

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, MARCH 6, 2017 AT 7:00 P.M.

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

ALSO PRESENT: Mr. Lorch, Mr. Duggins, Mr. Wood, Mr. Hall, Police Officer Davidson, Fire Chief Juliot and Mrs. Glotzbach

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

INVOCATION

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Phipps moved to approve the Regular Meeting Minutes for February 16, 2017, Mr. Barksdale second, all voted in favor with the exception of Mr. Coffey who was not present.

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

Mr. Roger Baylor stated that in the past he has been in favor of resolutions like the intolerance resolution on the agenda tonight. He said he has no reason to oppose it but feels there is some thinking in the community that what we end up doing might be classified as gesture politics. He pointed out that we have a human rights commission that by everybody's admission seems to be kind of foundering at the moment and is a bit of a laughing stock because there is nothing to it. He said that you now have a resolution about intolerance and he is afraid that sometimes it just looks like symbolic gestures and are somewhat empty until there is some sort of force behind it.

Mr. James Stepp, 3122 Creek Ridge Drive, stated that he wanted to speak about the PUDD at 3102 Blackiston Boulevard which is going into his backyard. He said that in speaking with real estate people, this is going to take 20%-30% of his home's value out of his home which is \$40,000.00-\$50,000.00. He is concerned about green spaces and stated that the field is a beautiful place and he and many others bought their homes because the field was there. He said that green spaces are good for the health of the community and good for the health of the people around them. He is also concerned about traffic because anyone that has traveled down Charlestown Road between Mt. Tabor Road and Blackiston Mill Road at rush hour knows that the traffic there is horrendous because it has become a major thoroughfare. He stated that they are now putting in an Enterprise Rental Car on Charlestown Road where Sam's Tavern used to be and because the Daisy Lane location is closing as well as the Clarksville location, the traffic will be even worse when that place opens. He said they are now talking about adding 48 more homes at that very same place and feels it will make a traffic nightmare. He also said that a lot people use Payne Koehler as a cut through to stay off Charlestown Road so there is a lot of traffic there that is not even planned on being used. He is

concerned about drainage because it is a major issue and the field holds water and does not drain down into the soil. He pointed out that it has already been said that there is a natural wet area in the field and when the Purdue Center dirt was dumped into the field, for five years every time it rained hard his neighbors would call each other to see if backyards were flooding and if water was coming into homes. He added that his next door neighbor finally pulled up all of his carpet and put down vinyl wood flooring so that he wouldn't have to worry about it anymore. He stated that once the field sunk back down, it didn't drain into the ditch in his backyard and he has seen two feet of water going from that ditch to the front of the street. He said that if they don't put redundancy in the drainage issue then the homes will be flooded because that is a lot of water coming their way. He was informed at the last meeting that you can't ask people if it is to be purchased homes or rental homes. He feels that if you put these very small homes at a large price then it will end up being rental property. He said that they had a lot of questions at the last meeting that were not answered and feels there is nothing more insulting than being ignored. He asked if it ends up rental, could it eventually become section 8 because homes in that area will then be even more greatly affected. He then asked if there is going to be large fencing installed around the property and if there is, what will it be made of. He stated that the area is not zoned residential right now and his question is why change it. He understands that the city wants a tax base and that the Spriglers want to build, invest and make money but building this project behind the homes that are adjacent to it is going to cost him and his neighbors money because it is going to affect the value of their homes. He then suggested building 20 \$250,000.00 homes that are all brick garden homes and use the drainage area to make a large three acre lake and leave it wide open. He said that the gentleman at the rehab center is not happy with the project because the traffic is going to be coming through his parking lot. He also said that he is not talking about just brick and mortar buildings but about people's homes and their lives. He stated there needs to be a way to make sure that their home values are not taken away from.

Ms. Laurie Hamilton, 3116 Creek Ridge Drive, stated that she only found out about this meeting yesterday and does not understand the process. She asked why the ordinance has to be amended here and what exactly this is amending.

