

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A REGULAR COUNCIL MEETING IN THE COUNCIL
CHAMBER AT NEW ALBANY CITY HALL ON THURSDAY, SEPTEMBER 19,
2024 AT 7:00 P.M.**

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

ALSO PRESENT: Mrs. Manning, Mr. Wood, Mrs. Moeller, 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. FitzGerald moved to approve the Public Hearing Meeting Minutes for September 5, 2024 (Reas Lane) and the Public Hearing Meeting Minutes for September 5, 2024 (Budd Road), Mrs. Collier second, all voted in favor.

COMMUNICATIONS – COUNCIL:

Mr. Dickey wanted to take note that one of the legislative items for tonight is the second reading of an ordinance sponsored by Ms. Murphy, which is G-24-05 and it is changing our rules to better define and address council administrative items. He said while this measure is under consideration and respecting both our council colleagues and the public's right to notice of agenda items, he would like to suggest that we pass a motion that no action items be permitted during council comments until this legislation is properly addressed by the council.

Ms. Murphy moved to put a moratorium on the council undertaking action items not published under council comments, Mrs. Collier second, all voted in favor with the exception of Mr. Blair who voted no.

Mr. Blair asked Mr. Dickey what his thoughts and reasoning are behind that?

Mr. Dickey stated that he thinks it is just respecting that we have a proposed rule change, and out of consideration for that, it makes sense that we respect that we have meandered into this area of administrative clarity, so let's go ahead and make sure that we settle that issue before we make other considerations or continue the way we have.

Mr. Blair said so you are passing a rule before you pass a rule.

Mr. Dickey stated that he thinks it is just respecting that we need to settle that before we move forward.

Mr. Unruh stated that he wanted to remind the public of the fireworks presentation that was rescheduled for Friday, September 27th. He said that the Louisville Crashers will play and the fireworks will be following at the amphitheater.

Ms. Murphy stated that on or about September 20th, the westbound ramp on Grant Line Road leading to I265 will be closed for INDOT work. She knows that when a ramp is closed, that causes a lot of issues so she wanted to remind everyone to plan accordingly for that closure.

Mrs. Griffith stated that she wanted to thank Mr. Phipps for his article in the paper. She said she would be happy to help him in any way she can. She stated that they were on the Historical Home Tour on Saturday and it was great. She said there was a lot of movement on Spring Street and it was a little scary. She also said that she was in a group of seven and it was hard to cross traffic because people just don't pay attention because it is not the norm for our area, so we need to do something.

Mr. Blair stated that he echoes Mr. Phipps on his article because agrees with him. He thinks it is probably more of an education issue and maybe some infrastructure changes, but we do see a lot traffic issues throughout the city. He said that speeding is one of the main issues that he hears about from people in the 6th District.

Mrs. Gohmann stated that next Sunday, September 29th, there is a town hall meeting called Everybody IN Southern Indiana Town Hall for All. She said that it will be held in Scottsburg but it is for representatives from our area, and is an opportunity to hear the candidates for the governor's race. She stated that it will be a good opportunity to hear from some of our state representatives and different people.

Mr. FitzGerald stated that he knows they will be hearing the TARC representative shortly but there is a survey going around about the stuff that he will be talking about, so please fill it out. He said in addition to that the redevelopment commission, with reviewing the comprehensive plan and the zone code, has also released a public survey and he needs to pass that along electronically. He stated that he will make sure that is in the minutes as well. He would like for everyone to fill out what their objectives are for the future comprehensive plan in relation to housing, connectivity and such like that.

Mr. Phipps stated that in response to Mrs. Griffith's and Mr. Blair's comments, he is the chair of the public safety committee and as soon as we get through this budget process, he plans on convening that meeting that consists of himself, Mr. FitzGerald and Mrs. Gohmann. He said that they can see if they can address some of these issues that the board of works simply is refusing to address. His main concern is pedestrian safety, but he agrees with Mr. Blair that speeding is another issue, and he would be happy to take that up in that committee as well. He said that he appreciates the support.

Mrs. Collier stated that she just wanted to remind everyone of the fireworks celebration next weekend, and at the end of next week, we have fall break so there will be more kids out and about, so just be mindful of that and watch out for them.

Mr. Dickey stated that earlier in the week Officer Aldridge responded to several residents complaining of individuals burning yard waste in the Silver Hills area around Dent Avenue. He said that the constituents up there were very complimentary of his efforts to try and address the problem that was causing some discomfort. He does appreciate Officer Aldridge's hard work in that regard. He wants to remind everyone that burning yard waste is not acceptable and there is a smoke ordinance. He believes that the commissioners may also be considering or passed a burn ban, so please before you undertake bonfires or things of that nature, make sure that what you are doing is in compliance with code. He said that he will echo his colleagues about the September 27th concert and fireworks. He stated that obviously that is replacing our rained-out 4th of July celebration. He said that regarding the steering survey that Mr. FitzGerald mentioned, we do want to make sure that folks have the opportunity to complete that and we will have that available at Harvest Homecoming as well. He stated that in addition, he knows that the board of works has been approving several closures and other items connected to the Harvest Homecoming, so over the next several weeks as we move into that festival, please be aware of those closings. He said they will impact both some of our roadways when we have the parade and festival as well as some of our public facilities such as the parking garage, which will be a rain location for some of those activities. He then stated that he had the privilege as well as Mrs. Moeller of attending the New Albany High School band concert last evening. He said that he wants to publicly commend those students, not only for how well they did in performing, but how solid they were in their example of the performing arts with their behavior. He stated that he was very impressed.

