

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A REGULAR COUNCIL MEETING IN THE COUNCIL
CHAMBERS AT NEW ALBANY CITY HALL ON MONDAY, APRIL 4, 2022 AT
7:00 P.M.**

MEMBERS PRESENT: Council Members: Mrs. Collier, Mr. Phipps, Mrs. McLaughlin, Mr. Turner, Mr. Blair, Mr. Aebersold, Dr. Knable and Mr. Applegate, President. Mr. Caesar was not present.

ALSO PRESENT: Ms. Stein, Mr. Gibson, Mr. Hall and Mrs. Glotzbach.

CALL TO ORDER:

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

MOMENT OF REFLECTION:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Phipps moved to approve the Regular Meeting Minutes for March 17, 2022, **Mrs. Collier** second, all voted in favor with the exception of **Mr. Caesar** who was not present.

COMMUNICATIONS – COUNCIL:

Mr. Applegate read the following statement from Councilman Bob Caesar’s family into the minutes:

On March 17, Council Member Bob Caesar was admitted to an area hospital in ill health, which has resulted in a stroke and serious staph infection. An avid supporter of the community, Bob was first elected to the New Albany City Council in 2007 and began serving as a council member in January 2008. He was elected president of the council in 2020. Bob has given his time, talents, and treasures to his fellow New Albany residents, nonprofits, and charitable causes in numerous ways and is proud of the role he has had the opportunity to reside in for the community. We appreciate the prayers and positive thoughts for Bob and our family as we navigate this difficult time. We will continue to share more information as it becomes available.

Mrs. Collier stated that she would like to give her prayers to Mr. Caesar and his family. She also stated that she wanted to give her prayers to all of the families involved in the tragedy that happened earlier today at Circle K on Grant Line Road and Beechwood Avenue. She said that she wanted to give a big thank you to the New Albany Police Department, the New Albany Fire Department and all of our first responders that work so diligently everyday to help keep our community safe.

Mr. Phipps stated that he would concur with what Mrs. Collier said and to keep Mr. Caesar in your thoughts and prayers and thanks to the great job that the New Albany Police Department does everyday to keep us safe.

Mrs. McLaughlin stated that she would like to also offer her thoughts and prayers to Mr. Caesar and his family and to our community for everything that has happened. She said she is thankful for the response of the police department today and over the weekend as well.

Mr. Turner stated that he hopes Mr. Caesar gets better. He said that everything that has happened recently with regards to the shootings is very concerning. He stated that it was a very sad day for New Albany and his thoughts and prayers are with all of the families involved as well as the city and county police.

Mr. Blair stated that he concurs with everything that has been said and doesn't have anything to add.

Mr. Aebersold stated that he also concurs with everything that has been said and we need to keep our community, our country and the world in our prayers because there is a lot going on. He also stated that Mr. Caesar and his family will be in his prayers and he hopes everything will be fine with him.

Dr. Knable stated that Mr. Caesar is a great guy and a large presence in the community and on this council and he hopes that he makes a full recovery. He said that today was a horribly tragic day in New Albany and what an essential reminder that we have to have a well-funded police force as well as good communication between the city and the county services. He said that it looks like that really happened today with this senseless shooting, but they were there to hold that thin blue line for us. He then stated that he doesn't think it is a surprise tonight that he is going to be asking for a formal request for the planning and zoning folks to come before the council to discuss the Bohannon Lane development situation. He said that they heard several concerns at the last meeting and he would like to hear the other side of it formally. He stated that when it came before the council, it consisted of one project that he did endorse and vote for and it morphed into something that he doesn't think he would have voted for. He said that it went from two-story townhouses to three-story apartments, from storage tanks below the ground to ponds above the ground and they haven't had a chance to look at traffic concerns with those changes. He stated that there were trespassing concerns and there were also some amelioration efforts that came before us that were part of the pact that was part of that initial approval which included lighting, tree barriers and things like that. He said that most concerning, just from a logistical standpoint, is that there was a turnover of at least two of those board members during the time that those votes took place and he is not sure what the continuity of the information and the messaging was between that. He stated that the absolute most concerning to him is that according to those individuals in that neighborhood, they were told by the president of the planning and zoning commission that they would have the opportunity to bring that matter back before the council. He said whether that is accurate or not based on the new zoning regulations, he does not know. He stated that he thinks that would be something worthwhile for all of the council to know how this is going to happen going forward. He said that he is not asking them to be brought here to be put on trial or to embarrass anyone, he would just like for them to have a chance to explain their position and he thinks the residents in that neighborhood are entitled to hear that. He added that in some point in time, we council members have to remember that we are representing the people rather than the governmental bodies that are here or at least equally representing both of them. He stated that his request will require a majority vote.

