McLaughlin, Mr. Nash, and Mr. Aebersold voted yes; Mr. Coffey, Mr. Blair, Mr. Barksdale and Dr. Knable voted no.

Mr. Blair expressed his appreciation to Dr. Knable for serving as Council President and mentioned the good example that Mr. McLaughlin set the previous year. He thanked everyone that supported him and stated that he appreciates the opportunity to serve in this roll. He added that this is an election year and he hopes that they will all continue to serve in an honorable manner and keep campaigning away from these meetings.

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Blair moved to approve the Regular Meeting Minutes for December 20, 2018, Mr. Coffey second, all voted in favor.

COMMUNICATIONS – COUNCIL:

Mr. Barksdale passed out Uptown New Albany maps and reported to the council that the merchants in the Vincennes Street corridor are beginning to organize events in their area. He explained Ms. Stephanie Griffith was one of the individuals that is putting this together and he thinks that she is doing a great job with it.

Mr. McLaughlin stated that over the last few days he has been thinking about all the things that Bill Cochran was a part of in his time serving the city. He pointed out that just about every building since 1974 at IUS has been attributed in part to work that he has done. He added that he received a couple of calls about individuals parking between curb and sidewalks and the city has been responding to those complains quickly but recommended that the other members look for this in their districts.

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

Mr. Gibson stated that he has the annual nepotism and no contracting forms that need to be signed off on by the council after the meeting. He also stated that PERF has informed them that the council needs to start being paid bi-weekly instead of monthly.

Mrs. Moeller presented the council with the financials for November 2018.

Mr. Blair asked if she would have a year-end report on the swimming pool.

Mrs. Moeller replied no, not that she is aware of.

Mr. Coffey asked where he could get that information.

Mrs. Moeller stated that it has to be formulated.

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

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

COMMUNICATIONS - PUBLIC: Z-18-05 (ZONING ORDINANCE)

COMMUNICATIONS - PETITIONER: Z-18-05 (ZONING ORIDNANCE)

Z-18-05	An Ordinance Concerning the Adoption of a Replacement Zoning Ordinance and Official Zoning Map for the City of New Albany and the Unincorporated Two-Mile Fringe Area	Phipps 3
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Mr. Phipps introduced Z-18-05 and moved to approve the third reading, **Mr. Caesar** second,

Mr. Coffey moved to approve the agreed upon changes brought forth by **Mr. Blair** and to recommend the consideration of the Bellamy letter, **Mr. Barksdale** second, all voted in favor.

Dr. Knable move to approve Z-18-05 as amended for the third reading, **Mr. Barksdale** second, all voted in favor. **Bill Z-18-05 becomes Ordinance Z-19-01.**

Mr. Phipps stated that he thinks that most changes have been made that were requested and the ones that weren't can be explained by **Mr. Wood** tonight.

Mr. Coffey asked if the council will get a copy of the revisions that were made.

Mr. Wood stated that no revisions have been made yet and explained that the council is to vote on them tonight. He explained that it will go back to the Plan Commission for consideration, make a recommendation and send it back to the council.

Mr. Phipps asked how much it would delay the process if they make revisions tonight.

Mr. Wood stated that that the Plan Commission will have to have a public hearing and they will have 45 days to act. He explained that he would expect that the commission would consider it at their meeting in February so it would come back to them at the first meeting in March.

Mr. Phipps asked if we would still be within the initial timeline.

Mr. Wood stated that if they vote tonight or at the next Thursday meeting, they will be within the original three month timeline.

Mr. Phipps asked if they will have time to get it on their agenda with the publication.

Ms. Stein replied yes.

Mr. Phipps stated that their other option is to approve it tonight and make revisions later. He asked Mr. Wood if he has a sense of in what direction he would like to go forward.

Mr. Wood stated that the council can adopt the ordinance tonight and instruct the Plan Commission to consider certain amendments or they can amend it tonight and send it to the commission that way. He explained that Mr. Stumpf has prepared a discussion list based on Mr. Blair's list of changes that was distributed in November. He stated that most of the changes they agreed with but they do have some comments on several and will go through them with the council. He added that they didn't see any red flags that they thought would be serious red flags or fundamentally change where they are with the proposed zoning ordinance.