He said that if you have not had the opportunity to ever go to a band concert or any of the other offerings at New Albany High School, he highly recommends it. He stated that you will be quite impressed by the level and degree of skill that is displayed there. He stated that the jazz ensemble was pretty amazing to him. He said that it was just an awesome group of kids doing a great job, and in the last four years, he thinks they have doubled the size of the band so kudos to all of the staff, the faculty and the kids.

TARC Presentation

Mr. Mark Stevens stated that he had surveys that he wanted to leave with the council. Said surveys are on file in the city clerk's office. He then gave a presentation to the council regarding the TARC network redesign. Said presentation is on file in the city clerk's office. He asked if there were any questions.

Mr. FitzGerald stated that regarding the Indiana routes, the state provides funding to TARC for those routes, correct?

Mr. Stevens replied yes.

Mr. FitzGerald stated that the best-case scenario is 60 minutes, so in regards to what the state pays now, what would the amount be for the state if they were investing in the growth option and what would the coverage concept be as well?

Mr. Stevens stated that is a great question but he doesn't have an answer on that one at this time. He said that Indiana does a great job at resourcing other transit in the state of Indiana. He stated that Kentucky on the other hand has got some work to do. He said that they get approximately \$1M from Kentucky right now, and if they were to give the equivalent of Indiana, it would be approximately \$7M.

Mr. FitzGerald stated that you can see the number of routes in Indiana versus Kentucky and there really is no southern Indiana representation, and asked how we are making sure that we are being good advocates for our routes?

Mr. Stevens stated that he can start with this TARC 2025 thing and he will go back and make sure that your voice is heard back at the table. He said that they are trying to put together a couple of coalitions. He stated that one is to make sure as a state that we are addressing that state legislative body to make sure they understand the need, and that we give them the resources, so they need to understand how to approach funding transit in the state of Kentucky. He said that they are doing the same thing at the local level. He stated that the local funding is the majority funding for our system, which is the occupational tax that was established. He added that Louisville Metro, JCPS and TARC are participants in that. He stated that we are not maxed out in that one but we still need voters to approve anything different, so something like that is going to take a very deliberate effort for a very long time and a couple of champions, and a lot of things that we can't solve today.

Mr. FitzGerald asked what is the last day for public input on the survey?

Mr. Stevens said that is a good question.

Mr. Dickey stated that the timeline is August-September but he doesn't see a final date either.

Mr. Stevens stated that he would take it to be at the end of September. He doesn't think that is the end of the process, because once we get into December-January and we have draft proposals, there will be another round of engagement to see if we get it right.

Mr. Dickey stated that the hard pill to swallow is that obviously if you look at our side of the river, he thinks that one of the biggest difficulties is that our options, with regards to routes, are very few. He said that his fear is that it becomes kind of a futile effort for

some of our residents to even think about utilizing TARC services. He thinks that is the reason that you are going to share some numbers about the on-demand that are really reassuring. He stated that he thinks those two pieces go together so much and he wonders if reaching further out is sometimes a difficulty. He wonders about even just linking together the three major communities of Clarksville, Jeffersonville and New Albany, because he thinks that as our side of the river, there is a need and there is that interconnection. He worries that if we don't look at it maybe in terms of what the actual usability of the system is, he thinks that we just write off southern Indiana at some point for being a true part of the TARC system.

Mr. Stevens stated that those concerns are valid and he can make sure in that process that those concerns are heard.

Mr. Phipps stated that if Indiana is investing in at a higher rate than Kentucky then we shouldn't see any reduction in services or longer times. He asked that they at least consider that.

Mr. Stevens stated that he doesn't have that number but Indiana does better as a state. He said that on the flip side, at the local level Louisville Metro provides 75% of that.

Mr. Phipps asked if he was referring to the state in general and not so much as the money that they receive as an entity?

Mr. Stevens stated that is correct.

Mrs. Gohmann stated that she wanted to kind of echo what Mr. FitzGerald was saying. She said it is kind of a catch 22 between ridership and the cost. She stated that it would seem to her, with some of the developments we have such as River Ridge and the areas out Highway 62 that are desperate for employees, if we had more routes so that you don't have to wait 60 minutes to catch a bus, it would help. She said that it seems to her that it would increase ridership if we had a route that would go out to those industrial areas.