Mr. Wood stated that the property was originally zoned for residential and an ordinance was proposed by the property owner to permit medical office land uses and that ordinance was approved and became part of the code of ordinances. He explained that Mr. Sprigler is now asking for residential to be put back on the property so that ordinance would have to be amended in order for him to do that.

Ms. Hamilton stated that she knows that when she moved in that Mel's property was zoned agricultural and she knows that she never received any notice of zoning change on that. She then asked if you have to notify adjoining neighbors of a zoning change and if Mel's property is still zoned agricultural.

Mr. Wood replied that property is not zoned agricultural and stated that it is zoned residential and has been since at least 1989.

Ms. Hamilton stated that when she moved in she looked online where it tells all of the properties and taxes and it said agricultural on there.

Mr. Wood stated that we don't have agricultural districts and that they have all been rezoned.

Ms. Hamilton stated that there are going to be 48 houses and possibly about 100 cars. She asked if anyone has done a traffic study to see how all of these 100 cars are going to get on there because it gets pretty bad during rush hour. She stated that she also agrees with Mr. Stepp about the environment but she doesn't think that anyone really cares because the last time she spoke about it everyone went on with business as usual. She passed out signatures of residents that are opposed to it because it is going to cause problems. She asked where all of our green space is going and if we are going to build up everything so that every piece of land is gone all for the sake of a dollar. She added that this doesn't benefit anyone. She stated that she doesn't have any voting rights in the city and asked if anyone cares about the fringe area. She said that she has been doing nothing but fight for the four and a half years that she has lived there. She explained that she has fought with Floyd County about her ditch in her backyard because they wanted to put in six feet of concrete because they knew about this plan for housing back there and they want it all to drain through her ditch. She then explained that her ditch goes to the banks of Silver Creek when it floods up and goes into the city's drinking water because all of that flows into the Ohio River which is the most polluted river around. She said that the creek is polluted as well and the more building you do will cause more runoff and more pollution in the water.

Dr. Jean Abshire stated that she was present to speak in support of the resolution against intolerance. She explained that white supremacy is not one of our community values and we do not want our community perceived as a place that's accepting of racist ideas. She said that such racism is straight up immoral, inconsistent with basic democracy and harmful to the local economy. She stated that everyone in city government has been working so hard to redevelop downtown New Albany and we have many new and thriving businesses here that welcome all kinds of people and we need to keep it that way. She stated that a number of these businesses such as Alladin's which was directly targeted by the antimuslim fliers are owned by immigrants in our community. She added that they are part of our community, a part of our economy and the living embodiment of the American dream. She stated that there are new expensive apartments under development and from what she has heard, we are hoping to attract young, upscale professionals. She said that from research on that demographic, they are the most diverse group in American society and in American History and they value diversity. She then explained that if our community does not make it clear to everyone that all kinds of folks are welcome here then this could seriously undermine our economic development and she does not want to live or spend her money in a community that is silent in the face of white supremacy. She hopes that the council will take some concrete actions at some point and urge the police to be more watchful of people who may be coming in and putting up fliers with hate signs. She also hopes that the council will support the statement against intolerance and agreed that it is only a symbolic statement but there is actually value in that. She stated that people who are targeted by white supremacists look to statements like this to be reassured that they have a place in our community and are welcome and that is important. She stated the resolution is also an important message to the white supremacists that their hate is not welcomed here and that the leaders of the community have articulated our community values to make that clear. She understands that some people may have free speech concerns but no one is trying to limit the free speech of white supremacists because they do have a right to express their hateful ideas in the open marketplace of ideas. She then added that not all ideas are created equal because some are good and some are bad and white supremacy is a bad idea. She stated that citizens like her and leaders like the council members have an obligation in our democracy to denounce the things in the marketplace of ideas that are bad. She added that if everyone just looks

away or pretends that it didn't happen and no one says no then these ideas could grow unchallenged. She said that she is a political scientist and basic democratic theory suggests that for the freedom of speech to be healthy in a democracy that all kinds of ideas must be shared, evaluated and then some should be condemned as trash and that is what she feels the council should do tonight.

