

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, JULY 20, 2017 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: Ms. Stein, Mrs. Moeller, Police Officer Korte, Mr. Hall, Mr. Thompson, Mr. Gibson and Mrs. Glotzbach

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

MOMENT OF REFLECTION

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Phipps moved to approve the Regular Meeting Minutes for June 15, 2017, Mr. Barksdale second, all voted in favor with the exception of Mr. Blair and Dr. Knable who abstained.

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

COMMUNICATIONS – COUNCIL:

Mr. Blair stated that he found out that the ordinance for billboards and signs on tonight's agenda is a change in zoning code so it has to be presented through the plan commission first. He said that they will make their recommendation and then bring it before the council for vote. He explained that he would like to have a discussion and make sure that the document reads the way the council wants it to read and make changes if need be but in order to do that, the council has to remove it as an ordinance and make it a resolution.

Mr. Blair moved to change Ordinance G-17-07 to Resolution R-17-09 and move it to the Introduction of Resolutions portion of the meeting, Mr. Phipps second, all voted in favor.

Mr. Barksdale stated that the council needed to recognize Council Attorney Amy Stein for being named one of the 20 Under 40 Most Influential Young Businesspeople in southern Indiana.

Mrs. Stein thanked the council.

Mr. Phipps stated that there was a request to the board of works on Tuesday by the University of Michigan Research Center to do some follow up research by knocking on the doors of pre-selected people to ask them if they would agree to participate in an interview. He said that they were denied on the grounds that we have never done that before in New Albany and he feels that is an unacceptable justification. He said that some other rationales were raised such as people may feel uncomfortable or may feel it is a scam and that may be true, but he feels research is critical to our understanding of all sorts of things both in the physical world and in the social world. He said this instance was social research and being a social scientist, he feels very strongly about this. He

explained that when research is conducted by a university, it has to go through an IRB which is Institutional Review Board and they are heavily scrutinized to make sure that whatever they are doing that research study for will not harm people psychologically, physically or socially. He added that it is actually a long process to get that approved so it is not like someone can just go out and put together a survey and just start going door to door with it. He said another concern that was raised was that the board wanted to know what the study was going to be about and the researcher pointed out that they could not reveal that because that would violate the privacy of the participants in the survey. He gave the example of someone seeing a surveyor at someone's house then they would know that person was participating and another part of the IRB process it that anyone that is going to participate in research has to give their conformed consent. He explained that they you have to tell them enough about the research in order for them to make a decision as to whether or no they want to participate, however, you do not have to reveal every hypotheses that you are testing. He said that could skew the data that is presented so he can see the reluctance of telling the board what the study is about but maybe as a compromise position they could say the general topic of the study to alleviate some of the fears that board has about people being put off by the survey. He stated that Mr. Randy Smith sent a copy of our ordinance and specified that it doesn't cover research but he looked over it closely and it does say "or seeking information" so that might be construed as research.

Mr. Randy Smith addressed that and said "engaged in the business of".

Mr. Phipps then said that it is not-for-profit so in that case, information for purposes of research wouldn't be the same as soliciting for marketing research.

Mr. Randy Smith stated that he has a great deal of information to present at the Non-Agenda Public Comments portion of the meeting.

Mr. Phipps said he is a supporter of research and feels this sort of thing should be permitted. He then gave the example that the Census Bureau wouldn't have to go to the board of works to get permission if they were doing a follow up on someone's census form and he is guessing that if it was an Indiana state university, they wouldn't have to get permission from the city to conduct research funded by IU or Purdue, etc. He added that the fact that this is out of state may make it a little more legally gray but is something that we need to look at and make the ordinance firmer like saying it exempts research or adding that it includes research because it is somewhat vague. He also stated that he plans to make an appearance at the board of works next Tuesday to convey the same thing at that meeting.

Mr. Blair asked if the way research is collected is typically door to door.

Mr. Phipps stated there are many different ways to collect data and he is not sure if this particular study does interviews, questionnaires ahead of time or follow up questionnaires but he would trust the University of Michigan Research Center.

Dr. Knable stated that the IRBs that he deals with usually take at least one year to crawl through the process and he would encourage the board of works to reconsider their decision on this and stated that they did not have enough time to get all information and verify credentials.

Mr. Coffey stated that his problem is that we are entrusted to protect people and if the requester doesn't want to tell what the study is about then he questions what they are trying to hide. He added that if you know what the study is about then a decision can be made.

Mr. Phipps stated that he thinks they could tell the general topic but wouldn't necessarily have to reveal the hypotheses that is being testing.

Mr. Coffey stated that he didn't think the board of works even got the general topic.

Mr. Randy Smith stated that just suppose the survey was about AIDS then participants wouldn't want the neighbors knowing that there is an AIDS survey going on and they came to their house. He added that at the end of the meeting he will inform the council of what the study is about.

