

**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 THURSDAY, JULY 21, 2022
AT 7:00 P.M.**

MEMBERS PRESENT: Council Members: Mrs. Collier, Mr. Dickey, Mr. Phipps, Mrs. McLaughlin, Mr. Turner, Mr. Blair, Mr. Aebersold, Dr. Knable and Mr. Applegate, President.

ALSO PRESENT: Ms. Wheatley, Mr. Gibson, Mrs. Moeller 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 July 7, 2022, Mrs. Collier second, all voted in favor.

COMMUNICATIONS – COUNCIL:

Mr. Dickey stated that earlier in the week we lost a long-time employee of the city, Mrs. Kay Garry, former Comptroller for the city. He said that Kay and her husband Jack, who we lost several years ago, were tremendous individuals and Kay did a phenomenal job at keeping the city on track and being a model of what a true public servant could be. He stated that he just wanted to remember her and her dedication tonight. He then stated that several of the council members were at the CASA luncheon earlier today and feels that they cannot heap accolades on that organization enough for what they do to serve as a voice for children in need. He said that he is very proud to see the growth that they are experiencing and encouraged the other members to please take some time to visit their website. He stated that he also spent some time last night with Ms. Suzanne Jacobson at My Camp which is part of Christian Formation Ministries Programs. He said that they reach out to children who have undergone trauma, have parents or family members that suffer from addiction or family members who are or have been in prison. He stated that the program that they put on is tremendous and he got to see one of the better nights because it was a princess party celebration and all of the young ladies were dressed in ballgowns. He said that he thinks this is so important because they get to be themselves and go through this program and address the trauma they have experienced. He stated that this is a great program for our community and he just wants to commend them for the work they do. He said that it is an example in how we all can play a role in helping to uplift our community.

Mr. Turner stated that last year he brought up the facilities on the greenway because they have been closed for a while now. He said that last year flood control stated that there were plumbing repairs that needed to be made. He asked the other council members if they have heard anything about those being reopened anytime soon? He stated that he will track that down to get some kind of answer there because we have a nice greenway and he gets a lot of comments about not being able to use the facilities. He then said that he has not received a paving list from Mr. Summers yet and he started requesting it in late May, so he is going to do a public records request tomorrow since he did request it for everyone on the council for tonight and has still yet to receive it. He stated that he just thinks it is valuable for all of them as council members to know which

streets are being paved so they don't have to keep pushing for one if it is going to be done.

Mr. Blair stated that he received the funding information that he wanted for the firehouse and it shows that we have sufficient revenue or cash flow to meet the obligations that we have on that. He said that was good information to have because it shows a projection of what our TIF revenue will be for the next ten years he believes. He added that he thinks everyone received that report and should take a look at it. He then stated that he is getting complaints from the Rolling Creek Subdivision residents which is close to Sazerac/Northwest Ordinance. He stated that they are upset about a lot of noise going on in the middle of the night and it has been going on for about a month now. He said that he mentioned it to Mr. Staten when he was here and he tried to make contact with the Plant Manager, Mr. Hartman, but Mr. Hartman did not return his phone call. He stated that he has left two messages with Mr. Hartman after Mr. Staten left and he didn't get anything in return either, so he is going to meet with the residents. He said that they do have an HOA, so as a residential group, they can make a formal complaint against the facility and we also have a noise ordinance that they can reference. He stated that he may ask that the council react and do something too because back in April, when we did the tax abatement for the new equipment, Mr. Hartman was on record saying that he would work with the neighborhood and make sure that they would be a good neighbor and so forth. He said that from what he can tell, that is not happening and he is not going to let something like this go on. He stated that it is unfortunate that we have industry right next to neighborhoods, but they still have to live in harmony with each other and they may have to uphold their side of the battle. He said that he just wanted the council to be aware that he may come back with something for the council to address to Northwest Ordinance.

Dr. Knable asked if it is trucks, rails or sirens?

Mr. Blair stated that it is the backup alarms. He said that they have an area behind the factory where they actually have little tow trucks that they move the semi-trailers with so it is the alarms on them that are making the beeping noises.