Mr. Phipps stated that he is comfortable with moving forward however if the council as a whole is comfortable.

Mr. Barksdale stated that he would like to hear the comments that they have regarding the changes.

Document 1 & 2 are attached for reference.

Brian Stumpf stated that they had a few things from the list that they wanted to discuss and went over those with the council. **Document 1** - He explained that on item 3 they recommend keeping the term "regulatory flood" to maintain consistent language and on items 15 & 6 he recommends keeping the word "may" instead of "shall" in regards to landscaping because in the context of the sentence, it could be interpreted as forcing the cluster of landscaping.

Mr. Blair stated that he thought it was a requirement and that's why he changed it from "may" to "shall."

Mr. Stumpf stated that he felt that Section 9.7 (document 2 item 50) could be deleted, and in reference to short-term rentals, he recommends against adding "short-term rental houses" as an exemption from the rental inspection ordinance because that would exempt them from the program and he doesn't think that is the intention.

Mr. Blair asked what the difference is between a short-term rental and owner-occupied unit.

Mr. Stumpf stated that there is an exemption for single-family homes already but not all short-term rentals are in a single family home.

Mr. Coffey asked for examples of short-term rentals.

Mr. Stumpf stated that they follow very closely with what the State passed last year which includes use for less than 30 days and it can be anything from a single family home to an apartment. He explained that the proposed language change to item 34 regarding the inspection program would require that the owner come to the city, whereas, the way it is currently written it is "if asked".

Mr. Blair stated that he wasn't trying to change the meaning but the wording was very confusing to him. He asked if there is a way to reword it to make it clearer.

Mr. Stumpf stated that if the current intent is what they want then they can simplify the language. **Document 2** - He stated that they can add a limitation for how long someone can stay in a campground if that is what the council desires.

Mr. Blair stated that he just doesn't want a campground to turn into permanent housing.

Mr. McLaughlin agreed with Mr. Blair.

Mr. Stumpf asked if the city has any campgrounds.

Mr. Blair stated that they are anticipating one.

Mr. Stumpf stated that some people camp for the whole summer so 30 days would not be sufficient for those individuals.

Mr. Blair stated that he isn't trying to discourage camping, he is trying to prevent permanent residency.

Mr. Coffey stated that right now they have homeless camps around the city and asked what this will do them.

Dr. Knable stated that Indiana.gov says maximum of 14 nights with 6 individuals so they may want to parallel that.

Mr. Stumpf stated that this section refers to the official use of land for a campground.

Ms. Stein stated that it sounds like Mr. Coffey is referring to vagrancy and not official use of land.

Mr. Coffey stated that he just wants to make sure that these things can't be bulldozed down or see this section used against them.

Mr. Phipps stated that he can see where this is a gray area.

Mr. Wood stated that he doesn't think that the zoning ordinance would be the first tool to look at to address homelessness. He explained that they can look at the definition to see how it can be tweaked but the zoning ordinance is too big of a tool for that type of issue.

Mr. McLaughlin asked if it would help to insert the term recreational.

Mr. Wood stated they will look at it to see how they can get some separation.

Dr. Knable stated that he thinks it is best to use the state guidelines when we can.

Mr. Stumpf stated that items 2-5 help with the placement of mobile homes and where they can or can't go so they might want to consider that.

Mr. Blair stated that they have min/max lot sizes and this will further define it but he isn't stuck on this.

Mr. Wood stated this is actually carried forward from our current ordinance and is there to prevent a class B manufactured home from being set on a lot.

Mr. Stumpf stated that number 7 deals with the lot coverage and if it is changed, they will not be following how it is typically calculated and can lead to more intensive development of sites. He recommended that they identify lot size for residential usage as a 2 acre minimum on number 11 with no minimum on all other usage. He stated that for consistency he recommend having "bungalow court" as a special exception on item 12 and explained that item 13 is very similar and his recommendation is to keep as a special exception in the MDR but permitted in the other districts. He recommended in item 14 that "assisted living facilities" be a special exception in the MDR.

