

**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 1, 2024 AT  
7:00 P.M.**

**MEMBERS PRESENT:** Council Members: Mrs. Collier (Zoom), Mr. Phipps, Mr. FitzGerald, Mrs. Gohmann, Mr. Blair, Mrs. Griffith, Ms. Murphy, Mr. Unruh and President Dickey.

**ALSO PRESENT:** Mrs. Manning, Mr. Gibson and Mrs. Glotzbach.

**CALL TO ORDER:** President Dickey 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 21, 2024, Mr. Unruh second, all voted in favor.**

**COMMUNICATIONS – COUNCIL:**

**Mr. Unruh** stated that with the beautiful spring weather coming in, he just wanted to remind everyone of the Farmer’s Market which is opening on Saturday, April 6<sup>th</sup> for summer hours. He said that it is from 8:00 a.m. until 12:30 p.m., and for those coming from out of town and use Siri as he does to get around town, 202 E. Market Street is the address in downtown New Albany. He stated that it is sponsored by Develop New Albany and Trip Advisor has it as number two out of 28 of the best things to do in New Albany. He encouraged everyone to attend because it has become a community event where you will see a lot of friends and neighbors.

**Ms. Murphy** stated that she wanted to make everyone aware that April is Child Abuse Awareness and Prevention Month. She said that there were over 200,000 reports of abuse and neglect in the state of Indiana in 2022 and 61 children died because of abuse and neglect. She stated that Indiana is a mandatory report state, so if you are aware of a situation with a child, you can call 1-800-800-5556. She also wanted to give a very special thank you to our Floyd County DCS workers and Casa volunteers for taking care of the kids in New Albany and Floyd County.

**Mrs. Griffith** asked if there was a study being done on Falling Run Creek? She stated that she had a couple of people reach out to her saying that there was some flooding again and it is going onto Linda Drive.

**Mr. Dickey** stated that we can find out. He said that would be a storm water inquiry and Mr. Aldridge may have mentioned that to us in his annual report last year. He just doesn’t recall the specifics. He knows that there were some other small projects that were being looked at there but he doesn’t know if there was a study.

**Mr. Blair** stated that he believes that there was a study that was done by the Army Corp of Engineers which was just completed early last year. He said that Mr. Aldridge with storm water would know.

**Mr. Dickey** stated that Mr. Blair is right that there was one earlier and the Corp was involved with that, but he thinks that they just need to send over a quick inquiry to storm water.

**Mrs. Griffith** stated that she couldn't remember and she didn't want to give false information.

**Mr. Blair** stated that he doesn't know if that study was specific to Falling Run Creek, he thinks that it was the City of New Albany in general.

**Mr. Dickey** stated that he thinks that is right.

**Mr. Blair** stated that he is glad that Mrs. Griffith brought that up because he would like to see that study.

**Mrs. Griffith** asked about noise reduction on I64 and I265 and if that was INDOT?

**Mr. Dickey** stated that the noise study that was done in connection with the I64 Improvement Project and it was done by INDOT. He said that they have since released the findings of their environmental warrant and have determined areas in which there will be sound barriers installed.

**Mrs. Griffith** asked where you can find that information?

**Mr. Dickey** stated that there is a website online for the project but he doesn't have it right off of the top of his head, but if you google INDOT I64 widening, he is sure that it will come up.

**Mr. FitzGerald** said that it is [improve64.com](http://improve64.com)

**Mr. Blair** stated that there is a map and he actually sent an email with the map out to all of his constituents that live along Glenmill Road and the Green Valley Road area. He said that the map is of the sound barriers and what they are doing and so forth, so he can just send Mrs. Griffith that email, and she can pass it along to people if she wants. He added that he did get good reception from the people who saw it.

**Mrs. Griffith** wanted to remind everyone of the fire department's cornhole tournament this Saturday. She then said that a couple of people have asked her about recycle bins, and she found out from Ecotech that if you do not have one and would like one, you can just call them at 812-944-4018 and they will deliver it within the week. She stated it is a wonderful service that she didn't realize we still had in the city. She then thanked Mr. Gibson for all of the information that he sent regarding the sewer utility today. She asked if there is a way that the council can have the sewer board at one of their meetings? She asked if there is an annual meeting that they usually come to?

**Mr. Dickey** stated that he would address that.

**Mrs. Griffith** stated that she really appreciates that because she has some more questions about that.

**Mr. Blair** stated that at the last meeting he brought up that they haven't been receiving financial information and he provided an ordinance that said certain information needed to be provided to the council, and if there was a failure to comply, the sewer board would come before the council and explain what is going on. He just views reviewing the financial status of the city as the council's main responsibility. He added that is why they were elected and that is why they are paid. He said that when we don't receive the financial information, we should go out and ask for it. He stated that in this situation, he has asked several times in several different formats, and it looks like we are starting to get a little bit of traction in getting that information, but it is not quite in the format that we have received in the past. He realizes that information was based on a rate increase that was done and that rate increase is still in effect. He stated that even though we have come a long way, our sewer financials are in good shape on appearance, but there is a lot of stress on our sewer department. He said that there are nonoperational expenses coming out of our sewer department such as a park on the old QRS site that is \$250,000.00. He