COMMUNICATIONS – COUNCIL:

Mr. Blair stated that he wanted to speak regarding the submission deadline for council packets because he felt that the last packet delivery didn't give them enough time to review everything thoroughly. He asked if anyone had any objections to him working with the clerk on a rule change so that there will be a little more leeway on submitting items to the agenda and when those items are delivered. He said that the deadline may be different for a Monday meeting versus a Thursday meeting and wanted to work on an ordinance with the Mr. Lorch as well for the next meeting. He added that he was surprised because he researched the ordinances for the deadlines and couldn't find anything.

Mr. Caesar stated that there have been several discussions on this for a long time but he knows that the deadline is actually Thursday at noon. He said that they don't receive the packet until Thursday night for a Monday meeting and that's not very much time to review everything and check sites or check with constituents. He feels that it could be tweaked to something like five full working days just to give the members more time as well as the public.

Mr. McLaughlin said that it seems to him that the packet needs to be delivered before Thursday for a Monday meeting.

Mr. Blair asked the clerk if she would meet with him to discuss the deadlines.

Mrs. Glotzbach replied yes.

Mr. Aebersold asked if we are going to stick to this because there have been some things that came up real quick and had to be gotten in.

Dr. Knable stated that you can always have an emergency item added to the agenda by a simple majority vote.

Mr. Blair stated that he was thinking of adding some flexibility because there are times that things are urgent and the council could take a simple vote.

Mr. Caesar stated that there have even been issues with the way it is written for emergency meetings and it is all supposed to be out of the clerk's office in a minimum of 48 hours. He added that if we are going to look at this then that part needs to be looked at also because there is a little ambiguity with the way the first paragraph is written and the second paragraph is written.

Mr. Phipps stated that initially there was only one meeting per month which was the Monday meeting that is required by law and then a second a meeting was added. He asked if that was done to get these cases in quicker or was it done to facilitate finishing up items that didn't really get rectified and maybe no new ordinances or resolutions were introduced at the second meeting.

Mr. Caesar stated that at one time they used to do financials at one meeting of the month and ordinances at the other meeting of the month but that goes back to 1988.

Mr. Lorch stated that the council used to hear a lot more bills and financial matters throughout the year historically speaking and they don't hear as much now because some of that has been delegated to different boards such as board of works, sewer board, etc.

Mr. Nash stated that the packet is almost a full week in advance for a Thursday meeting so he doesn't see where there would be a difference in moving the deadline to a Monday and packets delivered on Tuesday for a Monday meeting.

Mr. Phipps stated that it could be standardized to where it is at noon on a specific day.

Dr. Knable stated that he looks forward to the report and recommendation.

Mr. Caesar asked that the members that are doing the litter ordinance look into more garbage receptacles in the city. He stated that he has received three phone calls this week from different areas.

Mr. Phipps asked if there is anything that can be done with the plastic bags as well.

Dr. Knable stated that it is on their list.

Mr. Barksdale stated that at least two constituents have contacted him on the condition of Main Street because the pavement is giving away. He explained that he spoke with Joe Ham about it and wanted to let the council know that he was receiving these complaints.

Dr. Knable stated that there was a major fire, a home fire and a spilled semi-truck very recently and applauded Chief Juliot and his team for their work.

Fire Chief Juliot thanked the council for all of the equipment that they approved. He explained that they did lose some equipment because personnel fell through the floors and they had to evacuate. He stated that they are comprising a list of the items that were lost and they should be starting cleanup and construction soon. He explained that the fire had a 15 hour head start on them so all they could do was contain it but they are happy to report that there was no loss of life.

Dr. Knable stated that he thinks it would be good to know what equipment was most helpful.

Mr. McLaughlin asked if that is the largest fire since the Goodwill building.

Fire Chief Juliot stated that Hoosier Panel was a hot one but Breakwater was hard to fight because it got a 15 hour start on them.

Dr. Knable asked if the codes are where they need to be on the building.