Mr. Stevens said absolutely, that is usually what happens. He added that they are presently working towards solutions for that problem.

Mr. Dickey read the results of the TARC3 on-demand table from April – August in reference to Jeffersontown and New Albany on the last page of the presentation.

Mr. Stevens stated that New Albany was a couple of weeks ahead of J-town so that may explain some of the differences, but it has been very well received here in New Albany. He said that it is a six-month pilot and we budgeted \$200,000.00 for each one for a six-month period and we came in way under budget. He stated that that the whole approach here was trying to be careful to be fiscally responsible and how we could do a demonstration without spending a lot of money. He personally wishes that it was a little bit longer than a six-month pilot, maybe a yearlong pilot so we could learn more. He said that what we did learn was that people received it well. He added that it wasn't meant to replace a fixed route. He stated that a fixed route bus is meant to take large amounts of people to destinations. He said that the cost can be basically the same in operating a smaller vehicle as opposed to operating a bigger vehicle, so the cost is not really related to the vehicle. He stated that it is really the labor cost. He added that the reason that this was so inexpensive is because we partnered a software platform, which is called RideCo like you see if you ride Uber. He said that they partnered with a transportation network company and in this case, it was RideCo for the technology and Z-Trip was the operator. He stated that it was extremely affordable and inexpensive although still subsidized by federal grant funds. He said that in the future, they may not be able to deploy it like that. He stated that currently they have a collective bargaining agreement with a collective bargaining unit and they have an opinion about taxi cabs and operations that are not unionized. He then stated that the network redesign is focused on the fixed route network. He encouraged the council members to fill out the survey.

Mr. Dickey wanted to echo how excited he has been about the ride program and those numbers illustrate what he and others on the council have said, which is that there is a need and if that is the way we can satisfy that, he thinks that is a great and would love to see that continue.

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

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

Rules Committee Meeting Report – Mr. Phipps

Mr. Phipps reported on the following:

The Rules Committee met on September 11, 2024, in the Council Chamber of City Hall.

Present: Committee members Greg Phipps (chair), Adam Dickey, Stephanie Griffith, Council Attorney Corrie Manning, and Elaine Murphy (zoom).
Other council members present: Louise Gohmann.

The meeting was called to order at 5:30 PM.

Agenda Item 1:

AN ORDINANCE AMENDING § 30.22 OF CHAPTER 30 OF TITLE III OF THE CODE OF NEW ALBANY

Following discussion, the committee voted 2-1 in favor of sending the proposed ordinance to the council as written.

The meeting adjourned at 5:55 PM.

Budget & Finance Committee Report – Mr. Dickey

Mr. Dickey reported on the following:

To: New Albany City Council
From: Budget & Finance Committee (Committee of the Whole)
Date: 9/12/24
Re: 2025 Budget Bills

The following report is respectfully submitted by the Budget & Finance Committee (Council Committee of the Whole) for consideration of A-24-02, A-24-03, A-24-04, and A-24-05, heard as part of work sessions on August 28, 2024 and September 11, 2024, with all Council members in attendance. Also present were City Attorney Shane Gibson, Controller Linda Moeller, and various department heads.

Following brief opening comments, City Attorney Shane Gibson and Controller Linda Moeller lead the presentation of the mayor's budget proposal. Council members questioned the administrative staff regarding proposed budget changes for 2025, department staff and salaries, FY2024 costs, and related priorities for 2025.

At the conclusion of the presentation on September 11, a brief discussion was held by Council members to advance the legislative package to 2nd reading at the Council's September 19th session. Mr. Phipps motioned to advance the legislation with Mrs. Collier seconding the motion. The motion based unanimously in a roll call vote.

With no further business, the committee adjourned.

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES FOR FIRST READING:

A-24-02 An Ordinance to Fix the General Fund and Other Budgets for the Year 2025

Action Taken: Referred to the Budget & Finance Committee (Council as a whole).

A-24-03 An Ordinance to Fix the Non-Reverting Budgets for the Year 2025

Action Taken: Referred to the Budget & Finance Committee (Council as a whole).

A-24-04 An Ordinance Setting Salaries for the Year 2025 for Employees

Action Taken: Referred to the Budget & Finance Committee (Council as a whole).

A-24-05 An Ordinance Setting Salaries for the Year 2025 for Elected Officials

Action Taken: Referred to the Budget & Finance Committee (Council as a whole).

INTRODUCTION OF ORDINANCES FOR SECOND READING:

COMMUNICATIONS PUBLIC: A-24-02 General Fund and Other Budgets

COMMUNICATIONS PETITIONER: A-24-02 General Fund and Other Budgets

A-24-02 An Ordinance to Fix the General Fund and Other Budgets for the Year 2025 Collier 2

Mrs. Collier introduced Bill A-24-02 and moved to approve the second reading, Mr. Phipps second, all voted in favor.

