

**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, JUNE 3, 2013 AT
7:30 P.M.**

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

OTHERS PRESENT: Mr. Hall, Mr. Duggins, John Rosenbarger, Stan Robison, Major Whitlow, Colonel Pennell, Police Chief Knight, Ed Wilkinson, Mickey Thompson and Ms. Glotzbach.

MOMENT OF REFLECTION:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Phipps moved to approve the Public Hearing Meeting Minutes for May 16, 2013, Mr. Caesar second, all voted in favor.

Ms. Baird moved to approve the Regular Meeting Minutes for May 16, 2013, Mr. Phipps second, all voted in favor.

Mr. Blair moved to approve the Executive Session Meeting Minutes for May 29, 2013, Mr. Gonder second, all voted in favor with the exception of Mr. Coffey, Ms. Benedetti, Mr. Zurschmiede and Mr. Caesar who abstained.

COMMUNICATIONS – PUBLIC:

COMMUNICATIONS – CITY OFFICIALS:

Mr. Coffey stated that he wanted to congratulate the city on the bond rating going up and the fact that we actually paid down some debt on the sewers. He said that will save the city quite a bit of money in the long run and he thinks that the administration should be made aware of happy we are that has happened.

Mr. Caesar stated that the High Wheelers Bike Club will be here on Sunday, June 23rd. He said they will congregate at Bicentennial Park and then there will be an ice cream social at Division Street School. He said that everyone should come out for the 4th of July celebration on the 3rd of July. He stated that the city is planning events as well as the Bicentennial Commission. He said that they are working on having a short parade that day and there will be a lot of family fun events as well as food and they are going to try to do a birthday cake. He added that the fireworks will be extra special this year.

Mr. Phipps stated that the Bicentennial Park will be dedicated this Friday before the first concert of the season.

COMMUNICATIONS – MAYOR:

Mr. Hall invited everyone to the grand opening of Bicentennial Park on Friday night at 5:00 p.m. He said that the first concert of the season will start at 6:00 p.m. with the local bands Ranger and Riverboys.

APPROVAL OF CF-1 FORMS:

L&D Mail Masters, Inc., Compliance with Statement of Benefits referencing R-12-13 (PP)

L&D Mail Masters, Inc., Compliance with Statement of Benefits referencing R-11-18 (PP)

L&D Mail Masters, Inc., Compliance with Statement of Benefits referencing R-10-05 (PP)

L&D Mail Masters, Inc., Compliance with Statement of Benefits referencing R-09-06 (PP)

L&D Mail Masters, Inc., Compliance with Statement of Benefits referencing R-07-05 (PP)

L&D Mail Masters, Inc., Compliance with Statement of Benefits referencing R-06-12 (PP)

L&D Mail Masters, Inc., Compliance with Statement of Benefits referencing R-05-06 (PP)

Big Fisch, LLC, Compliance with Statement of Benefits referencing R-07-05 (RE)

Ms. Benedetti moved to approve the above CF-1s, Mr. Zurschmiede second, all voted in favor.

Mr. Duggins stated that they have all been reviewed by staff and have paid all of their processing fees so he recommended approval.

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

R-13-07 Resolution Approving an Audit of the Bicentennial Commission for the City of New Albany Zurschmiede

Mr. Zurschmiede introduced R-13-07 and moved to approve, Ms. Benedetti second, all voted no with the exception of Mr. Caesar who abstained. Resolution failed.

Mr. Zurschmiede stated that after Mr. Megenity appeared before the council he thought it was prudent that they look into the situation. He had a meeting with Mr. McCormick, Mr. Caesar and Mr. Brown and he doesn't think there is any malicious intent that has happened but anytime there is a transfer of duties in a 501c3 from one treasurer to the next, there should have been an audit or due diligence done for that transfer. He thinks that some of the allegations that Mr. Megenity brought forth as far as things that were done which are against the way 501c3 is set up were probably not right. He does not feel that there was anything malicious intended but it was just that things feel into place and people took advantage of certain situations that they had. He said he is not sure that the council can force them into an audit but the council formed the commission and have given monies to it and feels that the council is obligated to see that the money was spent wisely and accounted for wisely.

Mr. Gonder asked if it would require an additional appropriation to get the audit done or will it be done with funds on hand.

Mr. Zurschmiede stated that he doesn't know that and according to Mr. McCormick, a full blown audit would be very cumbersome and expensive so he is not sure what needs to be done.

Mr. Coffey asked if Mr. Zurschmiede would consider expanding this to include other organizations because the council has given other organizations money and we sometimes have questions about how that money is spent and what the return on the money was. He feels that all of those organizations should have to answer to it.