Dr. Knable stated that he thought Mr. Blair specifically brought that up to Mr. Hartman in April.

Mr. Blair stated yes, that is where he is coming from because if we are going to give them something and they promise something in return, he expects them to live up to their side of the agreement.

Dr. Knable stated that he could at least answer your phone call.

Mr. Blair replied exactly and stated that it is really perturbing that he will not answer a phone call especially from two different people.

Mr. Aebersold stated that he is still trying to help out the situation around here with the tolls. He said that he sent a letter to the governor to see if he could help us out during this time and maybe eliminate the tolls for a while and he did get a response. He stated that the response was from INDOT and it was a long paragraph that basically said "no, you are not going to get the tolls reduced and that they will still have to be paid because they have a lot of obligations, etc. etc.". He said that he thinks the end result is that they are making a lot of money on it and they are not going to cancel it out. He added that at least he tried.

Dr. Knable stated that there are at least five people running for governor next time on that side so maybe they should get ahold of some of them during primary season to see if they can get some pledges. He then thanked Mr. Aebersold for writing the governor on that. He stated that late last week he got a couple of messages from some residents near Logan Street and the Grant Line Road area about a development going in across from the

VFW. He said that he thinks it is a little less than one and a half acres with 13 or 14 homes going in there, so there were some concerns about runoff at the VFW which already has some flooding and also access to such a development as well as the density of the development. He stated that he wanted to bring this to everyone's attention and wanted to thank Mr. Phipps publicly because they spoke about that Monday and he took that into the planning and zoning meeting. He said that he heard feedback from the residents that Mr. Phipps was responsive during that meeting or before the meeting and it looks like they are trying to tweak at least possibly the numbers on that and the access. He also said that they are going to keep the houses more in style with the neighborhood and be more of a craftsman type buildout. He stated that the next meeting on that is August 16th at 7:00 p.m. and he wants to try to attend that and hopefully he can speak up on behalf of the residents and be there for them as well. He said that he wanted to thank Mr. Phipps publicly because that system looks as though it is working the way it should with getting some public input on these developments so they are not too dense and not weighing too much on the infrastructure that exists over there.

Mr. Phipps told Dr. Knable that he was welcome.

Mr. Applegate stated that he wanted to mention that the city did have a public hearing on the Main Street Project and it was a nice event with the business owners from the frontend of it. He said that he thinks communication is going to be key to the project and it is going to be a longer project taking a year or so. He then thanked the city for having that meeting.

COMMUNICATIONS – MAYOR:

Mr. Gibson stated that Mr. Jamey Aebersold reached out to Mayor Gahan this week and offered to help fund a summer fan program because of concerns with the heat that we all have. He said that they are finishing out the details on that and they will probably come out tomorrow. He stated that Mr. Aebersold has agreed to help fund the purchasing of some fans and obviously they will be for certain people who meet certain criteria and conditions. He said that they are looking at implementing that program over the next week probably out of the Griffin Center with Ms. Wilkerson. He also said for them to be on the lookout for more details and they certainly appreciate Mr. Aebersold's assistance in helping to fund this and hopefully it will help a few residents and provide a little bit of relief in this heat.

Mr. Applegate stated that he wouldn't want to see anyone left off of the list so if the amount that Mr. Aebersold puts forth doesn't fulfill the list, please make sure to let council know and they can do an additional appropriation.

Mr. Gibson stated that he will do that but usually when Mr. Aebersold jumps into a situation, he is pretty generous.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

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

Mr. Applegate stated that the committee for redistricting will consist of the president and vice president. He said that they will follow up within a week and produce details on that and they will take individual meetings with each of the council members about their districts. He stated that they will also extend that to the clerk and to the mayor's office so that every elected position has the opportunity to meet if they want to. He said that if an at-large member doesn't want to meet because they don't necessarily have a district then they don't have to. He stated that they will send out an email within the next week with times because they are looking at trying to get that done by mid-August. He said that they will then have a public hearing where the public can come in and talk about the districts or anything they want to talk about. He stated that then they will put out the

maps and go through the ordinance process. He added that when they send out the email with dates to meet, they will also send out the populations of all of the districts.