Mrs. Collier stated that this is just part of the standard budget process. She said that she is going to ask the council to pass this second reading so they can keep this process moving along and get it to the state for their approval.

Mr. Blair stated that he does plan on voting in favor of all four budget ordinances unless he hears something that is unexpected. He does appreciate Mr. Gibson and Mrs. Moeller on the way they presented because they were very thorough and very detailed. He said that it is good to hear from the department heads as well and understand where they are at and so forth. He thinks this is really good news for our city employees with the substantial raise increase of 5% plus they have the opportunity to join into a retirement plan with some matching funds there. He hopes that the employees take advantage of that and maybe we can find a way to maybe fund it even more. He said that it is a way for employees to supplement their pension, so he thinks that is very good news for our employees. He stated that he does have concerns because we have a big debt burden with our capital projects such as the police station and city hall. He said it hinders a lot of what we can do because we are paying a lot of money in interest and he wishes that we would have scaled back a little bit on how much we are using for buildings, and shift that over to services and things to help people. He thinks it is a bad look when we have police cars and fire trucks sort of on order but we don't know how to fund them. He stated that just tells him that we are going down the road and financing them and taking loans out, and it is going to be a revolving type of debt, especially for police cars. He said that we haven't funded police cars in a while, so we deferred that and he thinks that we are going to have some issues with continued debt and funding that type of equipment. He doesn't believe there is enough money for infrastructure. He said that we need to put more money

Mrs. Collier stated that this is another piece to their annual budget passage and she would just like to ask the council to pass this so they can pass it along to the state for their approval.

Mrs. Griffith stated that the educational piece of the opioid funding was added, correct?

Mrs. Collier replied yes.

Mrs. Griffith stated that her other question is with the animal control runs. She said that they had talked about merging those with the animal shelter and asked if they did not talk about that? She said it was the two non-reverting funds and asked if that was for 2025?

Mr. Gibson stated that the plan is to phase those out and they are already starting to do it. He said that we have operated that way for so long so we are just going to slowly move all of that so by next year's budget, we will probably be done with those.

COMMUNICATIONS PUBLIC: A-24-04 Salaries for Employees

COMMUNICATIONS PETITIONER: A-24-04 Salaries for Employees

A-24-04 An Ordinance Setting Salaries for the Year FitzGerald 2
2025 for Employees

Mr. FitzGerald introduced Bill A-24-04 as amended and moved to approve the second reading, Mrs. Collier second, all voted in favor.

Mr. FitzGerald motioned to amend the ordinance to include those personnel that Mrs. Moeller set out onto the budget, Mr. Phipps second, all voted in favor.

Mr. FitzGerald moved to suspend the rules to so that they could make an amendment, Mrs. Gohmann, all voted in favor.

Mr. FitzGerald stated that as Mrs. Collier said, this is our wonderful process. He also stated that as Mr. Blair said, with our salaries we are increasing our non-union employees' salaries by 5% for the coming year. He thinks that is very exciting and they want to make sure that they are taking care of all of the people that serve the public. He stated that he would also like to submit an amendment to this.

Mr. Dickey stated that traditionally, we do not do amendments on the second reading, however, when the information was sent out, we had a couple of the police and fire positions that were left off of the ordinance by mistake. He proposed that the council suspend the rules and add those in tonight as part of the second reading. He then asked Mrs. Moeller to give a summary of what was added to the ordinance.

Mrs. Moeller stated that for the police department, it was the police chief, assistant chief and the deputy chief. She said for the fire department, it was the fire chief, the deputy chief, another deputy chief, fire marshal, fire training instructor and fire inspector.

COMMUNICATIONS PUBLIC: A-24-05 Salaries for Elected Officials

COMMUNICATIONS PETITIONER: A-24-05 Salaries for Elected Officials

A-24-05 An Ordinance Setting Salaries for the Year FitzGerald 2
2025 for Elected Officials

Mr. FitzGerald introduced Bill A-24-05 and moved to approve the second reading, Mr. Phipps second, all voted in favor.

Mr. FitzGerald stated that much like the previous introductions, this is to vote for our budget process and make sure that we keep a steady hand on the wheel.

COMMUNICATIONS PUBLIC: G-24-05 Amending 30.22 of Chapter 30 of Code

COMMUNICATIONS PETITIONER: G-24-05 Amending 30.22 of Chapter 30 of Code

G-24-05 An Ordinance Amending 30.22 of Chapter 30 of Title III of the Code of New Albany

Murphy 2

Ms. Murphy introduced Bill G-24-05 and moved to approve the second reading, Mr. Phipps second, all voted in favor.

Ms. Murphy stated that this basically adds an additional agenda item of administrative items and provides clarification on communications from council members. She read items C and D in the ordinance into the minutes.

