

**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, DECEMBER 17,
2015 AT 7:00 P.M.**

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Caesar, Mr. Phipps, Mr. Blair, Mrs. Baird, Mr. Gonder, Mr. Zurschmiede and President McLaughlin. Mrs. Benedetti was not present.

ALSO PRESENT: Mr. Lorch, Mr. Gibson, Fire Chief Juliot, Fire Marshal Koehler, Police Chief Bailey, Mr. Nash, Mr. Slade, Mr. Brewer, Mr. Duggins, Mr. Thompson and Mrs. Glotzbach

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

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Phipps moved to approve the Work Session Meeting Minutes for December 7, 2015, **Mr. Caesar** second, all voted in favor with the exception of **Mr. Coffey** and **Mr. McLaughlin** who abstained and **Mrs. Benedetti** who was not present.

Mr. Caesar moved to approve the Public Hearing Meeting Minutes for December 7, 2015, **Mr. Phipps** second, all voted in favor with the exception of **Mr. McLaughlin** who abstained and **Mrs. Benedetti** who was not present.

Mrs. Baird moved to approve the Regular Meeting Minutes for December 7, 2015, **Mr. Phipps** second, all voted in favor with the exception of **Mrs. Benedetti** who was not present.

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

Mr. Joe Kraft stated that he has nine rental homes in New Albany and is very upset about the code being considered and does not like the fact that the city is considering making two classes of property owners which are ones that own rental properties and ones that are owner occupied. He thinks everyone should be under the same code and the same enforcement and feels that it is so unjust to put people who have rental properties in a different class. He stated that the code says that he is liable to keep the extermination of all insects and rodents out of his property but he lets the tenants do the extermination because of a lot of the health issues deemed with exterminating chemicals and he doesn't want to cause any harm to his tenants. He then spoke about moisture in his basements and stated that some of our finest homes in New Albany have old basements or cellars with moisture in them. He said that if the city is going to enforce it on his rental properties then why won't they enforce it with owners that live in their properties. He also said that with the wastewater problems we have in the city, he has had two of his rentals that have had backed up water in the basements so it becomes a real problem. He truly believes the answer is for the city to enforce the codes that they already have on landlords and homeowners as well. He thinks it is very unfair and unjust.

Mrs. Kay Hartman stated that she has three rental properties and feels that everyone should have a right to choose where they live and how they live. She believes in justice

for all and feels that if these codes are going to be enforced then they need to be enforced on all properties including public housing. She also believes that to hold her responsible for the actions of her tenants while they are living there is impossible. She stated that her insurance company checks her properties and feels that the city should be satisfied if they are willing to insure her properties. She also stated that if she is going to be fined for every little thing that comes up then she will have to raise her rental fees and people aren't going to be able to afford to rent in New Albany.

Ms. Sandy Haenisch stated that she lives in Louisville but she owns 19 properties in Floyd County and manages 92 houses in Floyd County. She explained that she has sent this proposal to all of her investors and every single one said to sell the properties. She said that they will not participate in this and at her last eviction the tenant's mother said that she would kill her and burn her house down so she will not register her personal address or any of her investor's because it is a violation of their right to privacy. She also stated that she has given back a deposit once since 2005 because tenants do not take care of the property. She said she can't be responsible for what they do to tear up a property while they are living in it and that should be up to them so she doesn't want inspections on rental properties once it is lived in by a tenant.

Mr. Chris Hartman stated that his parents started accumulating rental properties in 1966 and they provided furnished apartments but in the early 80's people starting stealing the furniture. He said that what the city is trying to impose on the rental property owners is absurd and there is a small population of slumlords that are probably not represented tonight that are causing problems for everyone. He stated that he doesn't think that code enforcement can handle more things to inspect so coming up with another code and another enforcement officer is not going to make the city a better place to live. He asked that the city take a step back and see what has brought us to this point and what is wrong with the system that we currently have in place. He also said that if this is what the city is going to do then do something for the landlords too by letting them know what types of people they are renting to through the police department and court records.

Ms. Pat Harrison stated that the people in this group are taxpayers and they do mean well and wants New Albany to be a first class city again as does she. She explained that for a few people, they are getting nailed hard and she just wonders how they will meet all of these inspections and feels there is an answer somewhere in between. She said she spoke with Indiana Real Estate Association just to see what they had on the record and they suggested working with the city. She also said that we need to know how we can all work together and should form a committee to come up with some good answers to make it all work. She explained that she doesn't mind registering her properties with the city but doesn't want to tell who her tenants are. She wants the property values to come up and to work together with the city. She added that they would just like to slow down and form a committee with some of the realtors and the council to look into this more. She also added that she thinks some of it is inconsistent with state law and would like that looked into.