Mr. Coffey asked if it is about AIDS and if it is not, he shouldn't use that as an example because AIDS is a health issue.

Mr. Aebersold asked if there is an application form that is filled out before the requestor appears before the board of works.

Mrs. Glotzbach replied no and stated that they apply by appearing before the board of works.

Mr. Phipps stated that he thinks there should be an application where the board lists the information they want so there is some guidance on it.

Mr. Blair stated that the board of works doesn't always get the opportunity to pre-read information on each request because the requestor usually just does a presentation that day. He added that he can see how it would be hard for them to render a decision that quickly without doing some research or having more information and the safe thing to do would be say no.

Mr. Phipps stated that they were targeting metropolitan areas across the country and one was Louisville Metro and obviously New Albany, Clarksville and Jeffersonville are included. He feels that we want to be included so that people's opinions in New Albany are registered in the study rather than excluded.

Mr. Coffey stated that he doesn't have a problem with that but if you have to tell people what it is about behind closed doors then what are they hiding.

Mr. Phipps stated that in some cases there is research that is self-reporting studies where people may indicate things like if they have smoked marijuana, committed crimes or engaged in sexual deviant behavior and you want to protect those people's privacy to get honest responses in terms of a survey like that. He said that if you are just asking them their opinions on things like a presidential candidate, abortion or gun control, that's not as controversial so people can be public but when you are talking about private sensitive behaviors, you have to ensure the anonymity of the respondents.

Mr. Coffey stated that is when he would do it by phone but in government we should be open and if we have people coming in and wanting to discuss things behind closed doors

then we are not open to the people we represent. He added that he would feel that way about any public polling that someone wanted.

Mr. Phipps stated that at the same time, we don't place any restrictions because of 1st Amendment reasons for people doing political campaigns or people going door to door with religious information. He said he feels that research done by a bona fide university should fall in the same category as us campaigning or religions distributing information.

Mr. Coffey stated that is information that we are giving but this is information that the representative is taking.

Mr. Phipps stated that people have a right not to participate but they generally get a 60-70% response rate on their follow up visits. He added that professionally he feels strongly about this and wanted to express that here in a public forum because it is going to be brought up later in the meeting.

Mr. Nash stated that he passed out letters to everyone regarding Customer Appreciation Day and Grand Opening for Karem's Meats which will be on Saturday, July 29th at 11:00 a.m. He said they will have burgers and hotdogs to grill out as well as some raffles and giveaways. He stated that at 9:30 a.m. on Friday, July 28th, they will have a ribbon cutting and public officials are invited and welcome. He added that Develop New Albany will be part of that as well.

Mr. Aebersold stated that someone sent him messages on the angled parking downtown on Market Street and asked if that is going to be changed to parallel parking.

Mr. Phipps stated that it is going to be angled where it is existing but they will reverse it on the north side of Market Street.

Mr. Aebersold stated that he understands that they would have to do that but the person that messaged him said that they got word or saw messages or signs that it was going to be parallel parking.

Mr. McLaughlin stated that Mr. Thompson could address that under the City Officials portion of the meeting.

COMMUNICATIONS – MAYOR:

Mr. Hall stated that Mayor Gahan wanted to invite everyone down to the riverfront this weekend for New Albany Riverstage Productions performance of "Footloose" and "School of Rock". He said admission is \$10.00 for adults and \$5.00 for seniors and children.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

Mrs. Moeller presented the council with the financial reports for June 2017 and asked that they be read into the minutes.

Mr. Thompson stated that the angled parking is not going to be taken away but the angle will have to be changed to follow the direction of traffic.

Mr. Coffey stated that if you are heading west on Main Street and need to turn off for downtown parking or the YMCA, you may have to sit through two or three lights before you can turn and it is backing traffic up. He asked if that was going to be changed to make a turning lane.

Mr. Thompson stated that he is not aware of any changes that are being made on Main Street but if there is an issue there, it can be looked at.

Mr. Coffey stated that the ones that want to turn off of Main Street onto State Street or into the YMCA are just sitting and traffic gets backed up.

Mr. Thompson stated that signal is on Main Street and it is state highway so the state owns it and would have to weigh in on it and we couldn't just go in and make changes.

Mr. Coffey stated that a turning lane needs to be put in there.

Mr. Thompson stated that we do have a traffic engineer that can look at those things.

Mr. Phipps stated that he thinks the intersection at State Street and Oak Street should be considered too because it is not one that is going to be replaced so you will have all of these new signals that are going to communicate with one another until you get to Oak Street and it could back up traffic. He also said that there needs to be a safer crosswalk at that intersection for the people that have to cross there from the high-rise. He then asked how much it generally costs to upgrade an intersection.

Mr. Thompson stated that a signalized intersection is usually \$100,000.00-\$150,000.00. He added that it may be a little more if you add the audible crosswalks and other amenities.