Mr. Applegate stated that he concurs with everyone on the comments about the police and their actions today. He said that he is just really proud of them and now is the time for everyone to come together to make sure our community stays safe. He then stated that he is hoping for speedy and full recovery for Councilman Bob Caesar and his thoughts are with his family.

Dr. Knable moved to make a formal request that the president of zoning or whoever it was that presided at the meeting when it was supposedly said that this would go back before the council to come before the council and explain why that statement was made, Mr. Blair second,

Mr. Blair withdrew his second.

Dr. Knable stated that he would like to have a vote to have a representative from both planning and the board of zoning to come before the council to explain why, with the magnitude of changes in this project, it was not felt necessary or appropriate to be brought back before the council for discussion. He said he would also like for them to explain if the acting president at that time did tell members of the community that they would have the opportunity to bring that before the council, why was it not brought back before this body.

Mr. Applegate asked Ms. Stein if they have any jurisdiction over the board of zoning.

Ms. Stein stated that the council can't change what happened there.

Dr. Knable stated that he is not asking for an aye or nay vote on what happened there, he is asking for a report as to what transpired and how we ended up with this level of miscommunication.

Mr. Applegate stated that he is okay with that but he just wants to be sure of what the council is asking.

Mrs. Collier asked if the information that Dr. Knable is seeking could be clarified in the minutes from their meetings?

Mr. Phipps stated that if they just want to put together a one-page summary report rather than have someone come in, that would be okay because lots of times when they bring people in, it turns into shouting matches between people and arguing over it when we just want the facts. He said that they don't want to make it like an inquisition or something.

Dr. Knable stated that it is not an inquisition and he doesn't ever remember anything developing into a shouting match.

Mr. Phipps stated not really shouting matches but when you get someone up there and all sorts of other questions start surfacing about that and so forth, it can put that person on the hot seat.

Dr. Knable stated that's what we do and we are all on the hot seat from time to time because we are accountable to the taxpayers. He said that the questions that he put in his motion are the questions he would like answers to so they could be prepared to answer those that night.

Mr. Phipps stated that he wanted to clarify that has not happened on this council but on past councils, there have been shouting matches between certain people and people who are employees of the city and it is embarrassing for all.

Mr. Gibson stated that PUDs have a time limit of 18 months so if nothing happens within 18 months, the PUD simply dies and the granting of whatever that was is no longer in effect or in existence and it falls back to the zoning code and what it is zoned at that time.

Dr. Knable stated that the ownership of the property changed hands and he didn't know if that negated the PUD or not. He also stated that he understands that we had a large zoning change between those two times as well. He again said that his question is if they were told something inaccurate and if so, he thinks someone needs to apologize for that error.

Mr. Gibson stated that he doesn't have any proof that anyone was told anything.

Dr. Knable stated that he was told that there is a video but he has not seen that video.

Mr. Gibson stated that a video would probably help everyone see something but at the end of the day, he doesn't think a statement by them would be binding.

Dr. Knable stated that it could be as simple as the individual saying that they thought it would go back to the council because that is the way it used to be but now, we don't have to. He said at this point in time, he would like to hear what type of amelioration measures are going to be taken for the neighbors there with regards to lighting, buffers and things like that. He stated that is something that they didn't have a chance to discuss here. He added that he is not asking for an inquisition and quite frankly if he were in that individual's shoes, he would welcome the opportunity to air his side of the story publicly because he will fully acknowledge that they have only heard one side of that story from the residents.

Mr. Gibson stated that he would say that it was aired because they had public meetings and it went through the process that it needed to. He then stated that a PUD has 18 months and once you change the ownership that was approved for the PUD in some fashion and it's not been effective and done, that would kill the PUD. He said that the fact is that they did put time limits in them now.

