

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY, INDIANA,
HELD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR ASSEMBLY
ROOM OF THE CITY/COUNTY BUILDING ON MONDAY, APRIL 7, 2014 AT
7:30 P.M.**

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

OTHERS PRESENT: Mr. Lorch, Mr. Thompson, Police Chief Knight, Major Whitlow, Colonel Pennell, Fire Chief Juliot, Mr. Wilkinson, Mr. Brinkworth, Mr. Hall, Mr. Gibson, Mr. Wood, Mrs. Moeller and Mrs. Glotzbach.

MOMENT OF REFLECTION:

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Coffey moved to approve the Regular Meeting Minutes for March 20, 2014, Mr. Caesar second, all voted in favor with the exception of Mr. Phipps who abstained.

COMMUNICATIONS – PUBLIC:

Mr. Mouser stated that he is not in favor of forcing people onto sewers. He said that the council may have been told that there is no authority to force people on if they have a good system but he referred to IC 36-9-23-30 Section 30 Subsection A and stated that it allows forced hook-ups regardless of age or condition of an onsite system. He explained that in a meeting at Greenville some time back, the attorney tried to reassure people that they couldn't be forced on if they had a good system. He said that if they wanted to buy a sewage treatment plant which would've made it municipal and then would have forced anyone within 10 miles and had property within 300 feet of the sewer line to hook on. He also said that the attorney cited House Bill 11-17 and said that gave them protection which was totally incorrect because it was not passed by the legislature or signed by the governor. He then said that they have managed to keep rural people off of the sewers that they don't want or need. He said that New Albany spent a huge amount of money on attorney's fees arguing with the EPA before they finally agreed to update the sewage treatment facilities and now the mayor says that he wants to protect the investment. He stated that his recommendation is that if you want to protect it then don't overload it. The pattern has been to overload it and fight a lengthy legal battle to keep from doing anything and then go ahead and spend more millions to update it and that's good for everyone except the rate payers and is bad for the environment because treatment plants regularly pollute our streams. He also said that the health department sent out a required report to the state on septic systems in Floyd County and they reported that 90% were failing. He asked what evidence they had and they said they didn't have any. He then began speaking about storm water and said that we could've asked for a waiver on the MS4 for Floyd County or could've ask for a political unit within a small part of the county to be designated for MS4 according to the way he read the law. He said that we were lied to by the people that were hired as advisors on this matter.

COMMUNICATIONS – CITY OFFICIALS:

Mrs. Baird stated that the committee for the farmer's market met and they have decided to do some additional investigation and come back next year with recommendations since it is too late to do anything this year. She also stated the architects did get the cost down to \$275,000.00 so it is not over budget anymore and they are going to try to get it even further down.

Mr. Blair stated that there is a street study that will be completed in August so they felt it was prudent to wait to see if there are any recommendations or what the study may help them decide as far as the future for the farmer's market.

Mr. Caesar stated that the farmer's market is highly successful and one of the reasons that this expansion was even wanted was for storage and restrooms. He added that the city doesn't have any public restrooms and feels that is something that we owe to the consumers of the farmer's market.

Mr. Coffey stated that he is going to pull A-13-11 because he thought that a contract had been signed but it hasn't so he wants to wait to pursue this.

Mr. Zurschmiede stated that the committee for the maintenance code standards is going to meet weekly on Tuesdays at 1:30 p.m. at Mr. Lorch's office and invited anyone to attend.

Mr. McLaughlin stated that the city will be having another audit and Mr. Brian Watkins is assigned to it so if you have any questions he is located on the first floor in the city-county building.

COMMUNICATIONS – MAYOR:

Mr. Hall stated that Mayor Gahan wanted him to pass along that New Albany is hosting the Indiana Statewide Preservation Conference which is very exciting and there will be events all week including tours, speakers and a dinner cruise on the Belle of Louisville.