Mr. Phipps stated that if there is no money that can be found for that, he would be open to sponsoring an appropriation from the council given that it is not that expensive.

Mr. Caesar asked if all of the parking areas around St. Marks Church have been resolved.

Mr. Thompson stated that he has worked with them and St. Mary's. He said they looked at the TARC bus stops that had initially been installed and worked with TARC to adjust the length of those so that freed up some parking spaces. He added that no one has come right out and said that everything is okay now but he is in communication with both churches.

Mr. Barksdale stated that redevelopment is taking care of all of the synchronization of all of the lights from the YMCA all the way out to I-265.

Mr. Caesar stated that is correct and that it is in the contract.

Mr. Phipps said he thought that was scaled back to Green Valley Road.

Mr. Thompson stated that when the bids went out, only one bidder bid on the job and since it is a federal aid project, that is not allowed and you have to have more bidders. He said that adjustments had to be made so it was scaled back and some signals were taken out so that the project would get enough bidders to do it. He added that if it would

have been bid again and we had one bidder again, the state wouldn't let us do it and by that time we would have lost the federal aid money.

Mr. Barksdale stated that there will be several signals in that project though.

Mr. Thompson replied yes.

Mr. Phipps stated that it won't be Oak Street, Cherry Street or Cottom Avenue.

Dr. Knable stated that he thinks that everything seems to be going smoother than anticipated thus far and a lot of that comes from Mr. Thompson and his group anticipating that so he wanted to compliment them. He said that there is one pinch point he feels needs to be addressed before someone gets hurt and that is if you are traveling from Vincennes Street on Spring Street going west, there is a sharp curve around 10th Street and natural inclination is to go right into the bike lane. He said that he doesn't believe that the curve can be taken out of the road but maybe plastic pylons could be installed to protect the bikers through there because he feels there is real potential at that curve for someone to get injured.

Mr. Thompson stated that every time he goes through there he watches in his mirror to see what the car behind him does.

Dr. Knable said he does too and feels that needs to be proactively addressed. He then stated that as a council, he thinks that they are going to have to get proactive with parking by doing a survey on parking places which will probably have to be a 2018 project but he is getting a lot of feedback from citizens.

Mr. Thompson stated that we are looking at the curve on 10th Street and know that something has to be done.

Mr. Barksdale asked to get a copy of the paving schedule and what is coming our way.

Mr. Thompson stated he doesn't have that yet because as of now there is not a set schedule but reminded the council that if they have areas of concern to submit them to him, Joe Ham or Larry Summers.

Mr. McLaughlin stated that Allen Drive off Schell Lane was slated last year and there were signs in their yards and everyone was so excited to get paving for the first time in 50 years and it didn't happen. He said that now the culvert is giving way and only one car can get out so he asked if a street gets bumped off one year, does it go to the top of the list for next year and was told no, not necessarily. He said that doesn't make people very happy.

Mr. Thompson stated that the paving that we were doing before was based on the 2008 study and the city felt that was dated so there was another study done and the streets were re-rated. He explained that essentially when we did the first study and started the paving, we did all of the major arterials, minor arterials, collectors and all of the things that the majority of the city used and then work our way to local streets and alleys. He said that since we are operating off of the new study, we are kind of back to looking at major arterials right now but if you have places that are an issue, we will try to get to them.

Mr. McLaughlin stated that the culvert situation would be storm water and he will work through them.

Mr. Blair stated that he is concerned that we will run out of funds for paving and right now we have a lot of momentum and doing a lot of good projects so he doesn't want to run out of funds. He mentioned looking at our budget to the mayor as far as how much money we have available versus what we are already committed to do and possibly doing an appropriation through the council so that we can continue on. He will get with Mr. Gibson and look at how much money is in the budget now, what we have committed to and how much more money we may need to continue to do what we are doing.

Mr. Thompson stated that we are early enough in the season to still add work.

Mr. Coffey stated that the sidewalk traffic flow for handicapped people or people that have to use walkers or canes is deplorable. He said there are restaurants that are taking up almost all of the sidewalk and he is looking to the council to say that we need to do something about this but we haven't yet.

Mr. McLaughlin asked what the allowable distance from the curb is for the restaurants that have sidewalk cafés or something.

Mr. Thompson stated that the current standard is 36" but the board of works generally tells people 42" because that is what Mr. Wood told him that the standard is going to be when the change is made. He added that anytime the board of works approves outdoor seating, it has to be ADA compliant.

Mr. Coffey stated that a lot of businesses are not complying.

Mr. Thompson stated that maybe we need to go around and check on them because it could be that they are moving them out after they get permission. He added that he can make the board aware that all of the businesses need to be checked on to make sure they are in compliance and if they aren't, we can tell them to comply or remove their outdoor seating.

Dr. Knable told Mr. Coffey that he should call code enforcement when he walks by one of those. He said he calls code enforcement all the time when he sees issues.