Mr. Zurschmiede stated that he agrees but that may need to be done separately depending on what organizations you are talking about because some of them may be able to pay for it themselves and some may not.

Mr. Gonder stated that he thinks that would be more properly handled in an ordinance rather than a resolution.

Ms. Benedetti stated that the council appropriated money to the Bicentennial Commission and asked if that can't be taken from the proceeds to have it done.

Mr. Blair stated that their budget was very specific per line item per event and so he thinks the council would have to appropriate additional money to do that.

Ms. Benedetti asked if the cash flow has been met for the events that they have been having.

Mr. Blair stated that is what an audit would tell them.

Mr. Caesar stated that all events have come in at or below budget.

Ms. Benedetti asked if they have generated any profits from the events.

Mr. Caesar replied no, he wouldn't call it profits and added that there are no proceeds from the \$56,000.00 that the council appropriated and that most of that money is still in the Controller's office.

Ms. Benedetti stated that her concern on the \$56,000.00 is that the cash coming and money being disbursed needs to be shown because it was hoped that some of the proceeds coming in from events would fund other events.

Mr. Blair stated that there was a compiled report by Mr. McCormick that told us that for a certain time.

Ms. Benedetti stated that was from January through March.

Mr. Blair stated that is the timeframe in which we allocated the \$56,000.00. He then asked Mr. Zurschmiede what timeframe he is looking at as far as an audit.

Mr. Zurschmiede stated that he just thinks there should have been some accounting done from the date that the initial treasurer started until he ended and then from that moving forward.

Mr. McCormick stated that there is state provision that if any not-for-profit organization receives \$100,000.00 or more from any governmental agencies then they are required to have an audit. He said there are three different levels of financial statements that CPAs issue which are an audit, review and compiled financial statement and the compiled financial statement was done for the Bicentennial. He said that the standards they use are

issued by the IACPA. He explained that in a normal financial statement you have a balance sheet, an income statement, a statement of equity of retained earnings, cash flow and footnotes and most businesses just want a balance sheet and an income statement. He added that to do all of that additional work is a lot of extra costs. He stated that he knows that there have been issues with the one fund ran by Ms. Zoller and they met with Mr. Shine and was told that it is quite costly to do an audit. He said that they reviewed the information and compiled it at no cost and then met with Mr. Caesar and Mr. Zurschmiede to go over the information.

Mr. Gonder stated that Generally Accepted Accounting Principles is the guideline and asked if a layman would be expected to follow those rules.

Mr. McCormick stated that the key thing is documentation to support the items to reflect the inflows coming in and outflows going out.

Mr. Gonder asked if the guidelines of what they should be doing were too lax.

Ms. Benedetti stated that they have to follow the 501c3 rules.

Mr. McCormick stated that you can put some protocols in place but you have to remember that you are working with limited staff and volunteers.

Mr. McLaughlin stated that this committee ran a certain way on about three different events before another person was brought in and asked if he thinks that the rules and guidelines were interpreted differently.

Mr. McCormick stated that is probably what happened because one person did it one way and the other person did it another way but it doesn't mean that one is wrong and one is right.

Ms. Benedetti asked who you file a 501c3 with to be approved.

Mr. McCormick explained that normally you get an attorney to incorporate the organization and set up the bylaws then you file with the IRS in the Covington, KY office because they handle all approvals on 501c3. He added that once you get IRS approval then you do have to file with the state of Indiana and get approval from them.

Mr. Coffey stated that this group did not take any taxpayer money. He also stated that they are not a 501c3 and they extended their hand to work together with the Bicentennial and they have not made any money off of this. He asked the council if they really have the right or the ability to audit them to make them respond to our request.

Mr. Blair stated that there was a cash flow budget put together and they were getting reimbursed for expenses already incurred so he believes that there was taxpayer's money involved.

Mr. Caesar stated that event had already happened before the council appropriated money. He explained that this event was held in September of 2012 and money wasn't appropriated from the council until late October or early November.

Mr. Coffey stated that he has a real problem attacking someone that is trying to do something for this community when we do have real organizations using taxpayer's money that has never had to be accountable for and he is asking to include them as well.

Mr. Zurschmiede stated that he is open to amending it to include others but he doesn't know what that does. He said that he doesn't believe that there was any malicious intent;

however, the Bicentennial Commission was set up by this council and he thinks due to no one's fault, there were some things done that violated that 501c3.

Mr. Coffey stated that it was before they were involved in the Bicentennial Commission.