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

Z-14-03	Ordinance Amending the Code of Ordinances of New Albany, Indiana Title XV Chapter 156 Autumn Grove Subdivision, LLC	Baird 1&2
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Mrs. Bair introduced Bill No. Z-14-03 for first and second reading, Mr. Coffey second, all voted in favor with the exception of Mr. Coffey who voted no.

Mr. Coffey asked who is representing the developer.

Mr. Brinkworth stated that he is representing the developer.

Mr. Coffey stated that he has a big problem with the tremendous amount of runoff.

Mr. Brinkworth stated that they are taking the runoff to the detention basin that is already built.

Mr. Coffey asked where the detention basin is.

Mr. Wood stated that it is very large and is located on the site.

Mr. Coffey stated that there was a detention basin that was built at Home Depot that collapsed not long after they did it.

Mr. Wood stated that this one is nowhere near that.

Mr. Brinkworth stated that this is over the top of the hill and the detention basin was built prior to him getting involved but it is huge. He added that they built it for the whole subdivision. He stated that they are going to develop about 20 lots that have units on them and they are not huge lots. He also stated that there will not be a whole lot of impervious material and feels that the basin will handle it just fine.

Mrs. Benedetti asked if this was approved prior for another developer.

Mr. Brinkworth explained that it was approved prior for a very similar development and we are just changing it up a little and actually having less units on the same site.

Mrs. Benedetti stated that Greg Andres ran a sewer line up there for the homes there and asked if there could be something worked out with him.

Mr. Brinkworth stated that there is some discussion on that.

Mr. Coffey asked if the water from the detention basin was going to come along 64.

Mr. Brinkworth stated that he doesn't think that it will come down 64 but will eventually end up on State Street.

Mr. Coffey stated that this development will add to the flooding in the area that is already occurring.

Mr. Brinkworth stated that it is not going out Cherry Street at all.

Mrs. Benedetti asked the difference between retention and detention.

Mr. Brinkworth explained that detention contains the water and slowly lets it out totally. He said that retention has a built in pond in it and retains more water.

Mrs. Benedetti asked what we did at Mt. Tabor.

Mr. Brinkworth replied detention.

Mr. Caesar asked how long the detention pond has been in service.

Mr. Brinkworth replied that he would say since they built those units.

Mr. Caesar said that he is curious about the area at West Street and Valley View Court because it seems that there is a lot of storm water that ends up right there. He asked if this would help the water come slower to that area.

Mr. Brinkworth stated that he would have to look at a USGS quad map. He also stated that the drainage design has not been done yet and they will do that when they get to the final design. He added that there were intentions to build a detention basin up above Silver Crest but that has kind of fallen by the wayside because the developer of Silver Crest bought the property that the detention basin was going on and there is a big squabble over it.

Mr. Blair stated that just seems to be the ongoing story on a lot of these detention basins.

Mrs. Benedetti asked if we are doing the one at Salvation Army.

Mr. Brinkworth replied that is still on the agenda.

Mr. Blair asked who is making the decision on whether or not to force our hand on these detention basins.

Mr. Brinkworth replied that he doesn't necessarily think that it is the board but stated that we are just not strong arming anyone at this point. He stated that we are looking at other resolutions for the Falling Run basin and doing some storm water work along the creek. He also stated that the county is getting ready to build the new bridge at Pamela.

Mr. Blair stated that he realizes that but we have water entering people's homes and we just can't take no for an answer.

Mr. McLaughlin asked how the talks went with the commissioners on the 4H project.

Mr. Brinkworth stated that they got sidetracked by the new project that they are going to do even better on which is to redo the creeks and the new bridge at Pamela Drive.

Mrs. Benedetti asked if that means they may not have to use the property at 4H.

Mr. Brinkworth replied that they may not have to but that is still being considered.

Mr. Wood said that this development was originally approved around 2004 and the developer went belly up by 2008. He said that he believes they were a little too strong in believing in the multi-family townhomes at that location and the present developer doesn't so that is why they are reducing the number from 32 to 19 and platting them as single family homes.

Mrs. Benedetti asked if the detention basin was made larger than it needed to be.

