

**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 7, 2016 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:** Mr. Lorch, Mr. Thompson, Mr. Duggins, Mrs. Moeller, Mr. Hall, Mr. Brewer, Chief Bailey, Mr. Gibson, Mr. Woos, and Ms. Milburn

**Mr. McLaughlin** called the meeting to order at 7:12 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:**

**APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:**

**Mr. Phipps moved to approve the Regular Meeting Minutes for February 18, 2016, Mr. Caesar second, all voted in favor. Blair abstained**

**COMMUNICATIONS – PUBLIC (AGENDA ITEMS):**

**Pat Harrison** spoke in favor to G-15-05 and if she was in their position she would want to know who owns these properties. She spoke about the decline in the economy and how it has affected the quality of property and how this ordinance will be hitting the ones that have complaints against them.

**Russell Kruer** spoke against G-15-05. He stated that he understands that they need to do something without questions but this isn't something that is mandated by the state. He explained that he has reached out to the Mayor and Mr. Brewer without getting a return call and is tired of the city not addressing the issues he has

**Warren Nash** spoke in favor of the G-15-05. He stated that it isn't perfect but it is a good beginning and this needs to be passed for the health and safety of the tenant and is long overdue.

**Ben Maddox** spoke against G-15-05. He explained that human behavior is driven by fear and love and everything about this ordinance is being driven by fear and that doesn't motivate positive behavior. He stated that he doesn't think anyone objects to the registration but doesn't understand why they need another level of bureaucracy.

**Angela Bower** spoke against G-15-05 and brought up a lot of concerns about issues like simple questions that couldn't be answered tonight about how this ordinance is driven. She stated that those are things that they should have before they vote.

**Chase Murphy** stated that the city has a huge asset in David Brewer but they need 10 of him because he can't keep up with the work load he has now and this will only add to it. He explained that he feels as though this is anti-landlord and he has tried to do business in New Albany but every time he comes here he feels like it is very anti business where he is welcomed in other communities.

**Ron Craig** thanked the council for their time and attention on this matter. he stated that initially he did not agree with this ordinance because it creates another lever of

government, but thinks if they move forward it should cover all houses, not just rental houses. He complimented the council and the building commissioner for taking the original draft and refining but worries that it doesn't address issues with vindictive tenants.

**Kay Wright** stated that she appreciates the fact that they are trying to clean up New Albany but she doesn't understand what the end goal of this is. She explained that she believed that the ordinances should apply to everyone and has concerns about how it will be enforced.

**David Brown** expressed concern over who would be making the inspections. He stated that he doesn't understand how bad a property is without statistical data, and asked about hotels and motels and if this would affect their properties as well.

**Shirley Baird** stated that this is something that has been close to her heart for many years. She explained that she has had a lot of calls from tenants that need help and need someone to speak up for them. She stated that she is so happy that the ordinance is back on the agenda tonight and those people that are taking care of their properties aren't going to be penalized for this.

**Sandy Haenisch** stated that some of her tenants have said they will move if people are going to walk through their houses and her group will sell their rental houses and move out of New Albany if this is done. She explained that there are already codes and laws on the books that deal with this issue and that should be good enough. She stated that they are not against giving anyone a list of contact information but that isn't what this ordinance is about.

**Noah Schaefer** spoke against G-15-05 and stated that as a rental property owner this makes him feel as though the city doesn't want people like him to come in and spend money on these properties. He stated that the other big problem is how the office will keep up with the additional work that this would burden them with.

**John Kettler** stated that he owns several rental properties here in town and every time he turns around the city is trying to pass something to make his job harder. He explained that he doesn't have a problem with a registration if it is a one-time thing but if this ordinance is passed it is only going to increase the vacant houses and lots in the city which causes further blight.

**Robert Thornton** stated that he understands the city wanting to get rid of blighted properties in but there might be some other ways that it could be done. He explained that there are already laws on the books and there seems to be many unanswered questions about the ordinance that they are considering tonight. He thanked the council for listening to all of their concerns.