Mr. Phipps asked if a crematory could be added to item 15.

Mr. McLaughlin stated that he doesn't think that EPA would even let it be located in a residential zone.

Mr. Stumpf explained that the way it is handled right now is as a special exception.

Mr. Coffey stated that a special exception means that it could go before the board and be changed.

Mr. Phipps stated that maybe they need to add it into the language just in case.

Mr. Stumpf stated that item 15 is only permitted in commercial and cemetery districts with the further caveat that a crematory requires a special exception within those two districts.

Mr. Caesar asked if a grandfather clause would apply here if an existing funeral home wanted to add a crematory.

Mr. Stumpf replied no.

There was a lengthy discussion regarding the possible expansion of established funeral homes and mortuaries.

Mr. Stumpf stated that item 18 requested that they delete subsections 2a & b in the architectural standards in industrial uses.

Mr. Blair stated that his thoughts were that he didn't want to make it any more difficult for someone to build in the vacant lots in the Industrial Park as long as it is compatible.

He added that if they get to a point where there is a new Industrial Park, he would be okay with new standards.

Mr. Phipps stated that he concurs with Mr. Blair as far as in the center of the park but when they get to the ones on the edge facing a residential street, he thinks different standards might be appropriate.

Mr. Blair stated that he would like it to say that it has to be compatible with surrounding buildings.

Mr. Stumpf stated that it could be worded to read for buildings that are within a certain distance of an existing road.

Mr. Barksdale stated that he thinks they do need to have some type of regulation for those buildings on the outside of the park.

Mr. Caesar suggested proximate to a road or existing building.

Ms. Stein explained that it does say each building façade visible from a street.

Mr. Stumpf stated that it would apply to buildings 250 feet off the road but still facing the road and it could be clarified.

Mr. Blair asked if it would be beneficial for the committee of three to meet with him before they come back before the council.

Mr. Stumpf stated that he is getting very clear direction from this meeting.

Mr. Blair asked if the final version could be emailed out to the whole body ahead of the next meeting. He asked Mr. Stumpf if he has a clear direction on number 18.

Mr. Stumpf replied yes and stated that they will get a distance in there to clarify.

Mr. Caesar pointed out that 100 ft. is not very far.

Dr. Knable suggested 150 ft. to 200 ft.

Mr. Blair suggested going with 150 ft.

Mr. Stumpf stated that 19-29 are all in a similar vein and explained that rather than having a form-based code, they identified building types with dimensions for each type.

Mr. Blair stated that he understands what he is saying about compatibility but he doesn't want to limit someone to a certain size house.

Mr. Stumpf stated that in districts where they have 40' lots, he believes it is important to have a building width regulation.

Mr. Blair stated that the other piece to this was backyard dimensions and he would like to go with square footage and remove dimensions.

Mr. Stumpf stated that the reason they specify the dimension of the open space is because they don't want to get some sort of weird space around a building that isn't usable.

Mr. Caesar asked if there is a minimum distance that a building can be from the edge of the lot.

Mr. Stumpf replied yes and stated that this is more nuance about building type.

There was a lengthy discussion regarding building width requirements and compatibility to surrounding areas.

Mr. Barksdale stated that he would like to hear from Mr. Wood.

Mr. Wood stated that his experience with developers in New Albany is that if they are told they have 80' to build on, they will build to that dimension. He added that the setbacks are appropriate and he thinks that the ordinance is flexible enough to look at individual instances and determine what is appropriate.

Mr. Barksdale stated that he is good with the way it is with the maximum widths.

Mr. Blair asked for a show of hands of who is good with the way it is.

All voted in favor with the exception of Mr. Blair who voted no.

Mr. Blair stated that he wanted to address backyards and explained that he would like to make the dimensions a little shorter.

Mr. Wood stated that he doesn't think that 20' X 20' is outrageous.

Mr. Blair asked what happens if all they have is 15'X25'

Mr. Wood stated that they could apply for a dimensional standards variance.

Mr. Blair stated that he is looking to write this so that they can avoid the variances and PUDDS.