Mr. Coffey said that other council members should call on this issue as well.

Mr. Phipps stated that in cases like this, you could measure out how far they can be and make some kind of mark on the sidewalk and that way it could be easily discerned.

Mr. Coffey said that is a good idea.

Dr. Knable stated that he just received a text regarding some gas and sewage lines on Chartres Street that were damaged today by a city contractor and asked if they knew anything about it.

Mr. Thompson explained that the contractor didn't know that the gas line was at the location. He stated that the fire department and gas company responded at 3:30 p.m. and restored service to the homes.

Dr. Knable asked if evacuations were done.

Mr. Thompson replied no.

Dr. Knable asked if a sewer line was hit.

Mr. Thompson stated that a sewer line was hit the day before when the water company was excavating but they repaired it the same day.

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

Mr. Barksdale stated that he wanted to bring the council up-to-speed on the tree board and the Indiana Department of Natural Resources grant that was received in the amount of \$20,000.00 which the city will have to match. He explained that it was received for a comprehensive tree inventory for all city trees in public rights-of-way. He said they did hire Arbor Pro and they actually started the field work at the beginning of the month and will be finished in about a month to a month and a half. He said they will supply us with the inventory; mapping all of the streets and showing where all of the trees are and then they will give an overview of our current tree population and give recommendations on what the city could or should be doing with that. He also said that when the work is finished, the staff from the tree board will come to the council and present the maps, etc. to give a comprehensive overview of what took place. He stated that since the council was so supportive in that initiative, he just wanted to bring that information forth.

Mr. Blair asked if they will have recommendations when they come to address the board.

Mr. Barksdale replied yes.

Mr. Coffey stated that a solution to save 1/3 of the Ash trees has come out and asked about the Ash trees here and if that is something that we can do.

Mr. Barksdale stated that he understands that once a tree has that borer, it's just a matter of time. He added that is a good question for our Arborist Greg Mills and said that he could take that to him to see what he says.

Mr. Coffey stated that it is a safety issue because you can't just cut those trees down because they will break on you.

Mr. McLaughlin stated that when you have an infestation like that, it takes a long time for that to happen but the species will possibly die out if a way is not found to eradicate it.

Mr. Coffey said that the Emerald Ash Borer is adapting and starting to attack Pine trees in the area so it is not going to just go away.

Mr. Barksdale stated that he will bring that up to Greg Mills.

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

**G-17-05 Ordinance Amending Title 5, Chapter 50,
Section 4 of the New Albany Code of
Ordinances as Amended**

**Knable/Nash/
Barksdale 1&2**

Dr. Knable introduced G-17-05 and moved to approve the first and second readings as amended, Mr. Barksdale second, all voted in favor.

Mr. Barksdale moved to approve the amendments proposed, Mr. Caesar second, all voted in favor.

Dr. Knable stated that this ordinance has gone back to committee and has had input from everyone at the council table as well as several people in the room, the chief of police and the mayor's office. He said that everyone who runs for office says that they want to make the city cleaner so this will just put another tool in the box of law enforcement and code enforcement to make it a point of emphasis for a cleaner, safer city. He also said that he spoke with Police Chief Bailey today and he wanted to emphasize that a cleaner city translates to a safer city and vice versa. He explained that changes were handed out to the ordinance and focused on 50.04 (A) which he read aloud. He said Ms. Stein found out in research that we need to strike the phrase "or upon any private property, whether owned by the person or not within the city" because that is superseded by state law and/or our existing building compliance. He stated that in a moment he is going to ask for an amendment to strike that phrase from that. He then moved on to Section D and pointed out the last word "offal" and wondered if we really need that but said he got a call two weeks ago from someone on the east end of town whose neighbors were slaughtering goats in the back yard which will produce offal which is the innards of animals that have been slaughtered and have to be disposed of. He said that because of that, he asked Ms. Stein to research as to whether or not we have existing ordinances that address the slaughtering of animals within the city limits. He said that he knows we have livestock laws but doesn't know if we have ever had slaughtering laws come up.

Mr. Caesar stated that just last year there was a deer on the side of Spring Street Hill that he got taken care of real quickly.

Dr. Knable asked if it was cleaned and thrown out there or a result from an accident.

Mr. Caesar stated that he wasn't sure but his interest was in cleaning it up and getting it out of there.

Mr. Nash stated that he found different parts of one on the side of the road at Carton Craft along Fairmont School.

