

**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 THURSDAY, MAY 21, 2015 AT  
7:30 P.M.**

The meeting of the **New Albany City Council** was called to order by Mr. McLaughlin at 7:30 p.m.

**PRESENT:** Council Members, Mr. Coffey, Mr. Caesar, Mr. Phipps, Mrs. Benedetti, Mr. Blair, Mrs. Baird, Mr. Gonder, Mr. Zurschmiede, and President McLaughlin.

**OTHERS PRESENT:** Mr. Lorch, Mr. Michael Hall, Mr. Thompson, Mr. Gibson, Officer Ragland and Mrs. Glotzbach

**INVOCATION: To be given by ministers, if present, of different faiths**

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

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

**Mr. Coffey moved to approve the Regular Meeting Minutes for May 4, 2015, Mrs. Baird second, all voted in favor.**

**COMMUNICATIONS – PUBLIC:**

**Mr. Steve Volpert** thanked the council for supporting prayer and stated how important it is to the community and the Knights of Columbus. He said that he took it back to the council of the Knights of Columbus and they were very pleased. He also said that it is important that we maintain religious liberty in our country and especially in New Albany.

**COMMUNICATIONS – CITY OFFICIALS:**

**Mr. Gonder** stated that he was pleased to see that the street department building on 4<sup>th</sup> and Culbertson is getting a new roof and asked if there was a plan for the building.

**Mr. Thompson** replied that it is just time to replace it to keep it from getting any worse and said that they are going to do something with the windows as well.

**Mr. Gonder** stated that he noticed that Silver Street has been coated and asked if that is the first time that has ever been done.

**Mr. Thompson** replied yes and stated that it is something that the paving company wanted us to try. He said that it is a product they call Rejuvenate and is supposed to give four or five more years of life on the pavement. He explained that it seeps down into the asphalt and gives some flexibility so it doesn't crack.

**Mr. Gonder** stated that he saw some cracks that were sealed between Shrader Avenue and Charlestown Road and asked if this was done immediately before this.

**Mr. Thompson** stated that is the process and he was told that ideally it would be used on roads that are still in relatively good shape.

**Mrs. Benedetti** asked what the cost of that is.

**Mr. Thompson** stated that he doesn't know yet and that's why they just did one road so that they could compare it. He also said that they told him that it is much less expensive than milling and paving.

**Mrs. Benedetti** asked if there is just one company that does that.

**Mr. Thompson** replied no and stated that there are several. He said this is the version of it from the contractor that got the contract from the city.

**Mrs. Benedetti** asked if we ever use some type of rubber filling to fill cracks.

**Mr. Thompson** replied no and stated that we have been spending our money on milling and paving because the roads are in such bad shape.

**Mr. McLaughlin** asked if it takes the place where we used to take a spray gun and fill them.

**Mr. Thompson** stated that this is used in conjunction with that and you can see on Silver Street where it was crack sealed and overlaid it with this material to penetrate and rejuvenate the asphalt.

**Mr. Gonder** asked if it can be reapplied after it starts to wear away.

**Mr. Thompson** said that they didn't get into that and only said that if you have a road that was just done in the last three to four years then this would extend the life of it. He added that he guesses that you could once it starts drying up and graying out.

**Mr. Phipps** stated that yard sale signs are being posted to city owned trees all over the midtown area. He said that it is one thing to post them on telephone poles but when you start stapling trees and breaking the bark, you open up the possibility of disease and problems with the trees. He had an actual sign that he retrieved from a tree and it had the address of 1618 Main Street and said that we need to do something about this. He then asked if the police department or code enforcement should enforce this.

**Mr. Coffey** stated that there has been discussion of hiring a new code enforcement officer and this would be a good thing for them to do. He also said that he believes that we need to up the fines.

**Mr. McLaughlin** stated that this past October we updated that ordinance and it is \$25.00 for the first offense, \$50.00 for the second offense and \$100.00 for the third offense.

**Mr. Coffey** stated that he doesn't think that \$25.00 is enough.

**Mr. Zurschmiede** asked if this is being enforced.

**Mrs. Baird** stated that she doesn't think it is high priority in code enforcement because they are so busy with dilapidated homes and trying to make people fix them. She added that if they had more people in code enforcement that would help and it is something that the council should consider in the budget.

**Mr. Coffey** stated that if nothing else, they should get help for the spring and summer.

**Mrs. Benedetti** asked if the street department did a sweep of signs.

**Mr. Thompson** stated that they have already done one this year.

**Mr. Phipps** asked if council members as city officials have the power to take them down if they see them in their districts.

**Mr. McLaughlin** stated that it depends on if they are in easements, on telephone poles, on trees, etc. then he thinks that you can.