Mr. Blair asked if a council member wants to put something on the agenda, as long as they meet the submission deadline, can they add that to the administrative function or do they have to go to the council for a vote to add it to the agenda, and then the following meeting they would take the vote? He said that would be a two-meeting process.

Mr. Dickey stated that his read and understanding is that our council comments would be limited to comments. He said that under administrative items, if a member wanted us to consider a travel request for example, they would simply need to document that in letter form, put it on the agenda and it would be considered at the meeting. He stated that could include other items, for example in the past, we have also considered speakers such as our TARC presentation tonight. He added that it could include information requests or any number of related administrative items. He said these would be items that we would be taking as a council. He added that if we wanted to send a letter to a particular agency or individual, that would be the appropriate time to introduce the text of that letter for consideration.

Mr. Blair stated that he thinks the answer is yes to his question.

Mr. Dickey said he doesn't think that it takes two meetings. He thinks that the member can bring it forward and it can be considered at the meeting as long as it has been properly put forward before the agenda deadline.

Mr. Blair so it can still be a one-meeting step, right?

Mr. Dickey said yes.

Mr. Blair stated for that Mr. Dickey said letter form and asked if an email would be okay?

Mr. Dickey replied yes and he thinks that as long as it is something that the clerk can include in the packet, that would be okay. He added that as much information as a member can provide should be expected. He asked Mrs. Manning if she has any more comments as far as legal?

Mrs. Manning replied no and stated that she agrees with that.

Mr. Blair said for example, if a council member had a question on a certain expense item in the budget to actual report, they could just ask for that to be added to the agenda, right?

Mr. Dickey stated that since that is a communication with the mayor or the administration, he would probably handle that by the member providing a letter of what

they want to be provided to them and approving it in that format. He said that in some cases, he thinks it would be a question of what it is, obviously in his example of a travel request, that relates to a specific transaction. He stated that in a case of an information request to an agency or the executive, he thinks that would relate to outlining what that request is. He would actually recommend that you provide it as a letter that you want everyone to support.

Mr. Phipps stated that this is not going to keep anyone from saying anything they want about anything. He said that it is creating a separate category for it, and if it is something that you want the council to vote on, we need to see that ahead of time and it needs to be published with the agenda, so that people that want to be here from the public have notice. He stated for example, the issue with the dam at the last meeting. He said that the council didn't think that would come up and there were people here for that subject and they left.

Mr. Blair stated that he was more concerned about the timing. He wanted to make sure that it wasn't delaying it or deferring it. He said that this is fine because the more information you get on the agenda, the better.

Mr. Dickey stated that Ms. Murphy's intent was never to slow processes down, it was to be more transparent about those requests.

Ms. Murphy stated exactly, more transparent and it was on the public agenda, and if it is an action item, it would be an informed action item.

Mr. Phipps stated that would give the council members time to ask questions.

Mrs. Griffith stated that she didn't understand that and she voted no in the committee because she did not have the proper information and Mrs. Manning did help her get to that and understand that there are other precautions against that. She said that her first concern was that we were trying to silence or something wasn't jiving right. She stated that she completely understands that now.

Mr. Phipps asked Mrs. Griffith if she had known that, would she have had an affirmative vote too on the committee probably?

Mrs. Griffith stated that she still likes the discussion to make sure that she understands completely, but yes, knowing what she knows now she would have been a yes.

Mr. Phipps apologized that they didn't clarify that.

Mr. Blair asked in the case where someone might think that it is too vague or not detailed enough, who makes the determination to add it to the agenda or not?

Mr. Dickey stated that he thinks that would be a discussion between whoever is president and the member. He said that in the practical outlook, what they would try to do is that in the time between submission and distribution, they would try to work that out and clarify that.

Mr. Blair stated that sometimes you just don't have time between when it needs to be submitted.

Mr. Dickey stated that his attitude towards setting the agenda is that we want to make sure that individuals, as the rules are written, are able to bring items forward. He said that as president, he has always taken the position that we want to make sure that we are doing our part to make sure that the items are in the right form and fashion. He stated that one of the things that has come up before is the discussion around resolutions. He said that a resolution, in our case under state statute, is a resolution of the city and requires the executive's signature, so that is not just a statement on behalf of this council, it is a statement on behalf of the entire city as a government body. He stated there is a

difference in that distinction, and if we are bringing something forward that is voiced in our voice, he thinks that is more appropriately to take the form of a letter.