Mr. McLaughlin stated that Stories behind the Stones is not a 501c3.

Mr. McCormick stated that is correct and they did not have any city funds in that.

Mr. Coffey asked what the total was that they took in.

Mr. McCormick replied that the event took in \$3,000.00 and it would cost more than that to have an audit.

Mr. Gonder asked if it was like someone having a yard sale and whatever profit they made they would give to the Bicentennial.

Mr. McCormick said that is correct.

Mr. McLaughlin asked Mr. McCormick if Mr. Megenity met with him on this.

Mr. McCormick said that they tried to set up meeting but it didn't happen.

Mr. Zurschmiede asked Mr. McCormick if he was to do an audit, would he include anything from this particular event.

Mr. McCormick replied probably not because it wasn't a part of the Bicentennial funds.

Mr. Gonder asked if a group can piggy back on the city's 501c3.

Mr. McCormick replied that if there was a sanctioned event that the Bicentennial Commission supported then that group could be under that umbrella and that would be part of the proceeds and part of the tax exempt purpose.

Mr. Zurschmiede asked if it was advertised as Bicentennial Stories behind the Stones, would that be considered a Bicentennial event.

Mr. McCormick stated that it would depend on if it is a sanctioned event and those activities run through the Bicentennial Commission then there is no question.

Mr. Coffey stated that the sanctioned events are in 2013.

Mr. Blair asked if the Stories behind the Stones is a private organization or a non-profit organization. He also asked what they were expected to do with any of the profits from running that event.

Mr. Caesar explained that Stories behind the Stones is something that Ms. Zoller and the Living History Society came up with on their own and did all of the work on their own. There was no Bicentennial money that was ever given to them. She did this willingly to help make the Bicentennial a wonderful event. She agreed that if any money came in she would give the money back to the Bicentennial Commission but she is really a separate entity. He added that she gave money to the Friends of the Fairview Cemetery and she was trying to pay things forward to make things happen. He also pointed out that she was doing it as a favor to the city.

Mr. McLaughlin stated that this is not the first one that she has had.

Mr. Caesar stated that it was her second.

Mr. Blair asked if there would have been a loss, who would incur that.

Mr. Caesar stated that was never really talked about. He added that there was so little money to put into the events that she had but it took a lot of time and effort.

Mr. Zurschmiede said that there were some significant costs for this event because Mr. McCormick had a stack of receipts for the event. He then asked if the High Wheelers that are coming for the Bicentennial are contracted with the Bicentennial Commission.

Mr. Caesar replied yes.

Mr. Zurschmiede stated that Bicentennial did not contract with Ms. Zoller's group to do whatever they were doing.

Mr. Caesar stated that is correct.

Ms. Benedetti asked if those receipts were in hand when this all circulated or were they just produced.

Mr. McCormick stated that day after he received the receipts he had a meeting with Mr. Caesar and Mr. Zurschmiede the following day. He added that was about two weeks ago.

Ms. Benedetti stated that she thinks that was part of Mr. Megenity's concern because he was acting treasurer at the time and he was not given the receipts.

Mr. McCormick stated her issue was that she didn't want to turn over the credit card receipts. He said that she ran those through her business machine and due to the privacy act, she felt that she couldn't turn those over with people's names on them. He said that they ran a tape of them and there was only a \$10.00 discrepancy that they couldn't tie on the detailed register of who came. He added that she had very detailed records.

Mr. Gonder stated that he thinks it would be a good idea to have a controller's checklist to give out to organizations that the city appropriates money to. He added that could prevent what happened here.

Mr. Zurschmiede stated that they are getting ready to do it again with the Church Clock Tower.

Mr. Gonder stated that it is not too late to get a form like that together.

Mr. Caesar stated that he thinks it would be very appropriate.

Mr. McLaughlin asked Mr. McCormick if his opinion is that Ms. Zoller did nothing wrong.

Mr. McCormick stated that to him it was not a sanctioned event; she was just going to do a fundraiser and contribute the proceeds. He said that he really doesn't want to issue an opinion because they weren't engaged to do that. He added that she had very good records of receipts and disbursements.

Ms. Benedetti pointed out that if they were to do an audit, this event wouldn't even be included.

Mr. McCormick stated that he doesn't know why it would be included because it was not a sanctioned event by the Bicentennial Commission.

Mr. Coffey thanked Mr. McCormick for taking the time out to look at this and stated that it really helped the council to have this information.

Mr. Blair stated that he thinks that as far as accounting controls, they should hire an auditor and audit things as they occur instead of having guidelines.