Fire Chief Juliot stated that it is built to the national code. He explained that if it had been completed and all voided space was buttoned up with an active sprinkler system it would not have resulted in the loss that it did.

Mr. McLaughlin asked if there is anything they can do to require every incident be reported to the building commission so that they can have Fire Marshal Koehler go check into it.

Fire Chief Juliot stated that he can look into it and added that it is unfortunate that the contractor didn't call them to let them know that there was a fire and they thought it was put out.

Mr. Blair asked about recovery of equipment and such and if they will file against the contractor's insurance.

Fire Chief Juliot stated that he has been speaking with Mr. Gibson and Mrs. Moeller and by the end of the week they will have a dollar amount and they will go from there. He explained that they will be reimbursed for the gear lost during the fuel leak because it was a hazmat issue.

Mr. Blair stated that if the city is responsible then the city should set aside a reserve for things like this.

Fire Chief Juliot stated that they are into \$15,000.00 for overtime on this as well.

COMMUNICATIONS – MAYOR:

Mr. Hall stated that they are starting the milling process on McDonald Lane tomorrow to get ready for the storm drains that are being installed. He added that the second phase will run from Rita Drive to Grant Line Road.

Mr. Caesar asked about the mailbox situation out there.

Mr. Hall stated that they are in contact and working through it.

Mr. McLaughlin stated that he spoke with a retired postmaster and he said that they would have to redo the route so there is a lot more detail that goes into it.

Mr. Aebersold stated that he tried several times to contact the postal service and was unsuccessful.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

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

Mr. Blair stated that he and Mr. Phipps had a meeting with Mr. Wood on annexation and they are looking at the end of summer for this. He added that Mr. Wood is also going to get the financial plan to them for their review.

Mr. Phipps stated that it looks very favorable.

Dr. Knable asked if it is too soon to say what order it is going to happen.

Mr. Blair stated that there is a plan but he isn't going to announce that tonight.

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	Phipps 1&2
----------------	--	-----------------------

Mr. Phipps introduced Z-17-01 and moved to approve first and second readings, Mr. Barksdale second, all voted in favor with the exception of Mr. Coffey who was not present.

Dr. Knable moved to amend it to require that a traffic study be completed prior to it coming back before the council for final approval and an access agreement to Silverwood Court, Mr. Caesar second, all voted in favor with the exception of Mr. Coffey who was not present.

Mr. Jason Copperwaite, Paul Primavera & Associates, passed out plans for the development and reviewed them with the council. He explained that the project is 8.8 acres and the proposal is for 48 lots or 24 duplex buildings. He stated that there is 1 acre of common area and green space and is an extension of the Blackiston Boulevard cul-de-sac. He explained that the area was previously zoned for medical usage and has been vacant and for sale for the last 20 years. He added that if he the rehabilitation center or the neighbors had wanted to purchase they had plenty of time to do so. He explained that plans before them include the plat that shows the configuration of the lots, including the common areas, a site plan that shows how the units will be arranged on the property, a conceptual drainage plan showing more than adequate detention and an elevation drawing of the buildings. He stated that he did volunteer to the plan commission that these are intended to be ownership lots valued at ~ \$150,000.00 per unit with the intention of them paying into a homeowner's association so that there wouldn't be any yard maintenance. He explained that there are concerns about traffic but it is currently zoned as medical so a nursing home or assisted living facility could go into the location which would cause more traffic than their 48 units. He stated that none of the water from this site drains into Creek Ridge Subdivision but comes down towards the east end and curls around to go under Silverwood Court. He added that one of the conditions for the developer was to provide driveway access from Silverwood Court on to Blackiston Boulevard and this eliminates the unsafe access that is already in place. He stated that they have provided for possible sanitary sewer access to those individuals on Silverwood Court as well.

Mr. Caesar asked if the driveway is going into Blackiston Boulevard.

Mr. Copperwaite replied yes and then pointed to the far left common area as to where the access would be.

Mr. Blair asked if this is going to be annexed into the city.

Mr. Wood stated that it is already in the city.