Dr. Knable stated that it is an issue in particular when it ends up on public property which is what will be addressed with this ordinance. He said that private property is addressed through the building ordinances. He said that in the ordinance they left the definition relatively intact but they really wanted to create a deterrent with the penalties so you will see that there is a hefty hike from the original \$25.00 fine to the \$100.00 range and also broke it down by volume because there is a difference between someone throwing out a Big Gulp cup and someone throwing out a bag of trash or someone dumping an appliance in an alley. He also said that he knows that they are going to catch less than 20 people a year going through trash in one neighborhood and taking it downtown to dump in an alley but if you get caught and just get slapped on the wrist with a \$25.00-\$50.00 fine, it is not a deterrent; however, if you get caught red handed and get

slapped with a \$500.00-\$1,000.00 penalty, you are going to think twice about it. He then explained that they doubled the fine for certain categories including when the refuse involves drugs/drug paraphernalia, pornographic material, toxins recognized by USDA and/or EPA and if the refuse is in close proximity to any stream or body of water. He added that they are going to be amending the proximity to 25 ft. which will be up for discussion tonight. He also had a positive discussion with Mr. Gibson who is speaking for the mayor's office and on his own behalf and said he is really wanting to bolster the cleanliness issue by putting new trash containers throughout downtown and also educational materials in the monthly utility bills. He said he spoke with the mayor and he was very positive about it and hoped that it would pass but also wanted to address in the near future the pile ups that happen when trash is waiting to be picked up. He asked if we need to regulate how far in advance large items can be placed out at the curb and if it is at the curb, should it be in a proper container. He explained that ECOTECH has had problems because in their contract people are supposed to be bundling sticks, etc. in bundles 3 ft. or less but that doesn't always get done. He said that they try to help where they can but it slows them down and increases manpower so it will ultimately result in a higher contract price for us when they come back for negotiations so the mayor would like for us to help them help us by setting guidelines in being a little more orderly with how things are to be set out to be taken away. He also said that Mr. Barksdale and Mr. Nash were a large part of this and asked if they wanted to add anything.

Mr. Barksdale stated that they tried to cover everything that was brought before them here.

Mr. McLaughlin stated that some advertisements wrapped in the little bags used to be required to be put in paper boxes or yards and they just don't seem to make it there. He added that another culprit is the Styrofoam polar pop cups.

Mr. Aebersold asked who picks up items such as mattresses.

Mr. Thompson stated that Southern Indiana Waste is responsible for picking that stuff up.

Mr. Aebersold asked if they do it in their garbage trucks on their regular routes.

Mr. Thompson said that some of them do but typically management asks people to call it in and then they will send another truck just because of the limited space in their packers and if they pick it up, it will put them behind on the regular route. He added that they are supposed to pick up three bulk items with regular trash but they do try to pick large items up with the grappler truck.

Mr. Coffey stated that he thinks something needs to be done in the schools to reach the kids about littering and billboards should also be considered because he doesn't feel that people really look at the information in their sewer bills.

Dr. Knable stated that both of those are great ideas but working with the school is going to be a little more difficult because of curriculum constrictions on their time primarily. He said that we might be able to work in conjunction with New Albany Floyd County Education Foundation who does flyers to homes and they have less restriction on time so he could bring that up to them. He added that the council does donate yearly to Blessings in a Backpack and thought maybe something could be put in the backpacks that they take home.

Mr. Coffey suggested a small book for the kids to read.

Mr. Phipps asked if cigarette butts fall under semisolid waste. He said that a lit cigarette thrown out during certain times of the year could cause a fire so a lit cigarette should have a higher fine.

Dr. Knable said that if you want to include that in the double fine zone, he would be fine with that.

Mr. Caesar said he would be for that.

Mr. Phipps asked if it includes people who trim their hedges and just let the clippings fall on the sidewalk and don't remove them.

Ms. Stein stated that it is unwanted material.

Mr. Phipps asked if yard sale signs could be considered defined as litter. He said that we have another ordinance on those but some reason it never gets enforced.

Mr. McLaughlin stated that yard sale signs are \$25.00, \$50.00 and \$100.00 fines and he thinks that we have never cited any.

Mr. Phipps stated that he could produce one dozen each weekend with addresses. He also stated there are cork boards or foam boards that have been placed in front of the post office and the rehab center by the hospital that periodically have yard sale signs posted on them and they look worse than the old signs that never get taken down.

Mr. Aebersold stated that we have an ordinance against all of this and we don't enforce it so what is going to happen with this new one.

Dr. Knable stated that as the legislative body, we provide tools. He said that frankly sometimes they have bigger issues going on than a yard sale sign and he gets that, but he is trying to create a deterrent for something like someone that is dropping an old refrigerator in an alley somewhere for example. He added that when the budgets come up, he would like to talk about adding another code enforcement officer

Mr. Blair stated that one of his pet peeves is construction vehicles leaving sites and dumping mud on the street as they go along. He asked if that will be unwanted material or if it could be specifically addressed.

Dr. Knable said he thinks that under unwanted materials examples could be listed of things that have come up tonight and say "including but not limited to".

Mr. Blair stated that it would make it easier for them to enforce them.

Ms. Stein stated that the question is with something falling off of a truck unknowingly to the driver, are they actually committing an act that constitutes a fine.

