

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY, INDIANA,
HELD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR ASSEMBLY IN
THE CITY/COUNTY BUILDING ON THURSDAY, AUGUST 18, 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, Mrs. Moeller, Officer Davidson, Mr. Gibson, Mr. Ham, Mr. Duggins, Mr. Hall and Mrs. Glotzbach

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

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Caesar moved to approve the Regular Meeting Minutes for August 1, 2016, Mr. Coffey second, all voted in favor with the exception of Mr. Phipps who abstained.

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

Katie Kraft stated that she has made multiple noise complaints coming from a local establishment since it started in the spring of 2013. She explained that they can hear the music through their entire home and continues off and on throughout the year and the establishment continues to violate the city's noise ordinance. She stated that she was very dismayed to read bragging on the establishments Facebook page about the number of noise complaints they received last year and urged their patrons to try to break that record this year. She asked that the council pass the proposed ordinance in hopes that the increased fines will deter the repeat offenses.

Peter Feimer spoke in favor of G-16-01 and thanked the council for taking a new noise ordinance under consideration. He stated that his bedroom window is 450 feet away from a particular bar and his wife has to get up before 5:00 a.m. and the music keeps her awake every weekend. He explained that they call the police when this happens but are told that they don't have the authority even though they do go and ask them to turn the volume down. He stated that the current noise ordinance is written in such a way that it can be negated by the Board of Public Works with special permits and they need to address this in the new ordinance. He asked the council to limit their authority in the new ordinance because while he thinks bars should have permission to host special events but it shouldn't we every weekend.

Bob Straw stated that this has been a problem for a long time and after the last letter he wrote was in February 2013 he didn't see any real change so it has been a very frustrating process. He explained that they have called the police but it doesn't make a huge difference because they turn the music right back up after the police leave. He stated that he was told by the police that the establishment has been issued a special permit and he doesn't think that should negate the noise ordinance. He asked that the council to limit the permits and make sure that it is fair to everyone.

Don Smith stated that this problem has been going on for a decade and has gotten so bad that the windows rattle. He explained that he has been to every department he can think of to address the issue and nothing ever gets done, even when they call the police. He stated that the police have more important things to do with their time than police bars for noise violations so there needs to be stiffer penalties when the ordinance is violated and he doesn't understand why the same establishment can get away with breaking the law over and over.

Bob Sterrett stated that this ordinance doesn't work because it is very subjective. He explained that he thinks they need to pull back on this and talk to some lawyers, citizens and the Board of Public Works to get something that is actually going to work.

COMMUNICATIONS – COUNCIL:

Mr. Blair stated that they pass a parks improvement plan last year and on Friday night they had an event at Silver Street Park, and it was a wonderful event. He thanked the council

for their work on that ordinance and stated that and it wouldn't have been possible if it wasn't for this group. He asked Mrs. Moeller if the funds for the homeless coalition appropriation have been sent.

Mrs. Moeller replied no.

Mr. Blair asked why.

Mrs. Moeller stated that she hasn't been authorized by the mayor or the legal department to release the funds yet.

Mr. Blair explained that the council approve those funds about a month ago and he doesn't understand the delay. He asked President McLaughlin if there is anything that can be done because this is blatantly being delayed by the administration. He explained that it was passed by the council and they and the administration are not following the procedures and the council needs to take action.

Mr. Duggins stated that the Community Foundation is coming in Monday for a meeting.

Mr. Blair stated that the council has already approved the money and it should be sent to them. He asked if every group comes in to meet with the mayor before funds are released.

Mr. Duggins stated that a lot of times they do meet with them.

Mr. Blair stated that this is the third time it has been delayed and to him they are just blatantly disregarding the wishes of the council.

Dr. Knable asked if there has ever been a precedent where this has happened before.

Mr. Coffey stated that it has happened under other administrations but he had a habit of doing it. He stated that as Mr. Duggins said they are coming in Monday to get their check so he is happy to hear that.

Dr. Knable stated that since this administration doesn't have a history of this behavior they should wait until after the meeting and if they don't get the check at that time then they can look into what actions they can take.

Mr. Blair stated that the council shouldn't have to monitor the controller and once they approve something it should be done.

Dr. Knable asked Mr. Lorch to research options just in case it happens again.