also said that we have a \$1M PILOT coming out of the sewer department for city operations, which in essence is paying for the new police station, and he hasn't seen that expense coming out of there. He stated that he reviews the sewer board minutes and there was an expenditure of \$20,000.00 for event planning that was in there, and he doesn't know what that was for. He said that his point is that we are using that sewer funding for things other than sewer operations, so we have a responsibility to the people paying to use our sewer system to make sure that our sewer financials are in good condition. He stated that obviously he doesn't think that anyone wants to deal with a rate increase because he was thinking that we were almost to the point to where we could do a rate decrease. He said that he doesn't want to leave things in a worse position for another council term in the future; he feels that he should leave things in better shape than he found them. He stated that from a financial standpoint, that is leading us to a point where it's going to put more stress and more fixed expenses in our finances, which could cause a lot of issues. He said the other thing is that there are some red flags in our sewer department. He stated that if the new members have not seen the confidential memo from SBOA, please get that report and read that report. He said that Mrs. Griffith and he have brought up that we are not filing liens timely. He stated that we are doing the bare minimum of filing sewer liens because we are doing them right before they go onto the property tax payments. He said that he talked to other cities and they are doing them on a monthly basis and staying up with it because they said they got better collection results by doing that. He stated that we know there are situations in our sewer that's why receiving financial information is very important. He said that we have been receiving monthly prepared CPA financial statements since 2012 up to January of 2023, so basically a 10-year period we have been regularly receiving this information and all of sudden it stops. He stated that he asked about it and Mr. Gibson addressed back in July of last year and said that he was going to get our accounting firm to see where the information is. He said that he has been before the sewer board twice now asking for the information. He stated that he talked to a board member asking for information and he still hasn't received that information in the format that he would expect to receive it. He then said that you will probably also hear that the ordinance is old. He stated that if it is an old ordinance, the sewer board should've taken action to discontinue that ordinance. He said they should have been proactive in discontinuing it, and the fact is that they have been providing that information regularly for 10 years and all of sudden it just stopped in January of 2023. He stated that he told the council at the last meeting when he passed out the ordinance that it talks about adding to the agenda the fact that the sewer board members would come in front of the council to explain what is going on. He said that he asked Mrs. Glotzbach to add the sewer board members to address the council on this agenda. He stated that Mr. Dickey turned around and asked Mrs. Glotzbach to take it off of the agenda, which she did. He doesn't see where the president of the council has the authority to take any item off of the agenda that is added by one of our members. He looked at our city ordinances and state statutes as well as Robert's Rules of Order, and he did not see anywhere that he had the authority to do that. He thinks that was unjustified and not fair for him to do that. He said that the other piece is, it is required by ordinance for the sewer board members to attend the meeting; it's not saying the council has to vote on it. He stated that it is saying that it is mandatory for them to attend the meeting in order to comply, so that is all he was doing. He said we did get some information today and Mr. Gibson is here so he assumes he will address it for them, but it is still not the same information that we received previously. He added that he is a financial person and he has seen the information that Mr. Gibson provided today and it is hard to decipher. He stated that there are a lot moving pieces to it and you have to add reports together, it is not concise and easy to understand like the CPA reports. He said that the information is not in a P & L format and he thinks all of us here are more familiar with a profit and loss statement and can follow that. He stated that when you look at the audit, it is more of a fund accounting and there is not a lot of detail around expenses. He also stated that if we get the CPA to do it, you've got a third party looking at that information and helping them decide what expense items should go where. He said for instance the expense item he just talked about as far as event planning, they probably would have categorized that in a different line item than what the city did. He stated that there are no amortization schedules, no bond payments, so there is a lot of value in receiving that information from the CPA. He is curious as to what Mr. Gibson may have for them as far as explanation of

that but if we don't get a solid explanation of why we are not receiving that information, it needs to be on the agenda for the next meeting, and it needs to be required that the sewer board members come and explain to us why we have to do that. He hates to go to this extent but he gets tired of asking for information and getting no answers or it gets promised to him and it doesn't get delivered, so he has to go to these extents. He tried to do it in a more friendly basis but he is just not getting the results, so now he is going to this extent in order to get the information and he thinks it is a shame. He said again that this is the council's most important job and we should understand the financial condition and be able to represent our constituents from a financial standpoint.

**Mr. Dickey** suggested that after they finish the rest of the cycle, he will address some additional issues there and allow Mr. Blair the opportunity to further with an action if he wants to.

**Mr. Blair** stated that he wants to hear what Mr. Dickey has to say because he would like to understand why they are not getting the information.

**Mrs. Gohmann** stated that she went to the library today and on the first Monday of every month they have Community Resource Day, and they had a number of people there. She said that TARC was there, the Homeless Coalition was there and a couple of different insurance companies as well as the group that gives out free cell phones. She wasn't aware that the library has their own social worker to help people. She said there are a lot of unhoused people who go and hang out at the library, so they have a food pantry now and once a month they have this Community Resource Day. She stated that it was a pretty impressive thing to see. She said that the other thing she has is there was a notice on Facebook that there will be a dumpster drop off and cleanup, so she is getting a lot of people reaching out to her asking where these dumpsters are going to be. She told them that she will find out and when she knows, she will let them know.

**Mr. FitzGerald** stated that the only thing he has is that he will be in the Beeler/Locust Street area on April 13<sup>th</sup> doing a small community walk through, so unless the weather changes, that is when he will be doing it.