Mr. Stumpf stated that a zoning ordinance is a living document and he encourages everyone to do regular updates

There was a lengthy discussion regarding the set dimensions of backyards.

Mr. Blair asked for a show of hands of who is in favor of how it is.

Mr. Caesar, Mr. Phipps, Mr. McLaughlin, Mr. Nash, Mr. Aebersold, Mr. Barksdale and Dr. Knable votes yes; Mr. Coffey and Mr. Blair voted no.

Mr. Stumpf stated that item 30 adds hours to home base businesses and explained that the other thing they can do is use language to limit noise which will be consistent with other sections.

Mr. Phipps stated that he doesn't think that a business that doesn't have clients coming in needs to be regulated by hours.

Mr. Blair suggested using the word "typically" and added that it isn't going to be enforced unless someone complains.

Mr. Stumpf suggested using the same hours that are used for short-term rentals for consistency. He stated that item 33 deals with residences that are backed up to the street and cautioned against eliminating the shrubs because of headlights.

Mr. Blair stated that he is okay with narrowing it to 15' and keep the shrubs.

Mr. Stumpf stated this item 35 is specific to parking lot landscapings that are visible from the street and asked if they wanted that removed.

Mr. Caesar stated that he wants landscaping around something like that but suggested going with 3'-4' on this with a low wall.

Mr. Stumpf asked if they want to say not to exceed 42".

Mr. Caesar stated that he is good with that.

Mr. Blair stated that item 36 addresses recreational vehicle shelters and thinks they are more unattractive than the actual vehicles so he would like to take that out.

Mr. Phipps suggested limiting them to the backyard with special exception or variance for side yard use.

Mr. Stumpf stated that they could specify that it be so many feet behind the front façade or in the backyard. He explained that item 39 is proposing a maximum occupancy for the dwelling and they don't specify because it is going to vary depending on the dwelling.

Mr. Blair stated that they are requiring that they have an occupancy permit but don't declare what the occupancy is.

Mr. Coffey stated that he would go to the Fire Marshal for that.

Mr. Stumpf stated that he recommends not specifying this because it is covered with the building code and the fire code.

Mr. Blair asked if they can reference the existing fire code.

Mr. Stumpf replied yes.

Mr. Blair stated that number 40 is an attempt to limit the number of people for parties.

Mr. Stumpf reminded them that this is for short-term rental purposes only.

Ms. Stein asked if this is actually saying that the maximum is over what the Fire Marshal allows.

Mr. Blair suggested letting the fire code address this.

Mr. Stumpf stated that item 41 is looking at whether or not they want a Design Review Board and the way it is written right now, it is a possibility should they choose.

There was a lengthy discussion regarding the need for a design review board.

Mr. Blair asked for a show of hands of who is in favor of having the design review board in the code.

Mr. Caesar, Mr. Phipps, Mr. McLaughlin, Mr. Nash, Mr. Barksdale, Dr. Knable voted yes; Mr. Coffey, Mr. Aebersold and Mr. Blair voted no.

Mr. Stumpf stated that item 42 deals with traffic studies and strongly recommended against the standard that is proposed because it will put the city in a bad spot and traffic impact should come down to a case-by-case basis.

There was a lengthy discussion regarding traffic studies requirements and the measurement used.

Mr. Caesar asked if a traffic study can be required to have recommendations in it.

Mr. Stumpf replied yes.

Mr. Blair asked how much a traffic study costs.

Mr. Wood stated that the Grantz's study cost \$20,000.00.

Mr. Blair asked if there is a way to keep the flexibility but address the uncertainty.

Mr. Wood stated that it might be as simple as adding language.

Mr. Blair stated that they are moving towards items that some are something like "the Common Council requires or suggests..." and to him, that is already understood.

Mr. Stumpf stated that he is good with deleting item 44 & 46 but item 45 is a little different. He explained that it deals with inspection fees and the fact that they go into a rental housing fund.

Mr. Blair stated that he was just suggesting deleting the first subsection.

Mr. Stumpf stated that he doesn't have an issue with that.

Mr. Caesar stated that it is the council's responsibility to establish a rental housing fund.