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

COMMUNICATIONS PUBLIC: A-22-02 Appropriation for One Southern Indiana

COMMUNICATIONS PETITIONER: A-22-02 Appropriation for One Southern Indiana

**A-22-02 Ordinance for the Appropriation of Riverboat Collier 3
 Funds for One Southern Indiana**

Mrs. Collier introduced Bill A-22-02 and moved to approve the third reading, Mr. Phipps second, all voted in favor. Bill A-22-02 becomes Ordinance A-22-04.

Mr. Turner asked the representative from 1si if they would have New Albany's specific population in their presentation the next time they do one? He said that last time it was just Floyd County.

Representative from 1si stated that if they can get that from the census, they will do that.

INTRODUCTION OF RESOLUTIONS:

COMMUNICATIONS PUBLIC: R-22-06 Permit Chain Link Fences

COMMUNICATIONS PETITIONER: R-22-06 Permit Chain Link Fences

**R-22-06 Resolution Initiating Modification of Zoning Turner
 Ordinance to Permit Chain Link Fences**

Mr. Turner introduced R-22-06 and moved to approve, Dr. Knable second,

Mr. Turner moved to amend the current resolution with the changes that he stated below for 6.7(A), 6.7(B) and 6.7(H), Mr. Dickey second, all voted in favor.

Mr. Turner re-introduced R-22-06 as amended, Mr. Phipps second, all voted in favor.

Mr. Turner stated that they did have their committee meeting and they did have three in favor from the vote they had. He said that they did make some amendments that he would like to share with them now and offer the amendments up. He stated that he did give everyone a highlighted sheet and as he read through it again, he saw some things that they agreed upon that were left out. He said that he spoke with Ms. Wheatley this afternoon about them. He said that 6.7(A) is for historic districts and they want to make sure that the historic districts are not affected by these chain link fence changes and into the future as well. He stated that 6.7(B) permits chain link fences to be erected in back yards and side yards only. He said that 6.7(H) pertains to the material and says that the material used for chain link fences shall be anodized, painted, galvanized or powder-coated at the factory. He then stated that he thinks everyone wins tonight and this is very good for the people.

Mr. Phipps stated that Mr. Turner stated that he wanted it to apply to locally designated historic districts now and in the future, but it says current on there and that might apply to the ones we have now only. He said that if another neighborhood created one then it wouldn't apply.

Mr. Turner stated that the committee discussed that.

Mr. Dickey stated that he wanted to clarify because that was a big point of the conversation with Mr. Scott Wood. He stated that the reason it says current and locally designated is because there is a possibility that in the future we will have a new designation of an historic area. He said that typical to homes built in the 1950s was chain link fencing back in that period. He stated that Mr. Wood made the argument that they needed to designate our intent with this because there would be a compelling argument from an historic preservation standpoint that should be continued and acceptable in those historic areas. He said that it reads current as of the passage of this resolution or ultimately the zone change, if effected through the plan commission and this body, so that it does not preclude future generations from looking at what historic designations that they want to make. He also said that it ensures that we can maintain an appropriate fencing if that was appropriate at the time for that neighborhood.

Mr. Phipps stated that he sees the rationale on that but there are other areas in town that still have older pre-mid-century homes that aren't historic districts that could incorporate into an historic district and that wouldn't be appropriate in those.

Mr. Dickey stated that the logic that Mr. Wood used about those is that could be written and incorporated at the point when it is designated to be an historic district in those areas of town.

Mr. Applegate stated that he assumes that the committee is okay with these add-ons.

Mr. Dickey stated that he would concur with the minor tweaks. He then stated that they had a very productive meeting finalizing these pieces and he thinks that this really came together to make the point that our processes work. He said that when they sat down and talked about the concerns that they had as voiced through the meeting and then they took into consideration any comments that may have come in from staff or other constituents, he thinks this was a great way to kind of hammer down these pieces. He stated that they came to something that all three committee members were comfortable in supporting and he would fully recommend that they pass this on and let the plan commission do its due diligence to see if this is something they will accept.