INTRODUCTION OF ORDINANCES FOR THIRD READING:

COMMUNICATIONS PUBLIC: Z-24-02 AMENDING CODE TITEL XV CHAPTER 156 BUDD ROAD

Mr. Jacob Antrim, Bose McKinney & Evans, stated that he represents Mr. Jon Henninger and several other individuals here tonight. He said they are here to oppose the rezone request and also the annexation. He presented a map to the council members to review. Said map in on file in the city clerk's office. He said specifically for the purpose of tonight's record, he would like to ask the council to incorporate by reference the comments that were made at the public hearing for this matter on September 5, 2024. Said minutes are on file in the city clerk's office. He then stated that based on the current comprehensive plan for the city that was adopted 2017, the council does not have the power to rule on the rezone for the Budd Road property tonight. He said that based on the city's most recent comprehensive plan, which again was adopted in 2017, the property is clearly outside of the city's zoning jurisdiction. He added that this is all based on statute. He stated that the first step in the statutory process for the city to exercise zoning outside of its boundaries is to adopt a comprehensive plan that specifically lays out the area where the zoning jurisdiction is outside of its boundary. He said that this current comprehensive plan is the one that controls today. He stated that it is not any action that happened in 1987, 1997, 2007; it's the current comprehensive plan that is applicable today in 2024. He said that as governing entities, we don't look back to prior actions when the council and the plan commission took an action previously whenever we have a more recent action that is inconsistent with the prior action. He stated that we look at the most recent action and that what has to govern your actions today. He said that if we look at the current comprehensive plan, the Budd Road property is not part of the zoning boundary. He stated that the map he passed out is a future land use map and is on page 77 of your comprehensive plan. He said that on this map, there is a dotted line that specifically shows where your comprehensive plan says you can exercise your extraterritorial zoning. He stated that he labeled the location of this property with an orange tab and it is clearly outside of that dotted line. He added that it is outside of the city's ability to zone this area. He said that in total with your comprehensive plan, there are 15 different maps like this that specifically depict the city's planning boundary, and not a single one includes this property within the zoning jurisdiction. He stated that the only way the city can exercise zoning authority over this property, is to first amend the comprehensive plan. He said that there is a specific statutory process to do that and that is not happening right now. He stated that you can't go back in time and change the 2017 plan by looking back to 1987 because that is not the most recent action by the plan commission and by this council. He said that even if the city could rule on this tonight, this rezone is inconsistent with the comprehensive plan, which is a required consideration for this council whenever you are going to rule on rezone. He stated that again, with looking at the land use map, this property is not located in it and therefore is not part of the growth vision for the city right now. He then quoted what the comprehensive plan said about mixed density residential zones. He said that it is on page 72 and says "the mixed density residential district is a broad district that includes development in New Albany, generally north of downtown but south of I265". He stated that there is no mention of the fringe area. He said again, if we look at the location of this property, we are seeing that it is well south of downtown and not even remotely close to the red areas in your comprehensive plan that states it is appropriate for mixed density use, which again on the map, is that light pink area which is around the downtown portion. He stated that all of the other folks addressed other statutory considerations like the current character of the property, the most desirable use, conservation of property values, etc., but in summary, he does not believe that the council has the power to rule on this ordinance tonight. He said that even if it did, it wouldn't be consistent with the current comprehensive plan. He stated that at the very least, let's slow this process down so we have an opportunity to work through these legal issues, which are frankly the threshold

legal issues about whether or not this council even has the power to grant this ordinance tonight. He thanked the council for their time and consideration.

Mrs. Karen Freeberg, 2206 E. Arrowhead Drive, stated that the president spoke about New Albany High School's band earlier. She said that last week, New Albany/Floyd County held their parent/teacher conferences from 8:00 a.m. until 7:00 p.m. She stated to get over the idea of having a lunch because that doesn't happen because she is old, traditional and she wants the parents to come in. She said she doesn't do that zoom stuff and don't try to pick up a phone or try to email her because she wants to see the parent. She doesn't care if those parents come in and they are living in a \$500,000.00 home or if the parent comes in with three kids living in a one-bedroom apartment. She stated that the thing you realize quickly is that all parents love their children. She said we do passionately, she does passionately. She stated that you step foot in her classroom and you are her kid for the rest of your life. She said that they have proven to the council four times that the zoning issue is dangerous. She stated 40 or so houses on 10 acres is a lot on this structure. She said that it is going to be low-income. She stated that if you are putting that many houses that close together, you know the price of those homes. She said that we need to ensure that the people who do not have the ability to join together and hire a lawyer to help them out, have the same ability to protect their children. She added that the council members love their kids and love their grandkids. She stated that she worked for the Department of Natural Resources for several years, and the thing is, we know this is a watershed area. She said that when you look at the land and look at the pond, it doesn't cultivate. She stated that there is a cavern under that. She said do your research; she has researched it. She said that her contacts with the DNR are deceased. She stated that you want to build 40 houses with concrete, asphalt, plumbing, pipe and all of that on top of land that could collapse. She said that every parent deserves the right to put their child to bed and know that it is going to be alive in the morning the same as you do, even if you live in a \$500,000.00 home. She stated that they deserve it too. She said they deserve to know that if their kids are on that road, which they will be, that they are going to be safe. She can tell them right now, we as community have listened to your emails, and yes, we are slowing down because there is a little girl with a puppy that has a 10 ft. yard in front of Budd Road. She stated that her parents have taken a little plastic gate and put up there that says "please slow down". She said that in 37 years of teaching, she does not want to tell them the number of funerals she has attended of her children. She asked if they wanted to talk about a horrible thing? She stated that tonight you build your legacy; she has been building hers for 37 years. She loves the fact that as adults they contact her and say "thank you". She is hoping that the community can contact you in the future when you are not setting in this chamber, when we see you at Harvest Homecoming or when we are holding our grandchildren so we can say "thank you". She stated that it is not about the money, it's not about low-income housing because she loves all people, it is about the area. She said that this isn't the area and if you need help looking, they will help. She understands business, she understands federal grants because she has spent too much time on google, and she knows, this isn't it.