Mr. Chris Fox stated that he was present on behalf of the Southern Indiana Realtors Association and that they met for about four hours today on this ordinance and how it was going to affect property values and landlord and tenants as well. He said that they feel strongly that they would like this process slowed down and would like to have a voice in it. He also said that they would like to see it go to committee with the realtors association, builders association, someone in property management along with the council to discuss the issues. He asked that it be tabled tonight and come back after the first of the year and form a committee to let them have a voice in it.

Mr. Ben Mattox stated that he owns multiple properties in New Albany and his policy on his properties is that they are properties that he would live in so he keeps them

accordingly. He does think that landlords should have some input and there should be a select group of volunteer landlords invited to participate. He said that there are some landlords that have bad properties and that needs to be addressed but to penalize the whole for the few is wrong. He added that this should be tabled and thought out with landlord input.

Ms. Diana Mayfield stated that she is a lifelong resident of Floyd County and a realtor with ReMax and also a member of SIRA and was in the four hour meeting today. She said that she is one of the few in the room that has no rental property but is concerned about property values in New Albany when the landlords get something like this that they don't like and that violates the tenant's privacy. She explained that you are looking at landlords selling their properties in New Albany. She also explained that a lot of the properties that landlords own are valued at \$50,000.00-\$150,000.00 and you will be looking at a different property base and tax base as far as the person purchasing that property. She asked what will happen to the foreclosure rate and property values if you don't try to work on this and make it work for all involved. She does agree that there are problems that need to be addressed and asked that the ordinance be tabled tonight and set up a committee to work on it for the betterment of all.

Mr. Brian Haeseley stated that he is a realtor and a real estate investor landlord. He said that he is also the director of a group that meets every month at Tuckers and they have communicated with the city on how to better city and our units and things of that nature. He explained that just last week the Courier Journal and Indianapolis Star said that homelessness is on the rise because rental fees are going through the ceiling in southern Indiana and now we are going to tack on more fees that the tenant will have to pay because the landlords will have to pass them on. He said that will not work because you are just going to raise the cost. He also said that there is a privacy act problem because the tenant will have to give their names and numbers. He asked if the city is going to check warrants and make arrests because in the document it says that the city will issue search warrants for the properties for inspections. He stated that there are enough laws and regulations on the books now to take care of this stuff. He mentioned that there are city employees that their houses look really bad from the outside. He stated that a couple of years ago the city paved the alley behind his rental units and paved it wrong. He explained that three days later we had a rain and within one hour he had four feet of water in his basement and he lost the litigation because the judge said that the government has the right to flood our properties. He said that the city installed an asphalt berm instead of correcting the problem. He then asked if he would be fined for moisture in the basement that the city caused and stated that he would have a problem with that.

Mr. David Brown stated that landlords put a lot of investment into the community and this issue is making him think about if he wants to invest any more money into this community. He said that this really is a hindrance to anyone that wants to come into the community and make it better. He asked that the council table the ordinance for further consideration as well as maybe consult with some landlords on what needs to be done here.

Mr. Russell Kruer stated that he is a real estate broker and is really having a hard time because the city is regulating landlords on a regular basis. He stated that landlords have a lot of money invested in making homes livable and the tenant is being protected more than the owners. He said that the city needs to look at it from the landlord point because we need less of the city's direction and more of its help instead of putting more rules and regulations on us. He said that landlords need more protection from the people who are stealing from them because we are consistently putting money back into this. He explained that if he starts selling his ten properties then the city will lose tax revenue from 3% back to the residential rate. He added that he thinks every one of his rentals is in better shape than the common homeowner. He also added that he has spoken to five

people recently that say they won't go to Floyd County to do any more developments because you have to keep going back for simple things. He just wants good sound judgment from the city and not put ungodly regulations on them because it is going to change the value of rentals. He said that because there are a few bad apples, you are putting sad restraints on the landlords.

COMMUNICATIONS – COUNCIL:

Mr. Blair stated that he gave copies to the council of two resolutions approving projects that were put into EDIT and Riverboat Funds because we wanted to budget those items. He said that the intent in the resolutions was that those items would come back to us for a final vote by resolution and the council would have an opportunity to have a say before they move forward on funding the projects. He said that he wanted to get the council's opinion on the resolutions.

Mr. Caesar stated that he feels the same way in that the projects should've come back to the council before going forward. He added that the money was for projects and not just for money.