Mr. Blair stated that he is concerned about making a left hand turn to go on to Blackiston Mill Road and asked if there are any future plans for better access with a lighted signal.

Mr. Wood stated that the last traffic study that was done there was with the arrival of Wendy's and a traffic signal was not warranted at that intersection. He stated that whether this would warrant one he isn't sure but as Mr. Copperwaite stated, an assisted living facility with 100 units could go in right now which would generate at least as much if not more traffic and they wouldn't be subject to further zoning approval.

Mr. Blair asked if there is anything preventing them from installing a signal if it is warranted.

Mr. Wood replied no and stated that the developer could be asked to do a traffic study.

Dr. Knable stated that one provision was that they would give all suggestions and criticisms consideration. He explained that he has spoken with many of the individuals on the petition list and they feel like there wasn't adequate notice given for meetings on this item. He stated that this proposed PUDD is within the city limits and asked to clarify if those petitioning are within the city limits or reside in the fringe area and don't have any direct representation.

Mr. Wood stated that the ordinance stipulates that anyone that abuts the property in question gets written notice.

Dr. Knable stated that he would love for them to be annexed but added that he would like to give them a little representation tonight.

Mr. Wood stated that they use three means of public notice for these PUDD's. He explained that they do a legal advertisement in the Tribune at least 10 days ahead of the meeting, they post public hearing signs on the property 15 days before the hearing and they send adjoining property owners letting them know about the meeting and requesting that they have someone present to represent their interests. He explained that with this particular case they were short-staffed and the letter was not sent out to Creek Ridge. He stated that when they realized their mistake the plan commission tabled the request and carried it over to the next meeting so that adequate notification could go out.

Dr. Knable thanked Mr. Wood for explaining that so that the public is aware that this is taking place.

Mr. Wood explained that several individuals that weren't notified were at the original plan commission meeting so either the legal notice or the signs served to give them notice.

Dr. Knable asked if there is proposed fencing.

Mr. Wood stated that there is and isn't. He explained that where the property abuts the rehab hospital an attractive privacy fence is required.

Dr. Knable stated that there is an issue of property values being depreciated coming from unspecified realtors and asked for some type of conjecture regarding this.

Mr. Wood stated that he hasn't spoken with any realtors in regards to the development nor did any of them come through the office to ask any questions. He added that it was stated at the plan commission meeting that there would be this 20-30% depreciation in value of existing homes, however there was no evidence provided in the form of something like a real estate appraisal by a licensed agent. He explained that the plan commission considered that and in their experience housing vs housing does not depreciate value.

Dr. Knable stated that the whole thing sits on a wetland and asked if they are convinced that they will get approval from the Indiana Department of Natural Resources.

Mr. Copperwaite stated that the whole thing does not sit on a wetland. He explained that lots 44-48 are in a wetland area and they will either mitigate those or they will not construct those houses.

Mr. Wood stated that one of the stipulations if the council adopts this is mandatory review of the drainage plan by the city's 3rd party storm water engineer as well as approval from both the city and the county storm water boards.

Dr. Knable asked if there was consideration given to fewer units with a larger price.

Mr. Wood stated that isn't for the plan commission to evaluate.

Mr. Copperwaite stated that this is on average of six units per acre which is equivalent to their R2 district so it certainly isn't unheard of for the area.

Dr. Knable stated that he has a hard time voting for it without having a traffic study.

Mr. Wood stated that there are some very early discussions of realigning the bridge over Silver Creek but that is still way down the road. He reminded the council that this has to come back to the plan commission after the council adopts it so they could condition approval where the developer would study the intersections to determine if signals are warranted. He added that there is a clock ticking in terms of council action on this because it comes with a favorable recommendation from the plan commission so if they do not take action there could be default approval.

Mr. Caesar asked if they are doing any retention of water with drainage.

Mr. Copperwaite stated that they are required to have a detention basin.

Mr. Barksdale stated that he would really like to see a traffic study and has concerns about water and retention but feels more comfortable with that. He asked if this could come back to the council once all the conditions are met.