Dr. Knable stated that in most of the building permits issued, it specifically addresses cleanup which comes down to enforcement as well. He said that it can be called in when you see it and it may make it harder for them to get a permit next time.

Mr. Blair stated that he followed a cement truck all the way from Daisy Lane and Grant Line Road to State Street leaving mud everywhere and he called the truck's dispatcher and that dispatcher acted like it was no big deal. He said that he also called Police Chief Bailey and was told that a police officer has to observe it in order to take any action.

Mr. Caesar stated that just about every weekend on Corydon Pike they are filling in the old Smokey's Junkyard that they are not supposed to be filling in and there is mud all the way down Corydon Pike but no one has caught them in the act.

Mr. Blair stated that he thinks it is a good idea to site specific examples so it will tune people into what we are talking about as far as unwanted material.

Mr. McLaughlin asked Dr. Knable if he is comfortable with forming a committee on the enforcement aspect of this as far as where we would like for it to go whether it be the police or code enforcement.

Dr. Knable stated that his first instinct is that would be in the executive branch's prerogative to do and thinks that is something that the mayor's office should clearly come up with but they could certainly bring the council into it. He added that if it is something on public property, it would be code enforcement but if it is on public property such as the sidewalk or street, it would be law enforcement and hopefully there would be communication between those two branches.

Mr. Caesar stated that we could always say this is our point of interest.

Mr. Blair stated that the council could always draft a resolution.

Dr. Knable said he would happy to do that or support someone that would do that.

Mr. Coffey stated that he thinks the ordinance is good but he feels we need something strong to begin with and add to it as we go along. He also stated that the citation can be written but trying to collect it is a different circumstance and sometimes they have to bring a police officer with them because some people become irate. He suggested bringing in the chief of police and Mr. Gibson to talk about how we can move this forward. He also suggested putting a bounty on the signs for yard sales and giving someone a percentage if they bring them to us and we collect.

Mr. Caesar stated that he looks at this ordinance as a very amendable thing.

Mr. Coffey stated that he calls it a foundation ordinance because we will be able to build on it.

Mr. Barksdale stated that Section 50.04, Item (A), should be amended by striking the words "or upon any private property, whether owned by the person or not within the city".

Mr. Phipps asked if the ordinance excludes someone from throwing something onto private property.

Ms. Stein replied that is illegal under Indiana statute. She also stated that in Section 50.04, Items (A), (B) and (C) came into law in 1960 and the state statute came along in

1976 so now since we are adding additional provisions and additional penalties, we have to change that so it is not in conflict with the statutes.

Dr. Knable asked if they should consider putting the phrase in Item (A) towards the end of the paragraph instead of striking it and state that private property whether owned or personal, etc. is covered by state statute and refer back to that to make it easier for someone to find.

Mr. Caesar stated that he would like to see statute in this because he feels it would be helpful.

Ms. Stein said okay.

Mr. McLaughlin stated that we can't supersede state statute in this situation.

Ms. Stein stated that is correct so basically when you are talking about littering, there is a state statute that addresses someone driving along and throwing their polar pop cup in someone's yard, there is environmental law saying that you can't have a nuisance on your own property and then there is this ordinance that says you can't throw your trash on public property.

Mr. Barksdale stated that in No. 4, they want the close proximity to be 25 ft. so that needs to be added.

Ms. Stein agreed.

Dr. Knable asked if they want to add specific examples including but not limited to yard debris, construction site debris, etc.

Mr. Caesar stated that in Item d. under No. 4, he would like to see three months changed to one year.

Dr. Knable stated that he is okay with that if Mr. Caesar would like to propose that as an amendment.

Mr. Phipps said that you could say on the third offense in general and leave it open or is that too broad.

Dr. Knable asked Mr. Phipps if he wanted to do something specific with lit cigarette butts.

Mr. Phipps said that is up to him. He then stated that he brought up yard sale signs and thinks that maybe that should be under the billboard ordinance instead.

Dr. Knable stated that he thinks that something in the doubling section on flammable or lit material should be added.

G-17-06 Ordinance Amending Title 3, Chapter 37, Knable 1&2
Section 2 of the New Albany Code of
Ordinances

Dr. Knable introduced G-17-06 and moved to approve the first and second readings, Mr. Barksdale second, all voted in favor.

Dr. Knable stated that this also the result of some excellent detective work by Ms. Stein. He said that when they were researching everything that needed to be done for the litter ordinance, she discovered that right now our clerk cannot accept the amount of fines that we are calling for within the littering ordinance. He explained that this ordinance corrects that and allows the clerk to accept ordinance violations and penalties of up to \$7,500.00.

Ms. Stein stated that she did pass out the statute that allows the clerk to collect up to \$7,500.00 and it lays out what you can collect on first offense, second offense, etc.