Mr. Phipps stated that we could do an audit today on every one of the groups and that will tell us something today but will not tell us anything two years from now. He said that it would have to be on an ongoing basis or some type of rotation or set up an agreement ahead of time.

Ms. Benedetti asked Mr. McCormick if he is now overseeing this from here on.

Mr. McCormick stated that the only thing they have been engaged to do is posting receipts and disbursements and make sure that it balances back with what the cash says it should be.

Mr. Gonder asked if that lines up with one of the levels.

Mr. McCormick replied that it is the lowest level.

Ms. Benedetti asked who signs the checks for the Bicentennial Commission.

Mr. Caesar stated that he and Mr. Barksdale do.

Mr. McCormick stated that they may want to review their procedures just to see if there is anything that they may want to tighten down a little bit.

Mr. Caesar asked Mr. McCormick if this agreed upon procedure is something that he could help them with and is it fairly simple.

Mr. McCormick stated that it depends on what the council wants to see accomplished.

Mr. Gonder asked if it would make sense to have agreed upon principles that all of the organizations that we fund would have to agree to.

Mr. McCormick replied yes.

Mr. Blair stated that they could ask the controller to require supporting documentation that supports if the funds were used for the particular purpose that they were appropriated for.

Mr. McCormick agreed and said that he would be glad to help make it more sufficient and cost effective.

R-13-08 Resolution Concerning Statement of Benefits Phipps
 for L&D Mail Masters, Inc., by the Common
 Council of the City of New Albany

Mr. Phipps introduced R-13-08 and moved to approve, Mr. Coffey second, all voted in favor.

Mr. Duggins stated that the staff has reviewed the statement of benefits and it is a great company growing in the industrial park. He said that they have submitted it for five year abatement on machinery and that there are additional employees being added because of the equipment. He added that there are a large number of retained employees which he thinks is very important because it is a large payroll for the area.

Mr. Coffey stated that he has always felt that it is ridiculous to put taxes on equipment for people to do their job. He asked if there is there any way to do away with that tax.

Mr. Duggins stated that the legislature specifically taxes personal and real property and that is where this comes from.

Mr. Coffey asked if equipment falls under personal.

Mr. Duggins replied yes. He said that they follow the state code exactly. He added that is why they stay with the five year abatement because anything longer would not be beneficial to us or the company. He stated that it does help offset the introductory costs.

Mr. Blair stated that there are a lot of companies that are paying that personal property tax and he thinks that what makes this beneficial to the community is that there is a job creation requirement.

Mr. Coffey asked why we have to charge taxes on equipment.

Mr. Blair stated that there are other companies that buy new equipment that have to pay the tax on it and he thinks that the advantage here is that there is a job creation requirement and it will have to be handled on an individual basis.

Mr. Zurschmiede stated that if it is \$1M piece of equipment then that it is a lot of taxes on it.

Mr. Coffey stated that he just doesn't understand why there would be a charge for the equipment to do your job.

Mr. Duggins said that it would have to go through the state and the tax code in Indiana would have to be changed to exempt equipment.

Mr. Blair stated that they would find somewhere to make it up.

Mr. Gonder asked if there is sales tax on a \$1M machine.

Mr. Duggins replied yes.

Mr. Gonder stated that there are criteria that companies are going to have to follow and these look like they are \$31,000.00 per year jobs. He asked if a company comes to them with substandard jobs then they won't get abatement.

Mr. Duggins stated that is not up to him, it is up to the council. He explained that any company can come before the council for abatement. He said that through Redevelopment and Economic Development, if a job doesn't fit the criteria then they would not recommend the abatement to the council. He added that at that point that company could come directly to the council and request it.

Mr. Gonder asked if we have ever had a CF-1 come before the council that did not go through the filter of Redevelopment.

Stabilization Project would actually be working in concert with that rather than working against it. He also said that traffic pattern on Elm Street is an arterial road running straight through the stabilization area where we are trying to encourage people to live and buy houses. He is encouraged that the Main Street corridor is going to get going and he would love to see what the city has planned for the rest of the roads and all of the other parts of the city that residential neighborhoods could benefit from similar changes. He then said that the downtown businesses are meeting about every three weeks and it is not particularly under anyone's auspice right now but representatives from Develop New Albany are there, the restaurant and bar people are there, New Albany First is there and whoever else is interested. He stated that Larry Ricke is doing a great job of bringing people together to put their heads together which is a good thing.

IN COMMITTEE:

TABLED ORDINANCES:

ADJOURN:

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

Pat McLaughlin, President

Vicki Glotzbach, City Clerk