**Mr. Phipps** stated that Mrs. Carol Shope passed away on Sunday, March 24<sup>th</sup>, but there is not going to be a visitation or funeral, it was a direct cremation. He said that she was a long-time close friend of his parents and that is how he found out about it. He added that he hasn't seen anything in the paper but she was a Floyd County Council Member and he served on the Board of Zoning Appeals with her for several years. He then wished everyone a Happy Easter on the second day of Easter. He stated that yesterday was Transgender Awareness Day, so for all of our transgender, nonbinary and gender affluent citizens of New Albany, know that you are welcome here. He then said that this warmer weather is bringing out a lot more pedestrians and he has seen a lot in the last three or four days. He stated once again, one of his pet peeves is people not paying attention, so please watch for pedestrians and please yield to them in crosswalks, especially where the flashing lights are present.

**Mr. Dickey** stated that on March 22<sup>nd</sup> the Regional Development Authority held their work session in this chamber, basically taking in testimony and doing a site visit afterwards of several of the projects that have been submitted, not only by our city, but also the county and other entities in Floyd County. He said that it was a very good day in terms of outlining several projects for our community including several items for our city, the growth initiative and some other pieces such as working with IU Southeast on their part of the trail in terms of connecting in with the gateway for the campus. He stated that if you didn't get a chance to see that or see some of the projects that were presented, he would encourage everyone to maybe follow up with Mr. Cory Cochran at River Hills that is the staff for the RDA, and he is sure they can give more information. He said that they were also very complimentary of our facility and a number of them had not been in here yet, so they were just quite impressed with the facility. He said kudos to the work that they do as it impacts the community. He also wanted to remind everyone that there is a solar eclipse that will happen one week from today on Monday, April 8<sup>th</sup>. He stated that

this is a normal part of our solar system's happenings and there are going to be a number of people in and around Indiana because we figure so prominently in the path of this eclipse. He said that several entities have put out advisories about this warning of increased traffic and safety considerations. He stated that one of the things they have told us is that the temperature can drop by as much as 10 degrees during the time of the eclipse. He said that they do recommend that if you are obviously a viewer of the event and plan to look up, you need to wear your protective glasses and do not simply use your sunglasses because that it is not enough, and you will potentially hurt your eyes and some of that damage may not be easily recovered. He then stated that he did want to address the sewer utility and a couple of different items related to it. He said first, he did have discussions with the sewer administration and they were able to provide to every member an updated accounting that included several items. He stated that it included budget to actuals for 2023 and a fund equity report for 2023. He added that those who were on the council last year received in October the same information with the 10-year history of the fund equity reports 2013-2023, state board audit from 2022 which outlined no significant findings, budget to actual 202401 and fund equity 202401. He said that we have also had discussions about arranging for the normal presentation that happens and that is generally done with at least a unanimous consent of this body, but technically, it is his opinion that any item to come before the council prior to being schedule has to be a function of the majority. He stated that can be done by a majority vote with a motion and a second or that can be done by unanimous consent, but there has to be that affirmative action in order to schedule that. He said that the other thing that we have to be mindful of is that there are, in some cases, independent bodies and the sewer board is an independent body. He stated that they have their own schedule to keep and we need to be mindful, especially when we have a quick turnaround between meetings, that it may not be possible to schedule that. He said that a number of staff members last week, including several related to this, were scheduled to be off as part of spring break and we certainly want those individuals to have the opportunity to get a little down time with their families, and we want to be able to schedule things accordingly. He stated that it appears that in the past couple of sessions, we have done this about mid-year so we are looking at June as when we would invite individuals to come back before us. He said again with unanimous consent or a motion and second of this body, we can entertain that. He stated that as far as some of the other items that Mr. Blair has mentioned, he certainly echoes wanting to make sure that we do our due diligence with regards to having good fiscal oversight of all of the city's boards, bodies and other apparatus. He would caution to make sure that the information that we put out there is accurate and correct. He thinks that a lot of times these bodies make decisions for very good reasons and they do so with a schedule in mind, they do so understanding the impact on other offices and working with those offices and bodies. He added that he thinks sometimes it is good for us to understand the processes that are involved with those items. He then stated that Mr. Gibson is here tonight and if he wishes to say anything with regards to what was transmitted, he is happy to give him a second.

**Mr. Gibson** stated that he is doing mayor's communications tonight.

**Mr. Dickey** stated that he would let Mr. Gibson address it more under mayor's communications if he would like. He said that anytime there are questions, we should obviously direct those accordingly. He stated that if someone is not able to get an answer to a question, then he would hope that they would at least reach out to him or whoever is president of this body with the idea that there could be maybe a larger conversation. He said that he will say that the reports that the members received is the base information that DMLO uses to produce their reports, so you are getting essentially the best information possible and the most updated information possible in order to understand and appreciate the financials of the sewer utility. He added that he will let Mr. Gibson make any further comments he wishes on that. He then stated that unless there are any questions, he would ask for unanimous consent to move forward with inviting the sewer utility as usual for our annual update report from them presumably to be scheduled in June.