Mr. Coffey stated that the council was told that it would have to come back to us.

Mr. Blair stated that there were three projects that were discussed in a recent work session and only one of those projects is coming back tonight for a vote and is a project that was not in the budget for EDIT or Riverboat.

Mr. Gonder stated that he agrees that was the understanding.

Mrs. Baird agreed as well.

Mr. Coffey stated that the one project we are talking about is for \$250,000.00 and that's what was originally appropriated. He stated that they have spent \$125,000.00-\$150,000.00 and now they are saying \$250,000.00 again so the numbers don't add up.

Mr. Gonder stated that at Spring Street and Fifth Street there is a diamond cut in the street and it was just recently paved. He asked why there is a cut there.

Mr. Thompson stated that it is for the sidewalk project where they are replacing curbs and sidewalks along Fifth Street.

Mr. Gonder asked why it was not coordinated to be done before the paving.

Mr. Thompson stated probably because the funding wasn't there yet for the sidewalks. He added that he believes that it is CDBG project. He explained that they will saw cut it and put the gutter in so it won't be a problem because the curb will run out to the end of the pavement.

Mr. Blair stated that they did a couple of those in the Green Valley Estate Neighborhood where they put in handicap ramps and it didn't disrupt the paving.

Mr. Gonder stated that it seems that the handicap ramps become a holding tank for water and asked if they were put in incorrectly.

Mr. Thompson stated that the ramp has to meet ADA federal standard.

Mr. Zurschmiede stated that it is not the ramp causing the problem it is the street.

Mr. Thompson stated that ideally you would like to redo the street, the ramps and the drainage but that's not something that we have funding to do.

Mr. Phipps mentioned the drains at Fifth Street and Elm Street and thought that some of the pavement needs to be shaved off. He also said that there is a pretty significant dip in the pavement there since the water company made their repairs. He then asked if there is a structural problem under there that is our responsibility in addition to what they are doing.

Mr. Thompson stated that he tried to get the water company to address it because he felt like they created the problem with the repair and he couldn't get them to respond so we did excavate it and found that at the edge of their repair was a void so we repaired it. He added that there is still a dip because of the manholes and the way the intersection is. He also added that when the Coyle property is being done then we will readdress that intersection.

Mr. Coffey stated that he is hoping that the rental housing code ordinance is tabled tonight and wanted the audience to know that this came to the council from the administration. He also stated that had it come from the council, we would have invited others to come in and it wouldn't have happened in a matter of days. He said that he is not saying that we don't need something but if you look at it, it is another tax and feels that it will have a negative impact.

Mr. Blair stated that he concurs and feels that we have houses that are in bad shape and unsafe. He is very concerned about the safety of people and the fire personnel especially when you are talking about electrical and fire safety. He does feel that we are moving too quickly and would like to see it tabled and put a task force together to work with the stakeholders in the community.

Mr. Coffey stated that some of the problems we have with housing is that banks are setting on their foreclosures and that is not addressed at all in the ordinance.

Mr. Blair stated that some financial institutions don't want to write the properties off so they hang onto them longer. He stated that he feels that we need to address how to handle abandoned houses.

Mrs. Baird agreed with Mr. Blair and stated that she had several calls from renters who were unable to get their properties fixed and something needs to be done about the absentee landlords.

Mr. Phipps stated that he has some comments as well but will wait until the ordinance is introduced to discuss them.

Mr. McLaughlin stated that he wanted to recognize council members Mrs. Benedetti, Mrs. Baird, Mr. Gonder and Mr. Zurschmiede and stated that it has been a pleasure working with them and he appreciates everything that they have done.

Mrs. Baird stated that it has been an honor and a pleasure and she has enjoyed serving for the past four years.

Mr. Zurschmiede stated that it has been privilege. He then stated that unless someone has owned rental property, they do not know what the folks in audience goes through. He asked that they have some say so because they need help from the city not a hindrance from the city.

Mr. Caesar thanked the members for their service.

Mr. Phipps stated that he concurs with Mr. McLaughlin and Mr. Caesar.

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

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

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

G-15-05	Ordinance Adopting Chapter 160: Rental Housing Code	Phipps 1&2
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Mr. Phipps introduced G-15-05 and moved to approve the first and second readings, Mrs. Baird second,

Mrs. Baird withdrew her second.

Mr. Phipps tabled this item.