Mr. Blair stated that there is a public meeting on Monday night regarding the Mt. Tabor Road Project. He explained that he asked Mr. Duggins about time allocation for citizens to make public comments and was told that they did not allocate time for public comments as this was an open house informational meeting.

Mr. Duggins explained that as publicized they are hosting a two hour open house much like they did when they were involved in the parks project. He stated that they will have the designs available, construction documents, individual parcels and they will have plenty of opportunity to address concerns directly to the individuals handling each section.

Mr. Blair stated that there is no time set aside for someone to address the group as a whole and he feels that public comments are important and should be heard. He explained that he thinks there are three changes that need to be made to that project to benefit the homeowners including a storm water plan for Slate Run Creek, elimination of the sidewalk on the north side of the road and keeping the 4-way stop with the red signal as it is now instead of a traffic light.

Dr. Knable stated that at the previous meeting they had 70-80 constituents and they were able to directly address their concerns and he was under the impression that was going to happen again on the 22nd. He explained that on the chance that doesn't happen he wanted to reiterate a couple of points he would like to be addressed with the officials at the meeting that include the ADA questions regarding the two sidewalks, the plan for storm water and then the changes at the 4-way stop and h

Mr. Coffey stated that he has received a lot of complaints about cable rates going up and stated that at one point it all had to come through the council, he asked Mr. Duggins if he could point them in the right direction on how to address this.

Mr. Duggins stated that he knows there used to be cable boards but he doesn't know if something like that is still available.

Mr. Coffey stated that they do get some kind of funding them.

Mr. Duggins stated that he thinks they are regulated but he would need to talk to Mr. Gibson about it.

Mr. Coffey asked if Mr. Gibson could look into it.

President McLaughlin reminded the council that the budget hearings are starting and they received notices for August 24 & 31 at 6:00 p.m..

COMMUNICATIONS – MAYOR:

Mr. Hall stated that Mayor Gahan wanted him to update the council on the Bono Road Project. He explained that the utilities have recently completed their work and next week they should begin replacing non-compliant ADA ramps. He stated that once that is done they will start the actual road reconstruction and when that happens they will be sending out notices to the press to keep the public updated.

Mr. Caesar asked if there is a tentative date for completion.

Mr. Duggins replied late fall. He stated that there was \$2M appropriated and they have an agreement to come to the council to talk with them about the individual projects before they spend the money. He passed out a list of the 2016 Capital Projects to update them on what they will be doing with the money that includes \$250,000.00 - street sweeper, \$25,000.00 - subdivision entrance maintenance upgrade, \$150,000.00 - loop island removal and securing, \$200,000.00 – gateway to city improvements, \$75,000 – Office of Community and Rural Affairs lighting and place improvement grant match, \$175,000.00 – 15th Street sidewalk drainage project, \$250,000.00 – micro storm water issue, \$200,000.00 – restoration and demolition of properties, and \$35,000.00 - park's department grant match for bus.

Mr. Coffey stated that the demolition is going really well but the restoration of the properties worries him because there is a property that was restored that is falling down so if they do any more restoration work they can't work with that preservation group.

Mr. Duggins stated that redevelopment will house this money

Mr. Coffey asked why helping seniors with gutters or something like that couldn't fall under restoration.

Mr. Duggins stated that he doesn't see why it couldn't. He explained that the enterprise zone is about to introduce a residential program and that could potentially help in those areas.

Mr. Barksdale stated that there was a possibility that they could have purchased 2 fairly substantial properties on East Market and had they had the money like this they could have gone to the owner and got both properties for \$30,000.00 but they didn't have the money so they went to auction.

Mr. Blair asked what happened to them after they went to auction.

Mr. Duggins stated that they were purchased by a rental company.

Mr. Coffey asked if money can be set aside for situations like that.

Mr. Duggins stated that the council can.

Mr. Blair asked what happened to the bus that the parks department had

Mr. Duggins stated that he isn't sure.

Dr. Knable stated that he would take the \$25,000.00 for subdivision entrance maintenance upgrade and put it in storm water issues.

Mr. Blair stated that these are all worthy projects and there are more projects out there than they have money for but he thinks extra money needs to go into infrastructure instead of some of these projects.

Mr. McLaughlin asked if they have been doing any curb or intersection painting.

Mr. Ham stated that they have been working out in Castlewood. Some in the west end and around the schools.

Mr. McLaughlin asked what paint is being used.

Mr. Ham stated that they use latex with glass beads to prolong the life.