**Mr. Coffey** stated that we can but he still thinks they need to be fined. He also said that the money from grass cutting fines and sign fines could fund someone.

**COMMUNICATIONS – MAYOR:**

**Mr. Michael Hall** stated that Mayor Gahan wanted him to talk about the Boomtown Ball and Festival coming up on Sunday. He said that this is the second year and they are partnering with Houndmouth and WFPK and will have some amazing artists there. He also said that it begins at 1:00 p.m. and there about 100 booths signed up along with 10-12 food vendors. He encouraged everyone to come.

**Mrs. Benedetti** asked if a lot of the downtown merchants are involved.

**Mr. Hall** stated that each downtown business is being offered a free spot and if they want it they just have to sign up on the page. He also stated that they have received a lot of response on that.

**APPROVAL OF CF-1 FORMS:**

**INTRODUCTION OF ORDINANCES AND RESOLUTIONS:**

**READING**

<b>G-15-02</b>	<b>Ordinance Amending the Order of Business for the City of New Albany Common Council</b>	<b>Caesar 1&amp;2</b>
----------------	---	-----------------------

**Mr. Caesar** introduced G-15-02 and moved to approve first and second readings as amended, **Mr. Coffey** second, all voted in favor with the exception of **Mr. Phipps** who voted no.

**Mr. Gonder** moved to approve the amendment that each member has the responsibility for the opening remarks of meetings on a rotational basis and their remarks can be a prayer or any opening remark of an inspirational or centering nature, **Mr. Phipps** second, **Mr. Coffey**, **Mrs. Benedetti**, **Mr. Blair**, **Mrs. Baird** and **Mr. Zurschmiede** voted no, **Mr. Caesar**, **Mr. Phipps**, **Mr. Gonder** and **Mr. McLaughlin** voted yes. Amendment did not pass.

**Mr. Caesar** moved to approve the amendment to strike the third WHEREAS and to strike the letter L. Miscellaneous Items, **Mrs. Baird** second, all voted in favor. Amendment passed.

**Mr. Phipps** moved to approve the amendment to replace letter B. with a moment of silent reflection, **Mrs. Benedetti** second, **Mr. Coffey**, **Mrs. Benedetti**, **Mr. Blair**, **Mr. Gonder** and **Mr. Zurschmiede** voted no and **Mr. Caesar**, **Mr. Phipps**, **Mrs. Baird** and **Mr. McLaughlin** voted yes. Amendment did not pass.

**Mr. Caesar** stated that essentially this is what we normally do every meeting and they went back to the 1957 ordinance and picked out things that need to be changed. He also stated that he does have an amendment that he is going to suggest right off the bat.

**Mrs. Benedetti** stated that she thought there was going to be a list of ministers for the invocation and someone was going to call them and asked if we want to amend that.

**Mr. Caesar** stated that any part of this can be amended.

**Mr. Gonder** stated that he has an amendment to item B that he wanted to bring up where opening remarks would be given by the council members on a rotational basis. He said that everyone received an email from him that included the amendment. He then read the email into the meeting minutes which is on file in the city clerk's office. He said that he thinks we open a can of worms if we formulate a list. He said that the remarks are for the council and should be offered by this council. He said that those members that want to pray can do so and those who do not want to can make remarks of a civic or historic nature.

**Mr. Phipps** stated he is not in favor of prayer in meetings but he is going to speak for the people who want to prayer. If the council member does not want to pray and decides to recite a historical remark then that doesn't allow those people who want prayer to pray so that's why he thinks a moment of silence is best.

**Mr. Gonder** stated that this is not the place for prayer it is a governmental building and you may hear a prayer but you may not.

**Mr. Coffey** stated that prayer is written in our constitution and is not just federal but also state. He said that the Supreme Court ruling says that it is a part of the fabric of this county and he feels that the rules committee came up with a good compromise. He is asking for not only the God given right but the law of the land.

**Mr. Gonder** stated that in the letter he said that problems could arise such as a particular minister is not selected. He also said that absurd but legally recognized religions will want to be heard simply to prove the point of their opposition to the notion of the mix of government and prayer.

**Mr. Coffey** asked Mr. Gonder if he read the Supreme Court ruling because they addressed that.

**Mr. Gonder** stated that he did not read it.

**Mr. Coffey** asked how he could make an assumption without reading the ruling.

**Mr. Gonder** stated that he knows how people react if they get their nose out of joint and want to prove a point. He also said that if the Pastafarian Church wanted to say a prayer, we would have to recognize them just like the state of Ohio had to recognize them.