Dr. Knable stated that he understands that it was adjudicated or discussed under two different zoning paradigms. He said that he is old school and is representing these folks and they have told him their side of the story and he would love to hear the other side of the story publicly. He stated that he thinks that Mr. Gibson has worked with him long enough to know that he is not going to put hot coals under anyone's feet here.

Mr. Gibson stated that as far as other stipulations, those are part of the findings, part of the minutes and part of the approval in the BZA actual minutes.

Mr. Blair asked Mr. Applegate if he is open to a vote?

Mr. Applegate stated that he is open to a vote as long as it is something that we can actually have. He said he doesn't think they can have all of planning or all of zoning come in.

Mr. Aebersold stated that the end result is that the zoning was changed, which the council had nothing to do with, and it was changed after the council had approved the other project. He said that the developer jumped through a lot of hoops and it seemed like the people all around him were okay, but now the new developer has made so many changes that the neighbors don't like. He stated that the developer could make all of the changes because of the zoning change. He said that even if they have someone come in and explain everything, it is still going to come down to the zoning change allowed all of the changes.

Mr. Blair stated that the council could probably learn something from this because there is a group of citizens that went through one process and had to come before the council and they believed that the second time they would come before the council as well, but they were told no. He said that they may have approached it differently as far as the way they argued against the development because they thought their last chance was for it to go before the council and that turned out not to be. He stated that if they were misled, he would like to understand that piece and what was told to them.

Mr. Gibson stated that he has no evidence of that being said and just have an allegation that someone said something and this body is asking that another independent body be requested to come in and answer additional questions. He stated that if they have evidence, supply it because that would allow him to know what it is and talk to that particular BZA person. He said that this went through the legal process with the BZA and they did what they were supposed to do to get a variance. He added that it is not a variance to the PUD; it is a variance to the zoning code. He stated that came in after the fact that this body voted on and accepted it so the process was through then.

Dr. Knable stated that this is not just coming from him and there were several neighbors who came and spoke at the last meeting with regards to how they felt they were treated. He said that the major inconsistencies that he sees with the process were the turnover of the members of that body between votes and also the statement that it was going to come back before the council. He then asked Mr. Gibson if he had a video of what was said, would it impact what we could do? He said that he is not looking for anything other than a “Hey, I did say that and it was incorrect” and maybe a little more respectful treatment for our citizens with respects to how they said they felt this was handled.

Mr. Gibson stated that he is not sure as to how they felt this was handled because it went through the formal process that was required and they were notified of the meetings and there were several meetings. He then said that he doesn't know about the second appointment to the board but he does know that one of the county's officials was replaced because her term ended.

Dr. Knable stated that he hopes it would be concerning to everyone if they were told that this would go back before the council.

Mr. Gibson said again that he doesn't have anything to show him that it was said and that's the problem. He told Dr. Knable that if that person can supply him with the video and he give it to him, he will take it to the staff to talk to the president to find out if that is true or not. He said that he just doesn't have anything to show that is what happened and he just has someone saying that happened. He stated again that will not change the legality of it.

Dr. Knable stated that he holds to the fact that it would be useful to hear their side of the story because he is hearing one side at this point and not the other.

Mr. Blair stated that hearing both sides of the story and going to the source to ask what was said is the quickest way to get to what happened.

Dr. Knable stated that the people who spoke at the last meeting on this were very sincere about the statements they made at a public meeting and that carries a lot of weight with him.

Mr. Gibson said that all he is saying is that if they have a video, just have them give it to you.

Dr. Knable stated that it's not a legal proceeding but he can ask if they have it and if they don't have it then they don't have it.

Mr. Blair gave the example that on the previous council, the city applied for the Community Crossings grant for paving and didn't receive it one time because of a technicality. He said that the council had the city engineer as well as the consultant come in and explain what happened and the mistake that was made and he feels that really improved the process going forward. He stated that they then got things done timely and correctly so by that whole process, he feels it improved our ability to apply for future grants.

Mr. Gibson stated that he doesn't disagree with Mr. Blair on that but we are not talking about a city employee here; we are talking about an appointed member to the BZA is what he is hearing.