Mr. Aaron Zinner, 2833 Wahoo Drive, stated that he is speaking on behalf of his dad Mr. Wayne Zinner who could not be present tonight. He said that some things have obviously changed, as we have gotten representation but he would like to at least read his comments. He read during the past four years, he has been refamiliarizing himself with the history of founding documents of our nation. He said that a direct quote from the Declaration of Independence states, "We hold these truths to be self-evident that all men are created equal and there endowed by their creator with certain unalienable rights that are life, liberty and the pursuit of happiness, that to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed". He stated that is our unalienable right to pursue happiness that is being obstructed here. He said that furthermore the Constitution of the United States guarantees its citizens' right to trial by jury in suits of common law, or at the very least, the right to legal representation in legal matters. He stated that so far after soliciting several dozen attorneys throughout Indiana and Kentucky, we've been denied that right. He said, of course, this has changed. He stated that if we are somehow able to retain legal representation by the time this document is presented at a council meeting, it will likely be too late to have the impact

that we could've had with proper representation. He stated that more than half of the local attorneys that we contacted cited a conflict of interest is justification in turning us away. He asked how is it that a majority of local lawyers represent the interest of the city and will not represent citizens in a dispute with the city? His first thought is there has to be a lot of corruption and a number of pockets getting lined in this endeavor. He said we have heard more than once that the concerns we have expressed at the meetings that we have all attended are all valid points to support our opposition of this development, however, when decisions were made going forward, it was pretty obvious that the concerns that we expressed were largely ignored by all, but maybe two members of the council. He stated that none of our concerns were addressed with any serious dialogue, which indicates to him that this was a done deal long before the signs were placed on the property notifying the public of the first hearing with the plan commission. He said that very few, if any, of the people living in the area surrounding this proposed development are likely to benefit in this endeavor. He stated if this benefits no one then the drive to push this through would not exist. He said that compels him to ask the question who is benefiting from this? He stated that it is obvious that something that the public is not aware of is driving this very determined effort to force this project down the throats of well over 400 concerned citizens that signed a petition expressing the opposition of this development. He said that these citizens have a right to know what is driving this, so he invites them now to reveal the force that is behind this effort. He stated that if no one answers that, he thanks everyone for their time.

Mr. Kraig Milam, 511 W. Arrowhead Drive, passed out a handout and stated that this handout is from the strategic plan from the City of New Albany. He stated that on the front page, you see the circle that designates the area in question. He said that the blowup on the center page, he has purposefully not labeled. He stated that what you see there according to the legend on the front page is a void space bordered on two sides by green. He said that the green signifies steep slopes immediately adjacent to this property. He stated that this is the 100 acres that watersheds in it across this area. He added 100 acres of water. He said again, the magic number is 2,500,000 gallons of water per one-inch rainfall that comes from these steep slopes that are not as acceptable to build on, but they do produce a lot of rain water. He stated that is part of what makes this unacceptable for a higher density building site. He said that the Department of Natural Resources and IDEM, when contacted, expressed concern about the complexity of this because normally when they help a contractor develop a plan working with their storm water, they do it for the site itself. He stated that this site does not stand alone. He said there are 100 acres that comes across this land which complicates things. He stated that IDEM understands this complication and they have said they are going to probably look a little closer to this for this to go forward, because this is a complicated situation. He said their entire purpose is that when a development goes forward, the water coming off of this site is no more polluted, there is no more water and the rapidity that the water goes across the property is not increased. He stated that if two-thirds of this property becomes impervious due to roads, sidewalks, driveways, roofs, etc., you've just created a situation that maybe only one-third of this is being kept as green space. He said that green space with highly engineered water structures may not be enough to stop this kind of water once you remove the green vegetation over the top of it. He stated that for these reasons and many more, he thinks this property is unsuited for the new zoning classification of mixed density.