Mr. Blair stated that he knows when they did the zoning ordinance on the fences, they talked about where the fence is in relation to the house and there is nothing here that says how the fence should be aligned with the house. He asked what the definition is of a back yard? He said he knows that you have a property line but is it the back corner of the house or the front corner of the house?

Mr. Dickey stated that the way Mr. Wood would explain it is that it is the horizontal plain of the house. He said that if you draw a line using your front wall of your house, everything to the forward of that would be your front yard and everything to the rear is either side or back yard.

Mr. Blair stated that we are using the current definition in this?

Mr. Dickey stated yes.

Mr. Blair stated that we could have used the current definition on several of these items because we are redundant on some of these things.

Mr. Dickey stated that we are, but in talking about the historic districts for example, the redundancy there is appropriate in Mr. Wood's mind because that adds further definition to how we apply these standards moving forward and helps further define the intent of the council. He said a good part of the discussion was to finite this in such a way that it increased the likelihood that the plan commission would have a favorable view of what

the council is intending to do here. He stated that he thinks one of Mr. Blair's concerns that he voiced early on was that if we left it broad, the likely outcome would be that they wouldn't understand what our true intent was and would likely just reject it. He said that this kind of helps tailor that further.

Mr. Blair stated that he gets that but this isn't going to be verbatim in the zoning ordinance; this just gives them guidance to incorporate it into the zoning ordinance.

Mr. Aebersold asked what if someone has now an old fence in the front and they want to replace it with a brand new chain link fence in an historic district?

Mr. Turner stated that they can't because it is not allowed in historic districts.

Mr. Aebersold asked as long as it is up now it can stay there until it falls apart?

Mr. Dickey stated that the way the code would answer that currently is if something went in before any other zone change or district, it would be considered a legal non-conforming use. He said that in the case of an historic district, he thinks they would have to get a certificate of appropriateness in addition to possibly getting it permitted. He stated that the issue that commonly comes up is where you have a home that currently has a legal non-conforming chain link fence and they want to make repairs or changes to it. He said Mr. Wood has indicated that the plan commission and the staff have largely honored those types of requests and worked with the individual to consider the fencing in an extension of that legal non-conforming use. He added that if it is a brand new fence and the old one was ripped out two years ago, that would be problematic.

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Mr. John Harrell, Sr., 1929 Indiana Avenue, stated that he has lived in New Albany at his current residence for right at 30 years and three years ago he had an adult behind him hunting on his property. He said that he called the police and they said that is not them and told him to call animal control. He stated that he called animal control and they said call the police back so he called the police back and they said call DNR. He said that he called them and they couldn't meet him for four days so he took off work in four days to meet with the DNR officer then he called him and told him that he couldn't meet with him because he was in Evansville and would have to re-schedule. He told him that he waited for four days and has taken off work early but the officer said he was sorry and there was nothing he could do. He stated that he then called the mayor's office and told them that he is 15 minutes from his office and would like to speak with him because he is having an issue and doesn't know who else to speak to. He said that she took his number and said do not stop by our office. He stated that she called him right back and said that they will have the police and DNR at your house in 15 minutes. He said when he got home, the DNR officer was there and he told him that he made it from Evansville very fast. He said that the DNR officer said do not call the mayor's office, call them. He told him that he called them last week and nobody came because nobody finds this as a problem. He stated that there was a dead squirrel at the edge of his property and the DNR officer said we have lots of squirrels. He said so that was his answer. He stated that the officer knocked on the door of the neighbor's house and was told that he won't do it anymore. He said the next week the neighbor hung a five-gallon bucket seven feet in the air facing his neighbor's garage and was shooting at it. He stated that he went over and looked and he shot up the back of his neighbor's garage and this is all facing towards his property so he called the police again. He said that the officer came and said that is crazy but he can't move it because it is on private property but if you want to go take it down, you can. He stated that if he takes it down, he is launching through his window. He said that they took it down and his mother paid to have the garage fixed and said that it wouldn't happen anymore. He stated that the next time he is out there shooting, he says something to him and he laughed and said to call the police because they can't do