Dr. Knable stated that mistakes happen and he gets that. He said that if that individual stated that was to happen and believed that it was to happen but it was in error, he understands that. He then said that he will ask his constituents to provide the video and if they have it, he will show it to everyone here publicly, and then ask for the vote then, rather than tonight, because it may not carry. He stated that if they don't have it, that will

be the end of this matter from his standpoint. He said that he appreciates everyone's attention to this matter. He stated that he is not chasing phantoms, but it hurts him on a very personal level when he hears that people aren't treated in a manner that he thinks they should be accorded. He added that he also understands Mr. Gibson's stance on seeing the video to know what those constituents are talking about.

COMMUNICATIONS – MAYOR:

Mr. Hall stated that the mayor would want to echo the council's sentiments about Councilman Caesar and would like for everyone to keep his family in their thoughts moving forward. He said that they also really appreciate the support for the New Albany Police Department right now. He then stated that the Kentucky FamFest is actually this Friday from 4:00 p.m. until 8:00 p.m. right out in the parking lot. He said that it is free admission and there will be a ton of games, music, prizes to give away and different little mini-events that are centered around the festival. He stated that it should be a lot of fun so he hopes the council members can make that. He then said that they had a great public storm water master plan meeting last week and he wanted to thank everyone for coming out because they had a great turnout and got a lot of feedback. He stated that all of that combined with their survey and all of the other data that they have been collecting will be compiled into the master plan and they will have that soon.

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

COMMUNICATIONS PUBLIC: Z-22-01 VACATION OF SEWER EASEMENT

COMMUNICATIONS PETITIONER: Z-22-01 VACATION OF SEWER EASEMENT

Z-22-01	An Ordinance for the Vacation of Sanitary Sewer Easement Pursuant to a Petition Filed by INTERPLAN LLC	McLaughlin 1&2
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Mrs. McLaughlin introduced Bill Z-22-01 and moved to approve the first and second readings, Mr. Blair second, all voted in favor with the exception of Mr. Caesar who was not present.

Mr. Gibson stated that Ms. Donna Brown is present and came in from Pennsylvania on behalf of the company for this matter. He said that we are aware of where Chick-Fil-A is and there have been some stacking issues with the drive-thru and Covid probably exaggerated that a lot. He explained that as part of the initial layout of this area, there was a sewer easement that was required as part of the process which is not unusual to include in projects of this nature. He stated that the sewer was never needed and there are no storm water lines so there is no future use or need for that area. He said that they are asking for a vacation of that line in order to build up a two-lane drive thru, but they need that space to accomplish this. He stated that he had every department take a look at it to determine whether there would be a need in the future for it in any manner and they didn't see any need for an easement or any lines from the city's utilities standpoint to be used or go through there. He said obviously we want to assist so there are no stacking or back up issues out into State Street.

Ms. Donna Brown stated that she is with INTERPLAN LLC and she is present on behalf of Chick-Fil-A. She said that everything that Mr. Gibson just said is an accurate

assessment of what they are trying to do. She explained that because of all of the stacking issues, Chick-Fil-A is presently closed now and they are starting the remodel. She stated that as part of the remodel, they are expanding the kitchen by adding a small addition to the back which will help increase production in the kitchen to try and help pull those cars through the drive-thru a little quicker. She said that along with that they are putting a dual lane drive thru around the building and they will be installing a canopy system over the second drive-thru lane that goes around the building to the pickup window. She added that is where the team member assist customers with orders and also delivering food. She stated that they are putting up two canopies and one will go up over the order area and it will go over both lanes and they did go before the BZA to get a variance in order to do that. She said they are extending that second drive-thru lane around to the pickup window as well and are installing a dual lane canopy over that also. She stated that the 10-foot sewer easement is along that property line and the footers of the canopy will be in that sewer easement in order to facilitate pulling the cars through the drive thru quicker and should alleviate a lot of the stacking issues that are affecting the shopping centers access to the parking. She said that they are hoping that this ordinance for the sewer vacation will be passed so that they can go a little bit further and try to alleviate the existing traffic issues that are out there.

Mr. Phipps asked if there will still be just one pickup window?