**Mr. Blair motioned to bring the sewer board before the council for their annual report, Mrs. Griffith second, all voted in favor.**

**Mr. Blair motioned that the council have the sewer board come to the next meeting in pursuant of the ordinance and explain why we are not getting financial information,**

**Mr. Blair withdrew his motion.**

**Mrs. Griffith** asked if they are allowed to submit questions beforehand on certain items?

**Mr. Dickey** said that he thinks that is fine if she would like to submit some questions either through him or directly to the administration and board members.

**Mrs. Griffith** stated that is just to make sure that they get information that she may want. She just wants to make sure they are prepared.

**Mr. Blair** stated that we just voted on something that is required by our ordinances to have an annual meeting with the sewer board and the storm water board. He doesn't see the necessity of voting on that because it is something that is required and they show up and provide a presentation. He said that it is the same thing with this financial information because he has been receiving the report for 10 years in the CPA's format, and all of sudden, he doesn't get it anymore. He stated that he then he gets something that they say is a detailed report and other information, and they don't even tell him why he doesn't get the monthly reports anymore. He said to him that is not acceptable. He tried his best in meetings and so forth to try to get the information so he has to go to this extent in order to get it. He stated that this is separate from the annual review of the sewer utility and this is by Ordinance G-10-12 and is under Failure to Comply, which he read again to the council. It says in the event that the sewer board or its representatives fail to comply with the requirements herein or fail to provide any of the information reports described herein within 30 days of the time stipulated upon written notice by the city council, then each of the members of the sewer board shall appear before the city council at the first regular meeting scheduled following discovery of noncompliance to show cause as to why it occurred and what steps are being taken to address the issues preventing compliance. He doesn't see where it needs any action by anyone for the sewer board to appear, it is simply required. He added that it is a trigger because something doesn't happen so they have to come before the council at their next meeting. He said again that he tried for eight months to get information so it is not like he just jumped ahead and said the sewer board has to come. He spent time going in front of the board, talking about it here and talking to board members, so this is his last extent. He stated that he doesn't see where it has to be voted on and he doesn't see where the president has the right to take it off of the agenda.

**Mr. Dickey** told Mr. Blair that he appreciates his feelings on this but he wanted to be clear. He explained that the ordinance spells out the process but it doesn't spell out the details of that process. He stated that you can't have a letter from the city council, for example, demanding an appearance and you can't send out an officer to go compel someone's presence at a meeting without obviously this body taking an action and having worked with them to schedule that appearance.

**Mr. Blair** asked Mr. Dickey if he didn't hear what he just said about the ordinance? He stated that Mr. Dickey is violating the ordinance by doing that.

**Mr. Dickey** stated no, he thinks the ordinance puts forward a position that, yes, they do need to answer and explain if there are functions that are deficient, however, he thinks there is a process that we have to follow in order to put that forward. He said otherwise, there would be no order to this body. He stated that we could have groups and bodies every time that was written into an ordinance that would just suddenly appear before us.

**Mr. Blair** stated that it has to be submitted by a council member, and if it does get added to the agenda, you could take a vote at that point to take it off of the agenda. He thinks that he did the Caesars resolution without asking for permission and put it directly on the agenda, and no one said anything about it. He added that Mr. Gibson may likely have the answers that he is looking for here in a couple of minutes, and hopefully he does and we can move forward. He said that all he is trying to accomplish is getting the financial information or a plan or details on why we are not receiving it. He stated that silence is not the answer and it has been eight months. He asked what he is supposed to do as a council member as far as getting information? He said that it is just frustrating because this is important and we know there is stress, we know there are issues going on with our sewer department, and we need to be able to review the financial performance of that department. He added that they do have fiscal oversight over the sewer board.

**Mr. Dickey** stated that he is not saying that they don't. He thinks that as a function, they need to provide us information and an explanation. He said that he would add that we received 10 years of information just in October of last year. He stated that he doesn't know that it is fair to say that they haven't been providing information to us. He said that with all of that said, however we want to look at those particulars, this body still must take a majority action. He stated that no one member can speak for the entire body or can compel, especially another independent body, to appear before us. He said that we don't have that authority like for example a judge might with a legal proceeding. He stated that's the point that he ruled out of order, we did not vote or take an affirmative action at the last meeting to invite them. He thinks that you have to take into account that we do have people with different schedules. He stated that he doesn't think that it is helpful to be combative or adversarial about this. He said that he understands the frustration if you don't feel like you have gotten the information you've asked for repeatedly, he totally understands that, but he thinks that we have to work through process and make sure that we are going about things the right way, and speaking as a body.

**Mr. Blair** stated that he disagrees with Mr. Dickey because the ordinance says that they have to do this and we should be following the ordinance.

**Mr. Phipps** stated that we have done it; we have scheduled it for June.

**Mr. Blair** stated that is a different discussion.

**Mr. Phipps** stated that is a different discussion that doesn't need to take place tonight.

**Mr. Blair** stated that we haven't received financial information since January of last year in this format.

**Mr. Phipps** stated that he is okay with waiting until June.

**Mr. Blair** stated that is the problem, we are here to represent the people and financial reporting.

**Mr. Phipps** stated that when Mr. Blair brought this up, he was thinking in his mind that June is usually when they come in to talk to us.

**Mr. Dickey** told Mr. Blair that if he would like to compel something or invite them to come earlier or provide a letter, we can do that, but again that takes an affirmative action of this body, so a motion and a second would be in order.