**Mr. Coffey** stated that the Federal Court has ruled since the state of Ohio ruling.

**Mr. Gonder** asked when that ruling was.

**Mr. Coffey** stated that it was approximately September, 2014.

**Mr. Gonder** asked if he thought that was the only test there will be.

**Mr. Coffey** stated that it doesn't matter and if there is test after test then we will let the Supreme Court decide.

**Mr. Gonder** stated that he has no problem with a council member that is a Christian to offer a prayer or a Jewish council member offer to offer a prayer, etc. He said that it should be limited to the council members and we should take responsibility for our own city council. He then asked how a list would be compiled.

**Mr. Coffey** said that every faith-based church in the city should get a letter inviting them to come in and pray and then you put them on a rotational basis. He said that you do not have to go outside the city.

**Mr. Phipps** stated that he is Episcopalian and wants to know if he can bring incense the night he does prayer because that it is part of his religious tradition.

**Mrs. Benedetti** stated that we don't need to be argumentative about this whatsoever. She said that we just need to come to a conclusion on how we feel and she feels that all nine can come to a consensus. She then asked if three ministers show up on one night then how will it be decided who does the invocation.

**Mr. Zurschmiede** stated that what has happened in the past is that the president would select one if there were more than one ministers present and then he would select the other one at the next meeting so he would keep track of who would give the invocation. He added that it worked well.

**Mrs. Benedetti** asked what he thought about a list.

**Mr. Zurschmiede** stated that he agrees with Mr. Gonder in that is inviting trouble.

**Mr. Gonder** asked why that is any different than what he is saying because it says that every member can pray.

**Mr. Phipps** stated that no one ever answered his question about incense.

**Mr. Coffey** replied that he wouldn't have a problem with it.

**Mr. Gonder** stated that the fire marshal would probably have a problem with it. He added that is the absurd length to which things get drawn out.

**Mr. Phipps** asked who defines absurd because then you start censoring religion.

**Mrs. Benedetti** stated that you also have a choice to have a moment of reflection that evening.

**Mr. Phipps** stated that is what we have been doing for the last three years and it has worked well.

**Mr. Zurschmiede** stated that he thinks the council is making a mountain out of a molehill.

**Mr. Gonder** stated that he thinks so too but he thinks there are people that would love to make an even taller mountain out of this little molehill. He stated that the council was accused of racism at the last meeting because of this prayer issue and asked when racism was ever brought up.

**Mr. Coffey** stated that he would like to say what Mr. Zurschmiede said about having no problems in the past with the way that it was done.

**Mr. Gonder** stated that he is not trying to preclude prayer and that he is just trying to make it amicable.

**G-15-03 Ordinance Amending the Starting Time for  
Regular Meetings of the City of New Albany  
Common Council**

**Caesar 1&2**

**Mr. Caesar introduced G-15-03 and moved to approve first and second readings, Mr. Coffey second, all voted in favor with the exception of Mr. Phipps who abstained and Mr. Gonder and Mr. McLaughlin who voted no.**

**Mr. Caesar** explained that there has been discussion about moving the meeting time to 7:00 p.m. and he just wanted to get other member's input. He said that the 7:00 p.m. time would still allow time for work sessions, etc.

**Mr. McLaughlin** stated that it may be a little hard to get here at 6:00 p.m. if there are work sessions or budget hearings because he, Mr. Phipps or Mr. Gonder may get caught across the river. He said that with the bridge situation, you just never know how long it will take.

**Mr. Caesar** stated that 7:30 p.m. has worked but he just wanted to bring it formally to be looked at.

**Mr. Blair** asked if there is anyone that could not make 7:00 p.m.

**Mr. Coffey** stated that he thinks in the winter time 7:00 p.m. is actually better.

**G-15-01 Ordinance Amending Chapter 30.01 of the  
Code for the City of New Albany**

**Benedetti 3**

**Mrs. Benedetti introduced G-15-01 moved to approve the third reading, Mrs. Baird second, all voted in favor. Bill G-15-01 became Ordinance G-15-03.**

**Mrs. Benedetti** stated that this is to put an ordinance in place to get financials from the controller in a timely manner. She said that it is set up to get monthly bank reconciliations, budget to actuals and different reporting from the controller's office at the second meeting of each month.

**Mr. Coffey** asked if this was going to give them enough time to gather the information.

**Mrs. Benedetti** stated that is why she did it at the end of the month because they will get the month prior and she will have that all done.

**Z-15-02 Ordinance Amending the Code of Ordinances  
of New Albany, Indiana Title XV, Chapter 156  
(Docket A-01-15: Lynn Enterprises – zone change  
4515 Lora Linda Blvd.)**

**Baird 1&2**

**Mrs. Baird moved to amend the agenda to bring back Z-15-02, Mr. Coffey second, Mr. Coffey withdrew his second, Mr. Gonder second, all voted in favor.**

**Mrs. Baird introduced Z-15-02 and moved to approve the first and second readings, Mr. Gonder second, all voted in favor with the exception of Mr. Caesar and Mr. Blair who voted no.**

**Mr. Blair** stated that if there was any opposition to this then they would not know that it was being brought back to be voted on tonight.