Mr. Phipps stated that if you are in compliance then the only fee you will incur is the \$5.00 registration fee. He stated that it is going to be a mandatory yearly inspection only if there is a problem then the city has the right to inspection if it is complaint driven so if your properties are as you say they are then you have nothing to worry about. He said that this targets the people who are causing the problems in the community. He mentioned that one of the things he had a problem with was lighted exit signs which he can see is necessary in apartment buildings but certainly not in a private residence. He stated that on the other hand there are some really good things in it like needing to have working smoke detectors, fire extinguisher in the kitchen, proper locks on the doors, roofs in good condition, no major cracks in the foundation, etc. He thinks it needs to be tweaked in a number of different ways and thanked the audience for sending suggestions through email. He added that he would like to have first and second readings tonight and form a committee, make the needed changes and keep it on the table but the final vote doesn't have to come until possibly February.

Mrs. Baird stated that the thing that really bothered her was the tenants having to register and as long as the property is registered, she doesn't see that it is necessary for the tenant to register.

Mr. Brewer stated that they do not have to register but they do have to provide the information to the landlord so if there is an issue, the landlord can properly notify them or the courts can properly notify them if necessary. He stated that everyone in the room, if they have worked with him, knows that he tries to help. He said that everything the city does is from a helpful spirit. He thinks it is important that most of this stuff is currently on city ordinances and Section 8 actually provides a stricter requirement for inspections than this does. He said that this puts the city in position to put minimum standards on rental properties for public safety and the primary focus is to help the landlords that are doing the right things and certainly to hold the others accountable. He said that is the whole point of what we are trying to do. He explained that 80-90% of what he deals with are rental properties that are in blighted conditions. He said that he understands that there are some things that need to be tweaked.

Mr. Coffey asked what happens when a tenant tears something up and stated that the landlord has to fix it. He said that he has been to a number of homes when the tenant leaves and the copper wiring is gone along with any metal plumbing, etc. He said that this code is unfair to the people that own the properties. He said that he knows there are problem properties but this is a tax. He was speaking with someone today that said it costs him \$136.00 to evict someone now. He said you're are going to tax these people to the point that they can't keep up their properties. He said there is no way to do this in two days and stated that no council members had input into it. He said that the council writes the laws and the administration enforces them. He added that if we are going to do something like this then we need to allow the people that have a stake in it to give their input as well.

Mr. Gonder stated that he was gratified to hear that this is a business and this is an anticipated regulation of a business. He said that people have mentioned that they are not compensated for damages to their properties but that is a cost of doing business and they have to guard against that in one way or another. He said that when you are running a business you are held to a higher standard for the people that are being served by that business. He also said that when the ordinances are put in place and followed, people will know who the bad actors are and weed them out and make the business better for all of the people who are still in it. He added that he will not be around for the final vote but he does feel it is worth taking the initial steps on it.

Mr. Phipps stated that he agrees that tenants will come in and tear things up and it penalizes the landlord but he doesn't see it penalizing anyone that is running a good show.

Mr. Brewer stated that there are things in the ordinance regarding accountability for the tenants.

Mr. Coffey stated that they can't recoup those losses.

Mr. Brewer stated that the court system and state laws provides the ability to recoup those losses through deposits, court action, judgments, body attachments, etc. He also stated that the people in the room care about what is going on in New Albany and he doesn't have a problem with them.

Mr. Zurschmiede asked why he needs their money and time.

Mr. Brewer stated that it is \$5.00.

Mr. Zurschmiede stated that there is a lot more money in there than \$5.00.

Mr. Brewer said that there is not.

Mr. Zurschmiede stated that the majority of the tenants out there will learn this game quicker than we will and they will take advantage. He explained that a lot of them will call Mr. Brewer and trump up something with their property so they don't have to pay their rent. He then said that it doesn't address the owner occupied properties at all. He then asked what in the ordinance gives you the right to do that you can't do right now.

Mr. Brewer stated that it opens up communication between us and the landlords.

Mr. Zurschmiede asked why the ordinance doesn't just say that if you are a landlord then you need to register your name and contact information and that's it.

Mr. Brewer stated that it gives us a way to hold them accountable for their actions.

Mr. Phipps introduced R-15-19 and moved to approve, Mrs. Baird second, all voted in favor with the exception of Mr. Coffey and Mr. Blair who voted no and Mrs. Benedetti who was not present.

Mr. Phipps asked Mr. Lorch what his determination was on the resolutions that Mr. Blair provided and if the council has to vote on if we change what the money is spent on.

Mr. Lorch stated that the resolutions stated that the city had to come back for approval for that and to him that sounds like that is what is occurring.

Mr. Blair asked if it would have to be done through an ordinance or resolution.