Mr. Wood stated that he would have to research that and get back with him.

Mr. Copperwaite stated that the traffic study alone would take 30-45 days.

Mr. Caesar stated that the answer to that question is pretty much no.

Mr. Barksdale stated that he thought that maybe they were getting away from the garage on the front of the house and was hoping that could be tweaked.

Mr. Caesar stated that he does not like the parking situation as well as the design of the houses and feels that it is commercial instead of residential and is not improving the neighborhood.

**Z-17-02 Ordinance Amending the Code of Ordinances Phipps 1&2
of New Albany, Indiana, Title XV, Chapter 156
(Commonly known as the “Zoning Ordinance”)**

Mr. Phipps introduced Z-17-02 and moved to approve first and second readings, **Mr. Blair** second, all voted in favor with the exception of **Mr. Coffey** who was not present.

Mr. Phipps stated that this is being introduced to try to get a handle on opioid treatment centers to limit it to industrial and C2 business districts. He explained that it was brought to the plan commission’s attention that there may be an attempt to get something under the radar with a group of physicians designating the location as a physician’s office and this ordinance would not protect them from something like that.

Mr. Wood stated that these will be permitted by special exception and reviewed by the plan commission. He explained that there would be development standards such as 300 ft.-500 ft. from a residential area as well as parking requirements. He asked the council to considering leaving a moratorium in place in order to consider an ordinance to regulate clinics that don’t rise to the level of state regulation in terms of what they are considering tonight.

Mr. Caesar stated that he thinks the length is too small.

Mr. Wood stated that it needs to be close so that there are options for locations and so that they can look at the adverse effects for this type of land use.

Dr. Knable asked if it needs to be amended to address administration or prescriptions.

Mr. Wood stated that prescribers that don’t reach a certain level aren’t required to get state approval and those are the ones they are trying to craft additional protections for.

Mr. Caesar asked if there is a group or individual that they could speak to and get more information on this or is this the best plan.

Mr. Wood stated that he did a lot of research on local ordinances throughout Indiana and is pretty confident in this proposal.

Mr. Barksdale thanked Mr. Wood for his help and information on this.

Mr. Wood repeated that he would ask that the council not remove the existing moratorium.

Dr. Knable stated that it expires in April.

Mr. McLaughlin asked if it needs to be another six months.

Mr. Wood stated that he would have something regarding that for the next meeting.

INTRODUCTION OF RESOLUTIONS:

R-17-03 Resolution Condemning the Promotion Phipps
of Intolerance

Mr. Phipps introduced R-17-03 and moved to approve, Mr. Barksdale second, all voted in favor with the exception of Mr. Coffey who was not present.

Mr. Phipps explained that there were some white supremacy signs posted on utility poles along Spring Street and an anti-Islamic poster was posted on the rear of Aladdin’s Café. He asked everyone to substitute their own religion in this situation and how they would feel if these things were being posted about them. He thanked Dr. Jean Abshire for laying out the terms of why this is needed and added that they want to make sure that we have a welcoming community and something like this can be very detrimental to business interest. He stated that he is an advocate of free speech but they have an obligation to speak out if that speech is contrary to the values that they want to support. He added that may be meaningless and may be a symbolic gesture but he thinks sometimes those are critical because it shows where they stand and lets young people know that they live in a diverse community that doesn’t tolerate hatred.

Dr. Knable stated that the police department were removing these posting before the council even knew about them and thanked them for that.

Mr. Barksdale thanked Mr. Phipps for bringing the resolution forward and stated that he would like to think the whole city is open and affirming.

Mr. Caesar stated that he is 100% in support of free speech but the hate speech that is going on right now needs to be addressed to show the community how they feel.

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

ADJOURN:

Mr. Roger Baylor read an article titled *This Is What Happens Inside The Brain Of A Yes Man*.

There being no further business before the board, the meeting adjourned at 8:50 p.m.

Pat McLaughlin, President

Vicki Glotzbach, City Clerk