**Mr. Blair** stated that he is going to motion for the sewer board to come before the council at the next meeting then. He added that Mr. Gibson may provide that information later in this meeting and then he would be successful in accomplishing getting the information that we need. He said if that doesn't happen, he would like for the sewer board to come before us and explain why we are not getting the information in the format that is required by the ordinance.

**Mr. Dickey** asked Mr. Blair if he would like to defer until Mr. Gibson has made his comments?

**Mr. Blair** said yes, that is fine. He added that we can't wait until June. He stated that most organizations will review financial information on a monthly basis. He said that he used to work with non-profits, in fact when the local YMCA was separate from Louisville, financial information was always provided to their board members and they had questions and answers. He stated that a good part of their meetings was just reviewing financial information because it is that important. He added that most organizations do that; that's just what you do as a board member.

**Mr. Dickey** stated that he will defer any action on Mr. Blair's motion until after communications from the mayor.

- **Council Attorney Contract**

**Mr. FitzGerald** motioned to approve the council attorney contract and to authorize the president to sign the contract, **Mr. Phipps** second, all voted in favor. Said contract is on file in the city clerk's office.

**Mr. Blair** motioned to authorize the president to sign the disclosure and consent form, **Mr. Phipps** second, all voted in favor. Said disclosure and consent form is on file in the city clerk's office.

**Mr. Dickey** stated that the council attorney contract was provided in your packet. He said that this contract largely mirrors the previous agreement with Ms. Stein. He asked Mrs. Manning if she would like to address any particulars?

**Mrs. Manning** stated that something that she mentioned during the interview process was that she had given thought to the potential for a conflict of interest knowing that she concurrently represents the Sprigler Development Company. She said in light of that, she would like to pass out a memo that she prepared for the council in regards to that potential conflict. She stated that she doesn't view it as a conflict and this memo sets out procedures that she put in place to eliminate any potential conflict. She said that she does have a professional responsibility as an attorney to disclose a potential conflict and to make you aware that a conflict could still arise at a later point in time. She stated that she would recuse herself from advising the council for any matter involving the Sprigler Company, and this council would have the authority to hire another attorney to advise you in that situation if you would like. She said that because of the potential conflict, she can't advise you on who that attorney would be, that would have to be a decision that you make on your own. She stated that is a summary of how she has addressed this potential of conflict issue, and like she said, she doesn't view it as a present and current conflict given the parameters that she put in place. She then passed out the memo to the council to review.

**Mr. Dickey** stated that with this, there are two pieces that would technically require action. He said that first piece is on the contract itself and the second is to authorize the signing of the conflict disclosure by himself as council president to memorialize that we were aware of that in full faith from the start.

**Mrs. Griffith** asked if we had to hire another attorney, would we have that in our budget? She said that is why we have one attorney, so how does that work?

**Mr. Dickey** stated that he thinks it depends on what would be involved. He said if this were a matter where we just wanted to double-check our own thinking with regards to an item that came before us, he thinks they would have the options to either seek a separate counsel, which we would have to then respond accordingly with budget. He added particularly if it was a big item and was going to cost significant funds. He thinks that if it was a minor item, we would have options, for example, we could always use the corporate counsel for the city to provide us information or legal opinion with regards to



moving an item forward. He thinks it would just depend on the nature of what the specific circumstances were, whether we felt additional counsel was necessary or if we had other devices. He said that he would also add that as part of the contract, Mrs. Manning made a provision herself to provide for additional counsel, so hypothetically, you could also ask for the sub to be employed in that situation. He stated that unfortunately because of the timeline, he doesn't think they were able to nail down any particulars as to who the sub would be, but presumably it would be someone that would be acceptable to this body. He said for example, it could be Ms. Stein or someone who has done municipal work for the city in the past.

**Mrs. Griffith** stated that is perfect because one of her other questions was in regards to no. 9 to see who would replace her. She said that wouldn't be a conflict though because she said earlier that she couldn't suggest an attorney.

**Mrs. Manning** stated that there is a difference between recusal and absence she would say. She said that the way the contract is written, she has agreed to be here and present, and she expects to fulfill that, but obviously things happen; you can't predict life. She stated that in the circumstance where that would happen where it is not a conflict of interest, but she is not available, she thinks she can help identify someone who may be able to fill in. She said that in the situation of a conflict though, she would have to leave that to your independent discretion, whether you want to hire separate counsel for that matter. She stated that in either situation, she is open to negotiation on what that looks like with her representation as well, so if we need to do an amendment to the contract or however we need to handle that, she is open to that and she will work with the council to accomplish that. She said that just at the end of the day she can't tell you what other attorney to select if she were to have a conflict, which again, she is voluntarily recusing herself from anything involving Mr. Sprigler. She doesn't view herself as having a present conflict but it is hard to predict what situations might arise in the future, and she wants the entire council to know that she is willing to work with them. She stated that she takes her integrity as their council attorney very seriously and if there are any concerns about the appearance of her representation at any point, she wants everyone to know that is serious to her and she is willing to work with the council to work through those.

**Mr. Blair** stated that he really appreciates Mrs. Manning's professionalism, honesty and openness. He said that it is impressive and he read through the contract rather quickly but it is very well written. He stated that in the second paragraph of the contract, he asked if it said that she is actually not going to represent Sprigler in matters that are within the city limits of New Albany?