Mr. Caesar stated that the money is passed through ordinance so the money is there and if it is not used by the end of this year it will stay in EDIT Funds. He explained that it is the council's decision tonight to whether to go ahead with WIFI downtown for \$168,000.00 or kill the \$300,000.00 EDIT appropriation.

Mr. Blair stated that he doesn't believe that there is anything to say that you are trading one project for another but that is the way this resolution reads and he doesn't feel that was the intent of EDIT. He explained that the original project wasn't being done because DUKE picked up the cost but to him the two projects are not inclusive, they are separate.

Mr. Phipps stated that is kind of what is happening because they have brought the new project forward tonight and we are voting on it. He added that he is leaning in favor of it based on what Mr. Lorch said and how Mr. Caesar has clarified it.

Mr. Blair stated that he believes that if money is going to be appropriated then it needs to be done through an ordinance and not a resolution. He also stated that the council never authorized this project to be presented as a resolution.

Mr. Phipps stated that we authorized funding and they are bringing it back for us to approve or disapprove but it just wasn't on the original list of projects.

Mr. Blair stated that he is just questioning the procedure.

Mr. Caesar stated that he is okay with voting on it and feels it would be an asset for downtown but he did want to make the point that we did approve a project; we did not approve money. He added that the council approved money for a specific project not money for just any project but he does feel this is a good thing to do.

Mr. Coffey stated that this is a luxury if it is put in downtown but fiber optics in the industrial park and other areas like that would bring in businesses. He said the K of C has their own WIFI and other businesses downtown have their own so he doesn't feel that there is any economic benefit in spending \$168,000.00 for this.

Mr. Blair asked who would be using it.

Mr. Phipps replied people eating in the restaurants, people visiting Bicentennial Park, anyone that would frequent downtown, etc. He thinks it is a quality of life issue.

Mrs. Baird agreed and stated that it would draw people downtown. She also said that she agrees that it would be great to have it in the industrial park as well but this is a start.

Mr. Coffey stated that we spend a lot of money to bring people downtown and there comes a point in time where businesses need to pay for it themselves.

Mr. Zurschmiede asked how the citizens could be educated on who to call so there are not people calling the street department and then the street department calling ECOTECH.

Mr. Thompson said that it could be included in the sewer billing that goes out to the residents.

Mr. Slade stated that they will advertise in the newspaper that if people have questions about their trash to call them.

Mr. Phipps stated that he always has brush in the spring that he puts out and in the past it has been picked up. He asked Mr. Slade if that would still be done.

Mr. Slade replied yes and stated that they have specked out different equipment for that.

Mr. Coffey asked if the rates will stay the same for five years.

Mr. Slade replied yes.

Mr. Caesar stated that he wanted to be clear on yard waste such as limbs in that it would be picked up every week.

Mr. Slade replied yes and stated that they have to be bundled in four foot sections.

Mr. Zurschmiede asked if they would be picking up leaves.

Mr. Slade stated that the leaves that are put out in the street will remain with the sucker but he will pick up to 15 bags of leaves that are bagged with each collection.

Mr. Coffey stated that there was an ordinance passed that you should not put leaves in the streets and he knows that we go out and pick them up but we shouldn't.

Mr. Zurschmiede stated that the council passed that when we didn't have the proper equipment to pick them up.

Mr. Coffey stated that is an added expense.

Mr. Phipps stated that if we don't pick them up then they stop up the storm water drains.

Mr. Coffey stated that because it will be a cost savings to the city, he is okay with not bidding.

Mr. Blair stated that even though he thinks ECOTECH does a great job, he cannot support not bidding it out.

**R-15-21 Second Addendum to Agreement for Collection Zurschmiede
 of Residential Municipal Solid Waste, Recyclables,
 and Bulk Items in the City of New Albany, Indiana**

Mr. Zurschmiede introduced R-15-21 and moved to approve, Mr. Gonder second, all voted in favor with the exception of Mr. Blair who voted no and Mrs. Benedetti who was not present.

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Mr. Mark Cassidy stated that the city has a website and it doesn't work and hasn't for several months and he doesn't know who to speak with about it. He said that the packets and minutes have not been posted since March.

Mr. Mike Hall stated that he would check into it.

Mr. McLaughlin stated that he would like to look into setting up a committee for the Rental Housing Code Ordinance and thought that it should be done at the beginning of next year.

Mr. Phipps suggested using the safety committee for that.

ADJOURN:

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

Pat McLaughlin, President

Vicki Glotzbach, City Clerk