Mr. Blair stated that the whole document is their responsibility so there is no need to specify that. He added that he is okay with the fund but it isn't necessary to say it is their responsibility because it is understood.

Mr. Barksdale suggested saying that a rental housing fund shall be established.

Mr. Blair asked if they want to expand the number of members for the Design Review Board.

Mr. Wood replied no and stated that he feels there needs to be some discretion on who has to be involved if their input isn't needed.

Mr. Blair asked that they add language to clarify that.

Mr. Wood stated that everything they have gone through tonight, the Plan Commission is familiar with and have considered but they haven't read the observations/recommendations from the legal review. He suggested that the council act on these and then send Mr. Smith's and Mr. Bellamy's comments back to the commission without an endorsement either way but with instructions to consider those as part of their review of what is being done tonight.

Mr. Blair asked if that gives Mr. Wood time to get this approved and implemented under the timeframe.

Mr. Wood stated that this would still be under the amendment process but it would give the Plan Commission the opportunity to have a little more time to go through the entire context and react.

Mr. Barksdale asked if there could be contradictions between what was decided tonight and what Mr. Smith says.

Mr. Wood explained that he doesn't think there are any.

Mr. Stumpf stated that the work done tonight will also go towards addressing Mr. Smith's comments.

Mr. Caesar made a motion to act on Document 1 & 2 with the addition that Mr. Smith and Mr. Bellamy's comments be considered by the Plan Commission,

Mr. Blair stated that Mr. Bellamy had extensive comments and he wanted to hear their interpretation.

Ms. Stein stated that she didn't see anything in Mr. Bellamy's review waiving any red flags. She explained that the issue with chapter 9.7 was eliminated tonight, chapter 3 is in compliance in her opinion, chapter 4 was more of a planning department issue instead of a legal issue, chapter 5 could use some clarification in her opinion, chapter 6 suggested clarification which she thought that would be a good idea and he didn't really give any recommendations for the adult entertainment section.

Mr. Stumpf stated that in the new code, sexually oriented businesses are going in industrial as a special exception per tonight's discussion in item 17.

Ms. Stein stated that she might agree that this is possibly too restrictive.

There was a lengthy discussion regarding restrictions on adult entertainment businesses.

Mr. Blair mentioned about the severability clause and stated that he likes the idea of keeping the sections separate so that the whole code would not be found unlawful. He asked Ms. Stein if that is something they should try to do.

Ms. Stein stated the language is in there, but that being said, if there is something that makes them nervous then it wouldn't hurt to put it in again.

INTRODUCTION OF RESOLUTIONS:

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

BOARD APPOINTMENTS:

Mr. Blair stated that there is one appointment that he would like to make tonight because of the immediate need on the Building Authority. He appointed Ms. Diane Benedetti to this board.

STANDING COUNCIL COMMITTEES

BUDGET
DEVELOPMENT & ANNEXATION
RULES & FINANCE
PUBLIC UTILITIES & TRANSPORTATION
POLICE DEPARTMENT
SCHOOL & LIBRARY
PUBLIC WORKS
PUBLIC SAFETY & TRAFFIC
FIRE DEPARTMENT

COMMISSION & BOARD APPOINTMENTS

HORSESHOE BOARD
PLAN COMMISSION
BUILDING AUTHORITY-Diane Benedetti
ZONING APPEAL BOARD
DEVELOP NEW ALBANY
SOLID WASTE
PARKS & RECREATION
URBAN ENTERPRISE
REDEVELOPMENT
ECONOMIC DEVELOPMENT
BUILDING COMMISSION
ANIMAL CONTROL
HEAD START
HUMAN RIGHTS
HISTORIC PRESERVATION
TREE BOARD

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Mr. Dale Bagshaw, 85 Galt Street, stated that his garbage hasn't been picked up for the last two weeks and he called Echotech tonight and was told they would get back with him. He added that he feels pickup of brush and debris was better handled by the city.

ADJOURN:

There being no further business before the board, the meeting adjourned at 9:40 p.m.

Scott Blair, President

Vicki Glotzbach, City Clerk