**Kay Hartman** stated that she thinks there are a lot of questions about this ordinance that aren't answered and would urge them not to consider voting until they have more information. She explained that she has no problem with the registration aspect but if they are going to have these rules they should be universally applied.

**John Edrington** spoke in opposition to G-15-05. He expressed concerns over the three strike rule and stated that sometimes the cause and effect isn't as simple as being able to fix it in three times. He explained that there are major loopholes in the ordinance and he would like to see the city use tax breaks or other positive reinforcement

**Robert Fouts** spoke in opposition of G-15-05 and stated that he has a lot more questions than answers. He stated that he understand the need for something like this but doesn't think the council has the statistics to make decisions on this ordinance.

**Michelle Fosskule** spoke in opposition to G-15-05. She stated that renters pay higher property taxes because they don't get a homestead exemption and she has issues with the three strikes. She explained that tenants may have vindictive nature and no one is concerned about how this will affect the landlords.

**Gretchen White** Indiana Apartment Association stated that they have over 1100 units in the city and asked that they council would take into account their concerns with this ordinance before making any decisions. She stated that it seems to be more directed towards single family units and that raises a lot of concerns for them with the three strike rule. She asked that they consider adjusting it three violations per tenant or something along those lines. She stated that there is language in a couple of sections that requires that the units be up to standards with current codes and when properties are constructed they are done so using the standards at the time and doesn't require them to be brought up with every change in those codes. She explained that she didn't see any language under the penalty section to give landlords time to cure the issues and asked that they consider looking at that as well.

**Scott Rhodes** spoke against G-15-05 and stated that the ordinance is unreasonable and is against landlords. He stated that he doesn't own any rental property but there is a neighboring property that is in disrepair and is owned by a city employee. He stated that he has spent \$25,000.00 fixing up his home and if it were a rental properly would fail this ordinance.

**Greg Roberts** stated that they have slumlords and landlords but blighted rental property has been a problem in New Albany for a number of years and now it is time to do something about it. He explained that the registration program will give the city another tool, improve accountability of the landlords, and in turn attract better tenants.

**Allen Ruffra** stated that Portsmouth Ohio passed an ordinance a lot like G-15-05 only it was a lot less restrictive, and the court found against the city saying that it violated the 4th, 5th and 14th ammendment of the constitution. He explained that if they pass this he doesn't see how it is going to stand up in court if challenged or be enforced.

**Brian Haesley** spoke in opposition to the G-15-05. He stated that it seems like everyone would be on board with the registration aspect but the rest of it makes it feel like they are getting railroaded because they weren't allowed to discuss the issues or be part of the committee that was making these decisions.

**Renee Barrow** explained that her mom owns a house at 318 Cherry Street and with the flooding issues going on in the neighborhood she is concerned that her parents aren't dealing with clean water coming into their home. She stated that she appreciated Mr. Brewers help in drying up the basement but her mother is asthmatic and this has caused a major health concern for her. She stated that her parents are property owners and have been there since 1976 and she urged the council to look at the drainage in that area and work with them to get this under control.

#### **COMMUNICATIONS – COUNCIL:**

**Mr. Barksdale** spoke about Cherry Street flooding and stated that he knows a family that lost three vehicles during the last flooding. He expressed concern with the advent of rain predicted to come in this week.

**Mr. Thompson** stated that the city set a pump in the alley and he spoke with the state today. He explained that they are attempting to open a hole on the upstream side of the pipe so they could get a pipe in there and bypass it with a pump. He explained that the area that was excavated had huge boulders that started coming in and the slope started to give way on them so they couldn't get to the pipe safely. He stated that they put the rigging in to do the sheet piling to help get the other equipment back in there and they found some other areas of the pipe that was failing on the other side so they may have to replace the whole pipe. He explained that they contacted the state and asked them to start the process of having the pump put in so they can have it set up tomorrow.

**Mr. Barksdale** asked if it would be possible to try to get the pump on the opposite side of the West Street from the houses and pump the water into the ball fields and the parking lot.

**Mr. Coffey** stated that the whole area has serious problems but bringing it up isn't going to help the situation so he is asking this council to appropriate the money to address the flooding issue.