Mr. Wood stated that there was going to be one more section of multi-family units which would bring the total number of units to 64. He added that the basin was way bigger than what they needed for the first phase and is bigger than what they need for this phase.

Mr. Zurschmiede asked if it was inspected to make sure that it is still sound since it was built ten years ago.

Mr. Wood stated that city and county have both gone out and done inspections.

Mr. Casear asked if there is room for anymore development up there.

Mr. Wood stated that toward the back you start getting into steep slope area and the original plan there is homes on three, four or five acres.

Mr. Caesar asked if it is city or county.

Mr. Wood stated that it is in the two mile fringe area.

Mr. Caesar asked if there is a lot more development there will we have say.

Mr. Wood stated that there won't be. He explained that once you get past Autumn Grove that is county jurisdiction.

Mr. Caesar asked if we are comfortable with sewer and storm water.

Mr. Wood stated that they are still required to go to storm water and to GRW and have the independent review done for storm water. He also said that they still have to go to sewer capacity analysis and sewer permits so they still have hurdles to clear.

Mr. Coffey stated that down slope from here there are people that are getting flooded more than they ever have.

Mr. Wood stated that it is not coming from this site.

Mr. Coffey asked if this site would add to this problem.

Mr. Wood stated that he believes it goes south under 64 and never gets to State Street. He said that it runs along 64 to Falling Run Creek on the west side of 64.

Mr. Coffey said that is the area that is flooding.

Mr. Wood explained that they will have to go to GRW with the knowledge of where the discharge is for that creek and they will decide if a permit will be issued.

Mr. Coffey stated that the permit is going to go through and he is just asking that for once to quite dumping the water down on the people that are already getting slammed with it.

Mr. Brinkworth stated that they will slow the water down to a point where it is going hit that same spot downstream slower than what it hits it today from our site.

Mr. Coffey stated that is great and is what he is asking for.

Mr. Blair asked about the six storage units.

Mr. Brinkworth stated that they are basically two garages that will be built similar to the homes and they will be for sale to the people living in Autumn Grove only.

Mr. Blair asked if they have garages too.

Mr. Brinkworth replied yes.

G-14-02 Ordinance Establishing Exclusive Jurisdiction Caesar 3
 To Provide Sewer Service Within Regulated Territory

Mr. Caesar introduced Bill No. G-14-02 and moved for the third reading as amended, Mr. Phipps second, all voted in favor with the exception of Mr. Coffey who voted no. Bill No. G-14-02 becomes Ordinance No. G-14-06.

Mr. Caesar moved to approve the amendments set before them tonight, Mr. Phipps second, all voted in favor.

Mr. Gibson said that the only change that was made from the red copy that the council received in the packet and the one that was passed out tonight was the word shall to may in the third to the last sentence. He also said that Georgetown is going to be passing a mirror of this ordinance.

Mrs. Benedetti wanted it go on the record that this does not make a sewer district happen in the City of New Albany.

Mr. Caesar asked Mr. Gibson to reiterate that the city has no plans to do any expansions for the next five to six years.

Mr. Gibson stated that there are no capital improvement plans to expand out in the area at all.

Mrs. Benedetti asked if there were any plans to force any rural residents on sewers.

Mr. Gibson replied no.

Mr. Coffey stated that over the years they always voted yes because they were told this is what is going to happen and for eight years he has been waiting for something to happen on the drainage. He feels that this is a blank check. He asked if they have seen any plans whatsoever of what we are going to do for the future. He said that he can't vote for this the way it stands but agrees with it in principle.

Mr. Gibson stated that it is establishing a solid line for both Georgetown and New Albany when it comes to the areas where we would overlap in that respect. He said that it also sets Georgetown or New Albany as the first to be able to provide service if development does occur.

Mr. Blair asked if it protects the investment and the fact is that if we have capacity, we could bring more customers on and lower rates for all the people that it serves.

Mr. Gibson stated that it helps protect the investment and has already started making a good relationship between Georgetown and New Albany. He feels that it serves several positive purposes.