**Mrs. Manning** replied yes. She stated that she is erecting that firewall in her own representation and she has talked with Mr. Sprigler about it. She said that she is giving him the same representation as she is giving to the council of the potential for a conflict to arise, and if it would, she would have a duty to come to the council and Mr. Sprigler to disclose what she views as the conflict and address it then. She stated that what the document is saying is because she has withdrawn herself from representing Mr. Sprigler in any matters within the city limits, he doesn't view that as a conflict, but if a situation were to arise, she would have the responsibility to disclose that to this body and Mr. Sprigler.

**Mr. Blair** thanked Mrs. Manning and said that is very impressive.

**Mrs. Griffith** stated that she thought that they could reach out to her individually as council members if they have a question but then item no. 8 says that they need to go through the president, and that the primary point of contact for the attorney is the president of the common council. She asked if that means they cannot contact her individually if they have a question?

**Mr. Dickey** stated that his opinion would still be that they would function where the members can reach out to the attorney directly. He asked Mrs. Manning if that is how she understands it?

**Mrs. Manning** replied yes. She stated that the way she interprets that is more as the primary point of contact for some type of like official communication, but if you want to reach out to her to talk through something, you can. She said that ultimately matters that need to be considered by the body are going to come before the body, so everyone is privy to that knowledge anyway. She stated that her approach in working with bodies has always been that any individual member of the body can reach out to her and they will have a discussion. She said that one thing that is another part of her duty to the body as the attorney is to tell the council that she represents the body; she doesn't represent the council members individually, so if you do reach out to her with a communication, just know that she may have to disclose that communication if she feels that it is her professional responsibility to do so because she represents the entire body. She also is not going to turn around and call everyone and say what you talked about. She stated that they can have those discussions in these meetings when those items come up. She said that if the council agrees with that interpretation, that is how she was interpreting it.

**Mr. Dickey** stated to add a practical example, if there was a question about the nature of something with the contract, he would presume that would go through he or whoever is president and Mrs. Manning first. He said that if a member is wanting to put together an ordinance and needs some language drafted, that member would be able and should contact Mrs. Manning directly, and then draft what that material is and then at some point file it with the clerk for consideration.

**Mrs. Griffith** stated that she just wanted to make sure that she wasn't overstepping if she did call Mrs. Manning.

**Ms. Murphy** stated that also with contacting the attorney directly, she is assuming that going through President Dickey would also help keep track of any additional compensation that would have to happen. She said that anytime over 10 hours will be compensated at \$75.00 per hour, so should they make the president aware of any time that they are contacting the attorney? She also said with attorneys, a text message, a phone call or email are billable hours and asked if letting the president know what they are doing would help manage that?

**Mr. Dickey** stated that Mrs. Manning will obviously track her hours and report those to him. He said that if you believe there is something that is going to take some work, for example, Mrs. Collier and the Public Health & Welfare Committee have been working on some items that he believes will start to be crafted into an ordinance soon. He stated that if you anticipate that's going to take several hours of the attorney's time, giving him a heads up obviously can be beneficial, but he thinks at the end of the day, Mrs. Manning will report her hours and keep him informed if it appears we are running over our typical allocations.

**Mrs. Manning** stated that is how she views the president in the point of contact paragraph. She said that if they need to make each other aware of things that impact the contract, they will do that.

**Ms. Murphy** stated that the way she interpreted it is that item no. 8 and item no. 5 kind of fitting together.

**Mr. Dickey** stated that he wanted to be very clear that he does need nor want everyone telling him what they are going to be doing or that they are going to be asking the attorney a question. He doesn't think they need quite that level of scrutiny.

**Ms. Murphy** stated that she wouldn't think that they would, but if it were to be something that would take a considerable amount of time, they can make Mr. Dickey aware of that.

**Mr. Dickey** stated that is correct.

**Mr. Blair** stated that he feels like if he is doing something on his behalf, the rest of the council members should know. He said that he tries to inform people and let people know what he is working on so that they don't duplicate or maybe another council member has something that they can add to what he is doing. He thinks communication is important. He would expect that if the attorney is getting close in hours, she would tell us.

**Mrs. Manning** stated that is correct.

**Mr. Blair** stated that if he had an ordinance and the attorney said she is hitting her limit this week and asked if he could hold off until next week, he would be more than happy to do that because a lot things that they do are not urgent. He added that he thinks that is how they have always worked with the previous attorneys.

**Mrs. Manning** stated that is how she envisions working with them.

**Mr. Phipps** asked if he sent her an email to read that took five minutes, would that be considered a whole hour?

**Mrs. Manning** replied no. She said that she tries to work in rounder hours and for purposes of this representation, she is setting herself up as a sole proprietor. She stated that she is not tracking hours in certain increments of time at this point, it is more of rule of reasonableness for her.

**Ms. Murphy** stated that she just wants the council as board to be aware of our large relationship with one attorney. She said that if each council member wants an hour a week, you can very easily go over the limit very quickly.

**Mr. Blair** stated that he doesn't think that has been an issue in the past. He said that Mr. Phipps and he have been on the council for four terms and he doesn't really think they have had time constraint issues or anything, so he doesn't expect it to be any different.