**Dr. Knable** stated that several of the new members have visited the Cherry Street area so there is an opportunity to address the issue with fresh voices. He explained that there are 6 more lights going up on Spring Street with Duke and he is working on the lights at the federal building and behind the post office. He stated that he is working with Mr. Nash and the mayor to get Smoking on the River downtown.

**Mr. Thompson** stated that he spoke to a supervisor there at the post office and a pole was damaged by a Rumpke truck and they working with them to try to get it fixed.

**Mr. Blair** stated that Christy Smallwood seems to meet the criteria for a facilitator the best and he would like to ask her to come to the next meeting and give them a short proposal. He asked Mr. Lorch if they have the money in professional services if they could do that without an ordinance.

**Mr. Lorch** stated that as long as they vote to appropriate it he thinks that would be okay but he thinks it is always a good idea to have a formal document.

**Dr. Knable** stated that the person that they chose is clearly the person most in tune with their needs.

**Mr. Coffey** suggested that they have a resolution set up for this so it won't be a stumbling block.

**Mr. Blair** stated that he mentioned before about the sewer financials and he was hoping to have Ed Wilkinson to come in and speak. He explained that Mr. Wilkinson wanted to make it more of a comprehensive discussion but he still has issues and questions that he wants to have addressed. He stated that the aquatic center will have their first full operational year this year and he had a conversations about financials with Mrs. Moeller about this and asked for budgets and reports and he would like to see more of an income statement for that. He explained that they compared it to the Clarksville facility and stated that they were kind enough to share that information with them so he would like to pass that on to the administration as a model for the kind of information that he would like to see.

**COMMUNICATIONS – MAYOR:**

**Michael Hall** stated that the mayor wanted to thank the committee for their work on the rental property ordinance and explained that Mayor Gahan is the 4<sup>th</sup> mayor that has asked for an legislation on this topic so this isn't something that was brought about at the last minute. He read press release into the minutes regarding the G-15-05, said press release is on file with the city clerk's office.

**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-15-05      Ordinance Adopting Chapter 160: Rental      Phipps 1&2  
                         Housing Code**

**Mr. Phipps introduced G-15-05 and moved to approve first and second readings, Mr. Caesar second, all voted in favor.**

**Mr. Caesar withdrew his second,**

**Mr. Phipps introduced G-15-05 as amended including 160.01-160.07 omitting 160.05 and moved for first and second readings, Mr. Nash second, all voted in favor.**

**Mr. Phipps** clarified that they aren't asking for tenant information and stated that he would be happy to work with Mr. Brewer to get him whatever staff he needs to make this work. He explained that they will be addressing concerns regarding erroneous reporting and while he understands the concerns about enforcement, they can't sit back and do nothing just because people think it will not be enforced. He stated that that the issue with the Portsmouth Ohio was that they were doing searches without a warrant but he will have the legal team look into that. He stated this is up for first and second reading tonight and they will get more information and try to answer all the questions brought up tonight before they vote on this for the final reading. He stated that all businesses have certain cost associated with them and this is one of the cost of doing business. He explained that the government provides order, builds roads, protects nation, ensures rights, so it is necessary in a modern and civil society.

**Mr. Aebersold** stated that it doesn't sound like the registration is an issues but he does understand the concerns with rental vs. private property. He explained that both are in bad shape and asked what the city doing to the properties that are private and aren't in compliance. He explained that the three strikes seems to be to be very difficult to enforce and he thinks they need help in looking at this and it sounds like the realtors and rental property owners are willing to assist them with this.

**Mr. Phipps** stated that there are owner occupied spaces that are in horrible shape but the difference is when you are renting a property you are a business and are subject to more stringent regulations. He stated that the registration component is critical but he thinks they need to have both in order for this to work effectively

**Dr. Knable** stated that he has read the existing building codes and would suggest that all those concerned make themselves familiar with it. He stated that they definitely need to

be brushed up but the bigger question is why are they not being enforced. He explained that he has heard a lot of great things about Mr. Brewer tonight so he has to believe he is doing the best job that he can and registration seems to be an immediate necessity. He stated that if they proceed with registry it needs to be user friendly as possible and enforceable no sooner than 9-10 months to give the city time to get prepared and notify the owners. He explained that he thinks there needs to be amendment that protects people against false reporting if it is allowable by the state and to alleviate the burdens of the owners with some sort of hardship clause. He recommended that they take this back to committee and separate the registration part out and then they can work on the ordinance part of it.