Mr. Aebersold asked where they were collected before if they were over that amount.

Ms. Stein stated that she is not sure and doesn't know if we've ever had an ordinance violation over that amount.

Mr. Caesar stated that he thinks it would have probably gone into the court system.

Mrs. Glotzbach stated that the animal cases go through the court.

Mr. Coffey stated that the council changed a bunch of ordinances a few years back to bring them under the city because the county and state were collecting and we were getting \$1.00 and it costs us \$50.00 to enforce it.

Dr. Knable stated that they know of no instances of over cite but they just want to prevent them.

INTRODUCTION OF RESOLUTIONS:

R-17-09	Resolution Amending the City of New Albany Code Chapter 156, Section 79 Concerning Billboards and Signs	Blair/ Caesar
----------------	--	--------------------------

Mr. Blair introduced R-17-09 and moved to approve, Mr. Caesar second, all voted in favor.

Mr. Blair explained that the premise behind this ordinance was to be as strict as possible and to try to limit what can be erected in the city as far as types of signage. He stated that what they have now seems to work for the paper billboards but they had to put some new restrictions for electronic and portable signs. He added that they would like to have an open discussion on anything that they want to add or eliminate. He stated that it has to go back to the plan commission and has to be advertised and then it will come back to the council with their recommendations.

Ms. Stein explained that the first thing she included is to exclude billboards from being allowed on the Ohio River Scenic Byway. She stated that this will not affect the billboards that are already there but will prevent future billboards from being erected. She explained that the rest of it is regulating electronic billboards which isn't provided for in the current ordinance. She added that currently billboards are not allowed to be within 100 feet of a residential zoned district and the proposed amendments would require electronic billboards be 1000 feet from residential districts.

Mr. Caesar asked if they would need to designate I-265 as a scenic byway.

Ms. Stein stated that would have to be designated through the state and it seems as though it takes a lot of petitioning to get it done.

Mr. Barksdale stated that he thinks there is another historic byway that comes into New Albany that is a state highway.

Mr. Caesar asked if it is Paoli Pike.

Mr. Barksdale replied yes. He added that he thinks that there are brown signs posted along State Street.

Ms. Stein stated that she wasn't sure if it was dedicated or just a historical marker.

Mr. Blair stated that it is a marker.

Mr. Barksdale stated that the location he is referencing is a byway. He explained that there are signs on State Street going towards the YMCA that say it is a designated byway so they may want to check into that.

Mr. Phipps asked if they want to ban these from historic districts in the city as well.

Mr. Barksdale stated that most of those districts are residential except downtown. He added that they could designate it locally or it could be part of the national registered districts.

Ms. Stein stated that she doesn't see that being a problem if they would like to add that.

Mr. Phipps stated that he would like to include that into the amendment.

Mr. Barksdale and Mr. Caesar agreed.

Dr. Knable asked if it would include signage on the side of a building.

Mr. Phipps stated that he wouldn't want to ban that if they are going to repaint but adding new ones that are lit up he would want to ban.

Ms. Stein stated that the definition of a billboard is an off-premise advertisement.

Mr. Barksdale stated that with regards to the painted signs on the buildings the guidelines for the preservation districts is to encourage the restoration of ghost signs such as the Fair Store sign.

Mr. Coffey asked how they feel about graffiti that is being pushed to be painted on these buildings. He asked what the difference is between that and someone painting an advertisement on the side of their wall.

Mr. Barksdale stated that if it is in a local preservation district they would have to get approval.

There was a lengthy discussion regarding paintings and advertisements and the dangers of regulating what could and could not be considered art.

Mr. Coffey stated that unless this is limited to billboards only, it seems like people could use this ordinance to push their own cause and he doesn't want to be forced into voting for that.

Dr. Knable stated that he was just asking for clarification and not asking that it be added.

Mr. Coffey stated that they need to take each area individually in order to make this happen.

Mr. Caesar stated that he is fine with this going to the plan commission exactly as it is.

Mr. Blair stated that his idea was that they had an opportunity to restrict billboards in historic areas.

Mr. Aebersold stated that his fear is that if they restrict these billboards in historic areas they will triple everywhere else so if they are going to restrict them they need to be restricted all over.

Mr. Blair stated that maybe this will just be considered a foundation ordinance and leave it the way they have it right now. He asked if it comes back from the planning commission with a positive recommendation, would they have an opportunity to revise it.

Ms. Stein stated that it would go back to them if the council revises it.

Mr. Phipps asked if they can re-visit the yard sales signs as well since it won't go into this ordinance.

Dr. Knable recommended that they have a free-standing ordinance that addressed those temporary of signs.

Ms. Stein stated that there might already be an ordinance.

Mr. Phipps stated that he thinks that there is but they need to look into updating it.