**Mr. Wood** stated that the plan commission held public hearings that were in the newspaper, signs were posted on the property and letters were sent to adjoining properties and there was no opposition to it.

**Mr. Coffey** asked where the development is.

**Mr. Wood** showed him on the drawing and stated that it is not prime industrial property.

**Mr. Coffey** asked what precipitated this change.

**Mr. Robert Lynn** stated that he was the developer of Forest Ridge and when he bought the property it was a 14 acre tract and that a large Japanese company was going to put their national headquarters there but that never happened. He explained that the property is not conducive to any development for any kind of normal industrial use because it falls from one side down to the creek. He advised his son and son-in-law to buy the property so they bought the 14 acres and put 10 acres of it on the market and a veneer company bought that and his son and son-in-law kept the 4 acres. He said that they eventually had to give the property up to the lender which was New Washington State Bank. He explained that the bank contacted him to see if he had any interest in it and said they would finance for him if he would take the obligation on and he agreed to it because he wanted to make sure that the property stayed in that condition. He doesn't want to use the property for residential and you couldn't anyway because there is not a 50 ft. area that you could get into it with a roadway. He said that he thought that he if he took it on and kept it from being developed that would solve the problem.

**Mr. Coffey** asked if he foresees at any time it being developed.

**Mr. Lynn** stated that the only thing he could possibly foresee in time is if one of his grandchildren or he would want less footage to maintain, he may come to plan commission to acquire an easement to build a nice little cape cod home. He said he has no intentions of bringing it in for anything else and couldn't because of how it is locked in with such a small right-of-way.

**Mr. Wood** stated that it is in the far southeast corner of the Grant Line Industrial Park and developers don't like it because it is adjacent to residential. He also said that in the zoning ordinance that is going to be updated soon, he wants to increase the 60 ft. buffer where it abuts residential because 60 ft. is just too small. He explained that this 4 acres is disconnected from the industrial park and is adjacent to single family residential. He said that it does have some slope issues and there is a creek on it so you would have to be in touch with DNR and IDEM on it to either get permission to relocate the creek or to cover it. He added that it is really just not attractive as industrial property because we have better and higher class industrial property in the community. He also added that he sees this as more of a benefit to the folks that live on Danny Drive than to anyone else.

**Mr. Blair** asked what the differential is in the tax rate.

**Mr. Wood** stated that he doesn't know that but it is a 2% tax rate right now.

**Mr. Blair** asked how much it cost the city when the industrial park was developed to put the roads and infrastructure in.

**Mr. Wood** stated that he can't give an exact percentage but said it could be somewhere around 4 cents per dollar.

**Mr. Lynn** stated that he doesn't think they probably divided it out by acreage but by frontage and this tract has no frontage at all besides the back side of the last piece on the cul-de-sac.

**Mr. Blair** stated that the city spent money to build the industrial park and we don't have enough industrial park the way it is. He said that Mr. Lynn will have ownership and control over it and asked why we should re-zone something that is already zoned industrial and cost us money to put it in.

**Mr. Lynn** stated so the same thing doesn't happen to him that happened to his son and son-in-law and it end up back in the bank's ownership.

**Mr. Gonder** asked if there is an agricultural zoning that he could have requested.

**Mr. Lynn** stated that he didn't ask for the lowest zoning.

**Mrs. Benedetti** asked what the vote was at the plan commission.

**Mrs. Baird** stated that it was unanimous.

**Mr. Coffey** asked what assurances the city have that if we lower it to R-1 that it still won't end up in the bank's ownership if something happens.

**Mr. Lynn** replied that he has collateral with his property that he could sell and pay it off.

**BOARD APPOINTMENTS:**

**MISCELLANEOUS ITEMS:**

**COMMUNICATIONS – PUBLIC (non-agenda items):**

**IN COMMITTEE:**

**TABLED ORDINANCES:**

<b>R-15-09</b>	<b>Resolution of the Common Council to Establish a Custom for the Opening of Council Meetings</b>	<b>Gonder</b>
<b>G-14-01</b>	<b>Ordinance Adopting the International Property Maintenance Code Standards for the City of New Albany</b>	<b>Zurschmiede 1&amp;2</b>
<b>Z-15-01</b>	<b>An Ordinance for the Vacation of a Public Way Pursuant to a Petition Filed by New Albany-Floyd County Consolidated School Corporation</b>	<b>Baird 1&amp;2</b>

**ADJOURN:**

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

---

Pat McLaughlin, President

---

Vicki Glotzbach, City Clerk