Mr. McLaughlin asked if those will be done within a year.

Mr. Ham stated that the crosswalks will be done in a year but the stop bars may take a little longer depending on the weather.

Mr. Caesar stated that he would like for Mr. Ham to take a look at Old Vincennes Road.

Mr. Ham stated that he has been out there and they are looking at solutions.

Mr. Blair stated that there is a median on Castlewood Drive and asked if he could look at it to give his opinion on what should be done because he has tried to get a hold of Greg Mills and hasn't heard back.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

Mrs. Moeller asked that the minutes reflect that she passed out the July financial statements.

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-16-01	Ordinance Amending Noise Control Ordinance – Chapter 96 of the City of New Albany Code	Knable/Barksdale
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Dr. Knable introduced G-16-01 and moved to approve the first and second readings as amended, Mr. Coffey second, all voted in favor.

Dr. Knable moved to vote on the amendments, Mr. Caesar second, all voted in favor.

Dr. Knable stated that they have been working to revise the current noise ordinance and explained that noise is one of the biggest quality of life issues that they face as residents in the city. He stated that this is one of the series of measures that the council is taking seriously and trying to take some steps in regards to this issue. He explained that going forward he would like to look at things such as light pollution and a revision of their litter ordinance. He reminded the council that they can legislate but they can't enforce the laws so they need to create good tools for the enforcement branch to utilize when they need it. He stated that as an elected official noise is in the top five complaints that he receives and it happens in all 6 districts. He explained that their first step was to review the existing ordinance and they found several sections that hadn't been utilized in years and were very outdated. He stated that they discussed these with the mayor, the chief police, and the council attorney to see if they could come up with something that would work better for everyone, and they revised the ordinance to make the verbiage more simple and subjective, eliminated four sections and

increased the deterrent. He explained that they changed the hours, added updated fireworks provisions, and they spoke with animal control regarding prolonged animal noises that will refer back to the animal control ordinance. He stated that they have included a provision that would allow the Board of Works to grant exemptions but the number of events and days would be limited and anything more would need to come before the council.

Mr. Barksdale stated that they have all heard these problems from their constituents and being an at-large representative he gets to hear from all the districts, and it is definitely a city-wide issue.

Mr. McLaughlin stated that Chief Bailey told him that there were 18 fireworks related complaints called in this year and about 140 noise related calls, with a majority of those coming from apartments. He explained that when an officer is called to a scene and they aren't giving satisfactory service the resident should call 944-6411 to alert the commanding officer on the shift.

Mr. Phipps asked if the exceptions could be granted for louder music or later hours.

Dr. Knable stated that he doesn't know what the criteria are for the board of works but for him it would have to stand on its merits on both accounts and they would take into consideration how important the event was to that part of town and how many people would be attending.

Mr. Phipps asked if the ordinance is saying that prior to 10:30 p.m. that there are no restrictions on noise.

Dr. Knable stated that is why that first definition of noise talks about "within the normal purview of a business" but he is open to suggestions.

Mr. Coffey stated he understands that these establishments in questions aren't going to make it by just being bars so he would like some clarification if the special events are for outdoor or indoor.

Dr. Knable replied both.

Mr. Coffey stated that there are venues that they will put out of business with this type of ordinance. He explained that any venue that deals with weddings, receptions and reunions that are told they have to shut down at 10:30 p.m. will take their business to another city and some of these venues support non-profit groups.

Dr. Knable stated that he doesn't think that they have received calls from places such as the K of C hall.

Mr. Coffey stated that maybe they haven't but when they put out an ordinance like this all it takes is one individual with an axe to grind to become a problem. He asked if they talked with any of the businesses when they were putting this ordinance together.

Dr. Knable stated that they don't have the luxury of agreeing with both groups and doing nothing so they have to act on the greater good. He added that Mr. Coffey is welcome to add some amendments.

Mr. Coffey stated that he would definitely change it to 11:00 p.m.

Mr. Aebersold stated that he thinks that there should be some input from the people causing the problem.

Dr. Knable stated that they have a public forum tonight, another before the third reading, and those individuals were and are welcome to come to both.

Mr. Aebersold stated that he thinks there are probably about 20 businesses that are the culprits behind the complaints so he doesn't see why they can't contact them and have a discussion.

Dr. Knable stated that they have been contacted every time the police have had to go out to their establishments.