Mrs. Benedetti asked if we are going to have to pay that \$540,000.00 out of EDIT to the sewer.

Mr. Gibson replied that the sewer board has not addressed that this year but we did last year. He said that they are going to look at it every year to make sure that it is not needed but he anticipates that they will be bringing that up in the next month.

Mrs. Benedetti stated that from looking at the financials it is not needed. She then asked Mr. Gibson if they could make a decision within the next 30 days or maybe at their next meeting.

Mr. Gibson replied that he could talk to them at the next meeting.

Mr. Caesar stated that there are some big numbers that they are looking at and it would be nice to know if that money is available.

Mr. Coffey asked how many lines are going out to the county now.

Mr. Gibson replied two.

Mr. Coffey stated that in principle he somewhat agrees with this but we are passing on to someone that has no say and can't come back and say whether they agree with it or disagree with it. He said that we are telling people out of our jurisdiction what we are going to do to them.

Z-14-01	Ordinance to Amend Chapter 157 "Special Flood Hazard Areas" of the Code of Ordinances For the City of New Albany	Baird 3
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Mrs. Baird introduced Bill No. Z-14-01 and moved for the third reading, Mr. Phipps second, all voted in favor. Bill No. Z-14-01 becomes Ordinance No. Z-14-07.

Mr. Coffey asked where those are.

Mr. Wood stated that there have been letters of map amendment issued all along Falling Run and Fall Run Creek and at tributaries to it especially along Silver Creek because the maps that FEMA is using don't recognize the steep drop off there so they imagine the flood plain at the top of the hill. He also said that this doesn't bring anyone in that isn't presently in and doesn't take anyone out that is presently in. He explained that this allows the council to adopt new flood maps in the future by resolution. He stated that the council will have to adopt a new flood ordinance at the time the state or FEMA comes up with new flood ordinance requirements but other than that, you wouldn't have to do that just for a minor map amendment which is what this is.

Mr. Coffey said that is a problem because the cost of flood insurance is skyrocketing and some of that is because we've allowed developments to be built where they shouldn't have been built and they've also caused runoff on people that didn't have that problem before.

Mr. Wood stated that he would say a couple of major flood events have been the primary cause for flood insurance rates going up the way they have and that has been an act of congress. He added that Katrina, the floods on the Mississippi and Sandy are the three things that have basically bankrupted the insurance pool for flood insurance and congress has said that everyone is just going to have to pay their share.

Mrs. Benedetti asked if the homeowners were notified of the LOMAs.

Mr. Wood replied yes and stated that when DNR went through this process they had public hearings and information that they handed out.

Mrs. Benedetti stated that they can file for the LOMA to help them when they sell their property.

Mr. Wood stated that they have signed a lot of LOMAs and seen a lot of them come through. He added that he hasn't seen very many LOMAs that were applied for but haven't been issued.

Z-14-02 Ordinance Amending the Code of Ordinances Baird 3
 Of New Albany, IN Title XV Chapter 156
 (Docket P-01-14: Anne Ragains)

Mrs. Baird introduced Bill No. Z-14-02 and moved for the third reading, Mr. Coffey second, all voted in favor. Bill No. Z-14-02 becomes Ordinance No. Z-14-08.

BOARD APPOINTMENTS:

MISCELLANEOUS ITEMS:

Mrs. Benedetti stated that there are going to be a lot of monies coming before the council for appropriation and requested to have a work session to see the revenues of the monies that are coming in and what is obligated out.

Mr. Caesar stated that he would like to see it all out on the table.

Mr. McLaughlin set a work session for 6:00 p.m. before the next meeting.

COMMUNICATIONS – PUBLIC (non-agenda items):

IN COMMITTEE:

G-14-01 Ordinance Adopting the International Property Zurschmiede 1&2
 Maintenance Code Standards for the City of
 New Albany

ADJOURN:

There being no further business before the board, the meeting adjourned at 8:45 p.m.

Pat McLaughlin, President

Vicki Glotzbach, City Clerk