anything. He told him that the next time his dog brings him a squirrel with a pellet hole in it, he is going to find a brick on his car. He said that he just doesn't know what to do. He also said that there are no more dead squirrels but now there are dead birds everywhere. He stated that last month on the 29th he heard him shooting so he went out and there was a dead bird laying in the parking lot. He said that he went and knocked on his front door and he looked at him and laughed and locked the door. He stated that he called 911 and she said that she didn't know if there was an officer near and he told her that she didn't understand the situation and he is highly upset. He said that he was waiting for this fella to step out there and answer for this. He stated that he waited for ten minutes and called the lady back and she asked who he was and what the problem was again. He thought you're kidding me, right? He said that two officers showed up and knocked on the door and no one answered. He stated that the officer said that he really didn't know what to do and would call his captain so the captain came. He said that the mother is there, the son is there and their friends are there because they have car doors opened with vacuum cleaners and pressure washers out but they won't answer the door. He stated that he called back a couple days later to ask what happened and they said that they won't answer the door so there is nothing they can do. He said that he called again a few days later and they said that they did get ahold of the mother and she said that her son has a small game license and there will be no more shooting. He stated so basically it is the same thing three years in a row and nothing stops. He said that it stops for a week or two and then it starts right back up. He stated that he lives in the city in the 4th District and now he has "No Hunting" signs up and a sign that says he will pay cash for any video of him shooting and it looks crazy because it is crazy. He said that he looked online to see what to do if someone points a rifle at them and it says to shoot them; what do you do if someone points a pellet gun at you, shoot them. He stated that is where they are now because the officer is telling him there is nothing they can do and there is no law against it. He said that he has pictures of him shooting over his roofline and he is like 20 feet from a bedroom window right next to his property. He stated that he is like 341 feet from the Silver Street Park elevated loop and 470 feet from the playing field. He said that a pellet will travel 1,200 feet per second and his porch is 75 feet from him. He stated that is why he is so upset about this issue and nobody seems to care. He said that the lady in the mayor's office belittled him and said oh, it is someone shooting a BB gun behind his house and he told her it is an air rifle. He stated that air rifles are from calibers 177 all the way to .73 and you can take a deer with a .73. He said that no one bothers to see what caliber he is shooting, they just tell him that he has a small game license and there is nothing they can do. He then stated that there are 14 cities in Indiana that don't allow any projectile firing within the city limits. He asked why they get to feel safe in their city and he doesn't get to feel safe in his? He stated that he can't get a meeting with the mayor and he is a 30-year taxpayer and thinks it is a shame that he is unable to sit down and ask his mayor why this is happening. He then said that he has given photos to Mrs. McLaughlin. He stated that he just wanted to close with saying that if this was in your backyard, would want to deal with this. He said that everyone he says that to, says no.

Mrs. McLaughlin thanked Mr. Harrell and ask the clerk to scan the photos and email them out to all of the council members.

Dr. Knable asked Ms. Wheatley to pull all pertinent current ordinances that we have with regards to pellet guns and BB guns within the city limits.

Mr. Applegate asked Dr. Knable to give the information that he receives from Ms. Wheatley to the clerk so she can email it to all of us.

Mr. Andrew Nicholson, 128 East Main Street, congratulated Councilman Dickey and said that Councilman Caesar's shoes will be hard to fill. He stated that he is glad to see how well everyone is working together and commended Councilman Dickey on that because of his education and experience. He said that he is really glad to see him on the council. He then stated that there are very few things that last about 50 years and coming up on August 7th, it will be the 50th Anniversary of Terry Middleton's. He said that is something that has been a place of honor, tradition and discipline. He stated that Mr.

Middleton is a great leader in this community and sits on multiple boards as well as sells T-shirts and books for that animal shelter. He said that he thought it would be a really amazing thing for the city to honor him by giving him his own day whether that be a birthday, the start day of his business or however the city wants to go about that. He stated that if we could have a Terry Middleton Day, he thought it would be a great way to not only honor him but to honor the tradition, the honor and the discipline that he has brought to the city. He said that a lot of people have been affected by him throughout their lives.

ADJOURN:

There being no further business before the board, the meeting adjourned at 7:41 p.m.

Jason Applegate, President

Vicki Glotzbach, City Clerk