**Ms. Murphy** said new board, new attorney moving forward.

**Mr. Dickey** stated that as part of this discussion, the council does need to authorize him to also sign the disclosure and consent that was prepared and handed out at the meeting.

#### **COMMUNICATIONS – MAYOR:**

**Mr. Gibson** stated that shoreline bathrooms are now open and there is a post on that. He said they are generally open during lighted hours and are patrolled by the police officers. He stated that the eclipse was mentioned and the city has been meeting internally and taking precautions. He said that we will have a full staff of police and emergency personnel working that day just in case anything happens. He stated that if you want more information, the state has put out a lot of information on this and estimates are that there will be a huge influx. He said that his daughter goes to IU and personnel up there are thinking it could be close to 500,000 people or more, which he finds hard to believe but who knows. He stated that we do have an event at Silver Street Park going on that day so if you want to share in that or attend that, it is an event being done through our parks department. He said that this Friday is Kentucky Famfest and will be held at the YMCA in the parking lot. He stated that it will be from 4:00 p.m. until 8:00 p.m. and he doesn't know how many years they have done this in a row, but it has been several. He said that lot will be blocked off and there have been numerous events in the past. He added that the parking lot behind city hall will be open, but keep in mind that it will probably be a lot more packed because anyone visiting the Y to work out will now have to sort of slide over and use that parking lot. He then stated that there was some Falling Run Creek information given to the council about two and a half years ago on a jump drive. He said that they never really did a study, they did their stuff and gave us the data, and we gave everyone a jump drive that had that data on it. He stated that it was forwarded to our engineers and those kinds of things. He said they basically made a determination that it didn't fit within their parameter of work and they supplied us with all of the data, and that

was supplied to our storm water and other departments. He stated that as far as a true formal study done, he wouldn't call it a study. He guesses that they did research and they picked up the data but they didn't do a full-blown study on it. He then stated that with regards to sewer financials, what you have in front of are the budget to actuals and we will start including those with your normal packets of budget to actuals. He said that is the data that is truly audited by the State Board of Accounts. He stated that they don't take DMLO's reports and they don't care about those. He said that they do take the data that we have in our system and provide it. He stated that what you have now is every month from last year and January of this year, we also supplied new members 10 years' worth of fund equity reports, which just shows the revenue that came in and expenses that went out. He said that they will start putting that data in your packet because in his opinion, that is the information that the auditors take and look at when they come in. He added that is the information that they use to determine whether we are following proper procedures and whether we are meeting our budgets. He stated that with respect to the reports, Mr. Blair brought up in maybe March or April of last year a question that he had about a large category of insurance.

**Mr. Blair** said yes, that was an expenditure item.

**Mr. Gibson** stated that we began looking into that and talking to our accountants. He said that what they do is they come and take our data. He stated that we supply them the reports and they take our bank reconciliations which we do internally in the controller's office. He said that we supply that to them and then they, in his opinion, put it in a prettier format which may be a little more understandable to some people, but if you have a general understanding of budget to actuals and fund equity reports, then you are getting the same data. He stated that what we noticed when Mr. Blair had that question was that it did not appear that the chart of accounts that they have and the chart of accounts that we have were matching. He said that they were putting different things, which is why that number was so far off and out of whack. He stated that as we started delving into that, we started to learn that those two charts of accounts were not matching. He said that if he was trying to pull a couple of items that he thought should be in a particular line item and add those up, they weren't quite matching the items that were showing up in their report. He added that raised the question of why is that. He stated that ultimately came down to the charts of accounts were not matching. He said that the controller's office has been working with Ms. Hunter at DMLO to finalize that chart of accounts to where they match, so if you were to ask for the chart of accounts for DMLO's reports, you will know what exactly those particular line items are from the city's budget to actuals that make up that report. He said before this was brought up, there really wasn't a good format or good document that supplied us that information. He stated that we asked them for a timeframe of when they could get those reports up-to-date, and obviously they are in tax season so they asked us to be patient with and after tax season, it will be one of their top priorities. He added that accounting firms will take those budget line items and kind of combine them versus us in the controller's office would not, so that has created the issue or the problem that we are trying to make sure gets rectified.

**Mr. Blair** asked when he would expect to have them providing reports again?

**Mr. Gibson** stated that he was told that they feel comfortable that we've got the chart of accounts almost nailed down. He said that she said that they need to get through tax season because they are all hands on deck during their tax season.

**Mr. Blair** stated that is two weeks away.

**Mr. Gibson** stated that she said as soon as that was done, she wanted to get it off of her plate too and get those up-to-date. He said that he will specifically ask her tomorrow what that is, but he got the impression that she would be able to start focusing and get those brought up to speed. He believes she has all of the data that she will need to compile those reports with those hopefully matching charts of accounts, and be able to spit that out. He stated that's why the June 1<sup>st</sup> that he recommended to Mr. Dickey made sense to

us because that is still like another month and a half and gives them time to get those done.

**Mr. Blair** stated that they will bring us up-to-date from January of last year and he is fine if they want to just do a 2023 year-to-date as long as the rest of the council members are okay with it. He said then they can do it monthly in 2024.

**Mr. Gibson** stated that he thinks they have to do them anyway so he has asked them to go ahead and do them monthly. He said to be honest from a history perspective, you can go find a month for that particular year. He stated that we did ask them to go ahead and just not compile it into one final document but give us a monthly report.