**Mr. Caesar** stated that his fairly certain that people will be able to register online and he would be willing to do more work on this if they feel like it is going in the right direction. He explained that they aren't trying to target anyone or make a lot of money but they are looking for those not abiding by the law and unfortunately it has to apply to all.

**Mr. Coffey** stated that they looked at building codes last year and found out the worst properties in the city were owned by the banks who will sit on them for five years. He explained that he thinks that the three strike rule is ridiculous when the city has been working on sewers for years so they are holding these landlords to a different standard. He stated that he thinks they should separate the two and then go forward from there.

**Mr. Blair** stated that Mrs. White had three real concerns and would like to see what she had to say incorporated in the inspection aspect of the ordinance. He explained that it is hard for him to support the inspection piece and stated that he would like to see them separated.

**Mr. Caesar** stated that they have all these ordinances and most of the time never have a penalty for failure to comply and now that they finally have an ordinance that stands for something and people don't want the penalties and he doesn't understand that at all.

**Dr. Knable** stated that he is for the penalty but he thinks that the ordinances need to be separated because it needs a lot of work.

**There was a lengthy discussion about separating the registration and inspection component of the proposed ordinance.**

**Z-16-02 Ordinance Amending the Code of Ordinances of Phipps 1&2  
New Albany, Indiana Title XV Chapter 156  
(Docket P-01-16 Thorntons, Inc., requests a PUDD  
at 2250 State Street)**

**Mr. Phipps introduced Z-16-02 and moved to approve first and second readings, Mr. Caesar second, all voted in favor with the exception of Mr. Coffey who was absent.**

**Mr. Wood** explained that they have acquired a residential property that they share a property line with and they would like to demolish the residence and build a new store.

**Joe Watson** American Engineers, presented a drawing of the location to the building and went over the changes that would be made to the property.

**Dr. Knable** asked for the years of the original property

**Joe Ballard** stated that the original PUD was granted in 1993

**Dr. Knable** asked if they have to move the tanks back

**Mr. Ballard** stated that they have to modernize them.

**Mr. Blair** asked about the cross connection to Wesley Commons and disclosed that he works for First Savings who owns Wesley Commons.

**Mr. Ballard** stated that they would love to have the cross access connection but it doesn't appear there is any realistic way to make that connection.

**Mr. Blair** stated that he would be happy to put him in touch with the bank to at least have another conversation about it.

**Mr. McLaughlin** asked about lighting.

**Mr. Wood** explained that one stipulation that they have is that the lighting not exceed the level of the equivalent of a full moon on a cloudless night and it can't cause any glare into a residential property.

**Mr. Barksdale** asked about the residents across the street and if they are on board

**Mr. Wood** stated that no one has spoken in opposition.

**INTRODUCTION OF RESOLUTIONS:**

**R-16-01            Resolution of the Common Council of the City            Caesar  
of New Albany, Indiana, Approving the Order of  
the New Albany Plan Commission and the  
Amendment by the New Albany Redevelopment  
Commission of the Declaratory Resolution for the  
Park East Industrial Park Economic Development Area**

**Mr. Caesar** introduced R-16-01 and moved to approve, Mr. Phipps second, all voted in favor.

**Mr. Caesar** explained that Park East was founded in 1994 and later Beach decided to expand the facility to double their employment. He stated that after everything was voted on in was decided that all properties must be in the tax abatement and Beach had purchased a property to the west of where they built the building so it has to be included in the Park East TIF because of the abatement.

**BOARD APPOINTMENTS:**

**COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):**

**ADJOURN:**

There being no further business before the board, the meeting adjourned at 10.09 p.m.

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Pat McLaughlin, President

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Mindy Milburn, Deputy City Clerk