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Mr. Randy Smith asked that the council take a look at 117.01 and read section (b) regarding canvassing being unlawful. He stated that he believes based on words spoken at the board of works meeting that guidance from the council is desired in this matter about the intent of this ordinance. He asked that after reviewing it, if they believe the agency in question isn't subject to 117 that they communicate that to the board of works so that it may be resolved. He went over with the council the request that went before the board of works on Tuesday asking about requirements of a research study as well as a letter from the Chief of Police from Ann Arbor vouching for the body going before the board. He stated that Karen Rice, who was presenting the request, wasn't veiling her request in secrecy, she just isn't allowed to discuss the details of the study. He stated that before the meeting even started he heard a board member say "we never approve stuff like this" and asked if that is the intention behind the ordinance that was passed by the council. He stated that if that the two boards are in conflict there will eventually be a lawsuit and

added that in the history of this organization, they have never been denied permission allowing them to do their research by any municipality.

Mr. McLaughlin stated that he isn't sure what this body can do in terms of that.

Mr. Phipps stated that he was at the meeting but didn't respond at the time until he checked into the ordinance but it was very troubling to him when Ms. Rice was denied.

Mrs. Glotzbach stated that her office does advise the public that the board doesn't approve request for solicitation when they call in.

Mr. Aebersold asked if all of this was explained to the board when the request was made.

Mrs. Glotzbach stated that she provided the council with a draft of the minutes regarding this request.

Mr. Coffey stated that it was said earlier that they have to get this done before the summer ends but yet they waited until this past Tuesday to come in and request permission so it must not be that important.

Mr. Smith stated that from what he understands they contacted the police department a month ago and the department never responded until they were told to get on the agenda for the board of works.

Mr. Coffey stated that with that being said they still couldn't provide any information as to what they were doing and he doesn't understand why it is so secretive.

Mr. Phipps stated that they are looking at issues regarding elderly Americans and he doesn't think the board of works would have the right to see the entire survey that has been reviewed by the IRB.

Dr. Knable stated that they can't really reveal that many study questions because they do not want to alter the population that they are studying.

Mr. Phipps stated that individuals involved can always refuse to participate and refuse to answer selected questions.

Mr. Thompson stated that they do not have a blanket "no" regarding solicitation. He explained that they allowed the fire department to hand out smoke detectors and Duke passed out pamphlets asking people for information about their homes. He stated that the board has taken a position that requests from alarm companies, cable companies and such are more a nuisance than a benefit to the public. He explained that the questions that were asked of Ms. Rice were to get a feel for if it was actually something that was a benefit to the public and they even asked if they could set up an appointment with those that the mailings went out to so that she wasn't making cold calls in the neighborhood. He added that there was no intent to keep her from doing her research but they did have reservation about the lack of information and that is why they couldn't make a decision as to whether this would be beneficial to the public.

Dr. Knable suggested that Mr. Phipps is going to address the board next Tuesday so maybe they could do an informal poll that he could take back to the board of works to

show their support of the research. He added that it sounds like they need to address the ordinance for long term use and review/clarify the process.

Mr. Thompson stated that if they have ever been to a board of works meeting they know that the board asks as many questions as they can before determining whether or not to approve or deny a request.

Mr. Blair stated that he feels like the board of works is privy to much more information than this council as well as being intelligent individuals who have all the tools they need in order to make a decision. He added that if they want to contact them individually that would be up to each council member but as far as the body giving them direction, he is not sure he feels comfortable doing that.

Mr. Coffey asked if the council is going to step in every time someone feels as if they have been offended. He added that he isn't comfortable with someone coming in and saying they can't tell the board what they are going to do but want permission to do it.

Mr. Caesar stated that he thinks if they want to contact the board they should do it individually as Mr. Blair suggested.

Mr. Phipps stated that he planned to go and speak on behalf of himself, not the council as a whole.

Mr. Smith asked if they could clarify that the research is in the business of canvassing because that is the only reason that the police chief would send them to the board to get a license.

Ms. Stein stated that she doesn't think this board should be involved in interpreting the wording as the make-up of the current board most likely wasn't around when the original ordinance was passed.

Mr. Blair stated that the board of works has their own legal counsel so that question should be addressed to them.

Dr. Knable stated that he and Mr. Phipps could get together and look at the ordinance for a long-term solution that could come back to the council for a vote.

Mr. Phipps asked if they allowed for three exceptions for businesses per year when they passed the noise ordinance last year.

Mr. Caesar stated that they allowed for three exceptions.

Mr. Thompson stated that they allowed for that with residential request not business requests.

Dr. Knable stated that he thought that there were three extensions but the requests had to go to the board of works.

Mrs. Glotzbach stated that was for residential requests.

Dr. Knable stated that he thought it included businesses and suggested that they pull that ordinance for review.

ADJOURN:

There being no further business before the board, the meeting adjourned at 9:15 p.m.

Pat McLaughlin, President

Vicki Glotzbach, City Clerk