**Mr. Blair** stated that he agrees and understands. He then said that there was a discrepancy in the 2022 full year revenue number 600 and he thinks it had to do with accruals on collections. He asked if they are going to reconcile that? He would like to see them reinstate 2022 because he knows that their revenue numbers were different from what we had provided in our controller's office.

**Mr. Gibson** stated that if you will shoot him an email on this, that would be great. He said that there is a slight recording timing frame difference for them and for us if that makes sense. He doesn't really know how to explain it very well. He stated that if it is at the end of the month, it potentially either one way or another will show up in ours because we are pure cash and they don't get the report until the few days after the month. He said that then when they are reconciling it, it's actually being shown. He stated that it all evens out, but there is that slight timing issue.

**Mr. Blair** stated that he and Mr. Gibson have talked about it before. He said that most of the world uses gap accounting/accrual accounting and cities and governments use modified cash basis. He stated that is one reason that he really likes the CPA's reports because it is so much easier for him to follow and he thinks it is more user friendly. He said that he gets that and he has never been reconciled to the penny or the dollar because we are talking \$16M revenue or something, so you've got a tolerance level. He then stated that he would shoot Mr. Gibson an email that he can forward to them as far as the 2022 numbers.

**Mr. Gibson** stated that it does take them usually two and a half to three months lag time. He said that when we close a book in March, obviously we still had some transactions that were done but we don't get bank statements until two to three weeks from now. He stated that it can take anywhere from two to three weeks for us to reconcile those so there is that lag. He said that it is not realistic to think that you are going to get a report from where the books were closed on March 31<sup>st</sup> before the end of April. He added that from the standpoint of us getting the bank reconciliations done, that is not possible. He stated that moving forward, you will get those sewer budget to actuals that you all have here in your normal packets, which are hopefully a little bit quicker.

**Mr. Blair** asked if the council should modify the ordinance to give them additional time to provide the financial information? He said that it says monthly at the second meeting after the end of the month.

**Mr. Gibson** stated that he doesn't see a problem with us supplying you with the budget to actuals in the normal packet.

**Mr. Blair** stated that he doesn't know if it is a state statute or just our local ordinance, but on our general budget items if we want to give our controller additional time, that's fine. He said for instance, she hasn't met the February requirements yet and she is past that, so if we want to give them an additional month or something to prepare the financials, he is okay with that. He stated that he really thinks we should modify our statutes if we are going to do that to give the additional time.

**Mr. Gibson** stated that they can look at those various aspects because he doesn't recall off the top of his head.

**Mr. Blair** stated that he is fine working with him if we want to introduce some modification ordinance to extend the time required to receive that information. He said that the second meeting after the end of the month is a short turnaround time.

**Mr. Gibson** stated that it is really not possible because we don't feel comfortable with the numbers until we get them reconciled, and then once we get them reconciled, we still internally go over them which takes another week or so.

**Mr. Blair** said that if he wants, he is willing to introduce that to give additional time.

**Mr. Gibson** said okay and told Mr. Blair to shoot him an email on what his question was on that one because he just doesn't recall.

**Mr. Blair** asked him if he wants to work with Mrs. Moeller on modifying the ordinance?

**Mr. Gibson** said yes. He also said that when you send him the email, it will jog his memory on this conversation.

**Mr. Blair** asked him to have Mrs. Moeller get with him when she is available.

**Mr. Dickey** asked Mr. Blair if he wants to restate his motion from earlier.

**Mr. Blair** stated that he is good.

#### **COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:**

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

**Mr. Dickey** stated that he wanted to make an announcement from redevelopment. He said that they are doing the Community Development Block Grant Draft 1-year Action Plan. He stated that they published the funding on the estimated allocation of \$680,919.00, which includes housing projects, public facility improvement projects, public services, general administration and fair housing. He said that this draft plan will be standing and anyone who wants to make comments can do so through the redevelopment department and Ms. Claire Johnson up and until 4:00 p.m. on May 1<sup>st</sup>.

#### **APPROVAL OF CF-1 FORMS:**

#### **INTRODUCTION OF ORDINANCE FOR THIRD READING:**

#### **COMMUNICATIONS PUBLIC: G-24-03 Vehicle Refuse**

#### **COMMUNICATIONS PETITIONER: G-24-03 Vehicle Refuse**

<b>G-24-03</b>	<b>Ordinance Adding Section 71.31 to the New Albany Code of Ordinances</b>	<b>Blair 3</b>
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**Mr. Blair** introduced Bill G-24-03 and moved to approve the third reading, **Mr. FitzGerald** second, all voted in favor. Bill G-24-03 becomes Ordinance G-24-03.

**Mr. Blair** stated that this is just a gap within our ordinances as far as allowing the police to give fines for anyone who drops debris on the streets. He said that it is a little bit of enforcement that gives us the opportunity to take quicker action if there is a situation.

#### **INTRODUCTION OF RESOLUTIONS:**

**BOARD APPOINTMENTS:**

**COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):**

**ADJOURN:**

There being no further business before the board, the meeting adjourned at 8:23 p.m.

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Adam T. Dickey, President

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Vicki Glotzbach, City Clerk