Mr. Aebersold stated that this looks good on paper but he thinks it will be really difficult to regulate.

Dr. Knable stated that he sees the council's job as putting the best tools in the hands of enforcement.

Mr. McLaughlin asked if there is an ordinance addressing a common nuisance ran out of an establishment.

Dr. Knable stated that he's sure that it probably has noise as one of the components of the definition that will refer back to the actual noise ordinance.

Mr. Coffey asked what tools are in the proposed ordinance to combat the issue.

Dr. Knable stated that municipalities across the state have moved away from a definition of a certain decibel which leaves a great deal up to the discretion of law enforcement.

Mr. Coffey stated that there are people who are flagrant about it but how do they know they can get them with this new ordinance.

Dr. Knable stated that he believes that major tool in this is the increased fines. He added that one of the things that makes him most angry is that one of the speakers tonight was called an idiot for questioning the special permit, so bringing some of the power back to this body is also great tool.

Mr. Coffey asked if there is something in the ordinance for filing false complaints.

Dr. Knable stated that Mr. Caesar brought forth an amendment for something similar in the property ordinance and he would be open to adding something like that, but he isn't sure who would have the authority to make the call.

Mr. Barksdale stated that he is comfortable with it because the police chief feels that this is a tool that they can use.

Mr. Coffey stated that he just doesn't want another ordinance passed that doesn't get enforced.

Dr. Knable stated that they don't control enforcement so all they can do is be a collective voice for the people that reach out to them.

Mr. Blair stated that he likes that the ordinance addresses fireworks because he received several complaints about them this year. He added that they are always able to change and amend ordinances if they find something isn't working in the future and this is a better ordinance that they have on the books now.

Mr. McLaughlin stated that a lot of the business in question have outdoor venues and maybe this should have raised some questions before the structures were permitted to be built.

Mr. Phipps stated that no one is saying that they can't play music but that they don't want it so loud that it can be heard 500 feet away.

Mr. Caesar stated that he would like to see this ordinance go through but he would like to see the animal control ordinance added, the times changed to 11:00 p.m. on the weekend, and he thinks they need to talk in depth about the board of works and the authority to grant special exemptions. He stated that he would also like to see something added that if a business is visited by a city official more than once in an evening that a citation should be issued each time.

Mr. Coffey asked if everyone is going to be shut down at 11:00 p.m.

Dr. Knable stated that if there is a reasonable complaint then yes it should be evenly applied.

Mr. Coffey stated that he wants something more definitive.

Mr. Aebersold added that big garbage trucks come in early at about 4:30 a.m. – 5:00 a.m. because they can't get in at later times during the day and he would like to see that eliminated altogether.

Dr. Knable stated that he didn't hear any clear objections to the 4th of July so they will leave it as written by the state, they will amend 96.017 to eliminate references to dogs and roosters, and an amendment stating that 96.02D events authorized by the board of works shall be limited and further exemptions would need to come before the council.

Mr. Aebersold asked if this includes city events that take place in the parks.

Dr. Knable replied yes.

Mr. Caesar asked for a change of time to 11:00 p.m. on the weekends.

INTRODUCTION OF RESOLUTIONS:

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Joe Kraft passed out information on the extension of Reas Lane for the council to review. Said handout is on file with the City Clerk's office. He explained that there is a lot of concern because in the community about the road and stated that it narrows to 15 feet at the culvert/bridge. He explained that there are 20-25 trucks in and out regularly and approximately 400 cars cross this section daily. He stated that they have been talking about the extending for years and in recent years they were told that the city was going to take care of it, but nothing has happened so the neighbors are here to voice their concerns.

Mr. Duggins stated that the city is working on this project. He explained that they have been meeting with the representatives that are doing the work at Samtec regarding the reconstruction of the entire area. He stated that it is a mess and they are having trouble getting a permit from the Corp of Engineers for how to design the culvert/bridge area. He explained that have halted the paving of this road so that they can do it all at once because if they pave over the area as it is it will fail again.

Mr. McLaughlin asked if the county could be brought in if it a recognized waterway.

Mr. Duggins stated that they are dealing with the Corp of Engineers not the county but that is something he can look into. He asked for contact information for the group here tonight and stated that he will be happy to keep them updated as things progress.

ADJOURN:

There being no further business before the board, the meeting adjourned at 9:00 p.m.

Pat McLaughlin, President

Vicki Glotzbach, City Clerk