Ms. Brown stated that there is still going to be only one pickup window, however as part of Chick-Fil-A's operations, there will be two menu boards and two lanes that go all the way around the building and during peak hours they do have team members outside taking orders on their iPads. She said that helps with the accuracy of the orders and then when they get around to the pickup window, they will either be able to use it at two lanes and have two members outside delivering orders. She stated that they can also use it as a bypass lane where cars can pass other vehicles that have larger orders that take longer.

Mr. Aebersold asked how two cars are going to be able to exit by going up the hill and onto the road?

Ms. Brown stated that there won't necessarily be two cars going up that hill because there will be one car that is going to the right and one car in theory that is going to the left.

Dr. Knable asked if it is possible for the person in the lane closest to the building to still go to the right?

Ms. Brown stated that in theory they could.

Dr. Knable stated that it would be nice to consider a physical barrier that wouldn't allow that but he gets that there would be people angry that they are trapped in that lane.

Mrs. McLaughlin stated that it won't be as congested because they will be coming in the closest parking lot because the whole drive-thru is changing.

Ms. Brown stated yes, the dual lane parking lot is adjacent to the shopping center entrance so all of the traffic will be deviated into the first two bays of parking and the dual lane will start where the existing drive-thru is.

Dr. Knable asked if someone in the left lane could still cross over to go in the right lane to exit?

Ms. Brown replied yes. She added that it is only going to be during peak hours that both lanes will be coming through and operators usually have a team member out there helping direct the traffic.

Dr. Knable asked if there was any formal look at the runoff of that small area by engineers? He added that he is just asking that because there have been problems in that area in the past.

Ms. Brown stated that there was.

Dr. Knable asked if there is anything else going on there with regards to water retention coming off anywhere or is the existing drainage thought to be sufficient?

Ms. Brown stated that the existing drainage is sufficient because it is not a big increase in the impervious area.

Mrs. McLaughlin stated that there is a detention pond right there at Home Depot.

Mr. Gibson stated that the problem they had a few years ago with that was due to the water coming off of the hill into that basin and it, unfortunately, had not been cleaned out and maintained the way it was supposed to by the owner so it wasn't holding the water. He said that it is now on the storm water maintenance schedule to be maintained so there shouldn't be any more issues.

Mr. Turner asked what the estimated improvements to traffic flow are?

Ms. Brown asked if he meant from off-site to on-site?

Mr. Turner replied yes.

Ms. Brown stated that they are increasing their stocking capacity just in the drive thru lanes by about 33%.

Mr. Applegate asked if any of the other businesses will be affected during construction and if so, could you send something out to them to let them know that certain lanes will be blocked or how that will be done on a construction schedule?

Ms. Brown stated that she honestly thinks that it will be better during construction than it has been for a while. She said that she was out there today and the majority of the construction vehicles were parked in the parking spaces for Chick-Fil-A.

Mr. Applegate stated that any updates that she can give those businesses would be great.

Ms. Brown stated that they did make the shopping center aware of the construction that would be taking place and the shopping center provided a letter of acceptance.

Mr. Turner stated that he is in favor of this and asked Ms. Brown if he could get the drawings emailed to him before the next meeting.

Ms. Brown said she could do that.

Mr. Blair stated that he is in favor of this as well, but it is a challenging location and he would rather see them locate to another place on State Street. He added that he thinks they are doing the best they can and making improvements.

Mr. Gibson stated that he does have one request. He said Ms. Brown has graciously offered to come back for the final reading if the council feels that it is necessary. He stated that she is, however, from Pennsylvania so she did come in today and enjoyed our greenway and had a nice walk. He said that if the council feels it is necessary, she said she will definitely come back but if not, he would like for her to save that time and trip. Mr. Gibson added that if there are any questions between now and the next meeting, they can get those answered.

Dr. Knable stated that he moves to absolve her of that duty.

Mr. Blair stated that unless there is something that just drastically changes, he is going to vote the same way so there is no need to make that extra trip.

INTRODUCTION OF RESOLUTIONS:

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

ADJOURN:

There being no further business before the board, the meeting adjourned at 7:47 p.m.

Jason Applegate, President

Vicki Glotzbach, City Clerk