Mr. Jamie Budd, 311 Haze Drive, stated that he has lived at his address for the last 32 years in the same house that his grandfather built in 1965. He said that he is here to talk about their water issue, which is a little different than what Mr. Milam just said. He stated that he is on city water and you are talking about wanting to build multiple houses on this property. He said that in the last 60 days, his water in that same general area has gone out twice. He stated that once it was for four days and the other for three days. He added this is very concerning to him. He said that water is a pretty basic utility that we all expect to have. He stated that he has also had issues over the last 30 years of low water pressure, and he even tried contacting the water company today to ask them if they have a list of how many times we have either lost water, had a boil water advisory, low pressure or discolored water. He said that the representative could not tell him that but what she

could tell him was how many times they have sent him text messages. He stated that their records would only go back close to the last 12 months. He said that there were 11 times that they either had a boil water advisory, had discolored water or we had main breaks. He stated that the reason why they tend to be having main breaks is that with all of the projects that are going on around all of the new buildings, the water company is pushing more pressure. He said that when they push more pressure, they are pushing more pressure out in our direction. He stated that with doing that, it is breaking our pipes and we are having water main breaks. He added that in the last 60 days, both were water main breaks and it wasn't just one break each time. He said that as soon as one breaks, they have to shut the water down for the area, they have to repair that and then they push the pressure back up. He stated that when that pressure comes back, it causes other main breaks because our system is old and hasn't been taken care of like it should have been. He said with that being said, if we are looking to rezone this into the city, the city really needs to make sure that they can guarantee that we have water pressure and that it can serve these new properties and all of that. He stated that without first addressing the water issue that we currently have, we should not be pushing to annex this into the city and we should not be putting more houses out there until that problem is solved.

Ms. Jamie Rittenour stated that she is from Indianapolis and came a little way to this meeting. She just wanted to acknowledge that it is very difficult for people to stand up here. She said they have been so patient, and even when they stand here, you can see that their hands are kind of shaking a little bit because this is a very personal issue to them. She stated that with the attorney coming forward tonight and pointing out that he doesn't even believe it is in your power to rule on this, it just seems like wisdom. She said that the bible talks about Solomon's wisdom, which was pure, peaceable, unbiased and willing to yield. She stated that is wisdom and it just seems that in our heated environment in our nation right now, we need people that are in government that can be wise and yield. She said that they are asking for this to just be set on the table and paused for a minute, so that everyone can be heard, studies can be made and so the council can seek legal counsel and make sure that this even in their power to rule. She came all the way down from Indianapolis because she believes that Indiana has the ability to listen to one another, and she thinks the council represents that. She stated that she has a family, they have a family and you have a family. She thinks this is a great opportunity for you guys to do something that we don't see a whole lot of people doing in government, and just say "we heard you and we are going to pause the project on your behalf". She thanked the council for their consideration.

Mr. Travis Ross, 502 W. Arrowhead Drive, read from a letter that he would like submitted to the meeting minutes of the city council. Said letter is on file in the city clerk's office. He read the following:

Dear Honored Council Members,

My Indiana neighbors and I are writing to request that you pause the proposed Budd Road zoning change and annexation on ordinances Z-24-02 and X-24-02. We express our strong opposition based on the concerns related to Indiana annexation law and Indiana code responsible growth and development, and as well as the New Albany strategic comprehensive plan. There are over 400 petitioners who opposed this and many of us have no representation on this council, yet the impact of these ordinances will have a big effect on our lives. We have organized and worked to make our voices are heard because we believe in our right as residents of the state of Indiana and of the United States of America.

Let me again highlight the impact of these changes and the consequences of an inadequately developed fiscal plan on both the neighborhood and your own constituents.

1. **Infrastructure and Services:** The anticipated development under these ordinances will place a burden on already strained infrastructure including roads, police, fire, water, lighting and sewage systems.

2. **Funding:** Adequate detail has not been provided regarding the cost of this development to taxpayers. There are not details on how it will be paid for along with the services and infrastructure it will require.
3. **Environmental Impact:** The failure to address the potential loss of green space and wildlife habitats and the effect on the quality of neighborhood has not been adequately considered.
4. **Community Engagement:** The lack of meaningful engagement and transparency with the residents of the surrounding area undermines the Indiana Code for Responsible Development and Growth as it pertains to property value and the character of structure and use, as well as also according to your own comprehensive plan.

We urge local officials to review and reassess the zoning change and annexation for ordinances Z-24-02 and X-24-02 for the aforementioned reasons. We are here to advocate for a process that ensures compliance with legal requirements and incorporates a thorough fiscal plan and fosters genuine community engagement, as well as subscribes to the New Albany Comprehensive Plan.

How many in the audience agree and support the testimonies recorded on this given night and would like to see a pause from the council; just some more time to provide us with legal representation and a conversation, please stand.

Thank you.

Mr. Homer M. Barger, III, 1711 High Water Road, stated that he wanted to pass on a little homework that he has done that the council hasn't. He is part of running one of the largest water company businesses around the tri-state area. He said that he is the vice president. He stated that you have two water companies that provide converge right in front of Broeker Lane. He said one is American Water and the other is Edwardsville Water. He stated you have one six-inch mueller and one single pumper that can only fill one truck at a time because the volume and flow cannot handle it. He said that is six-inch PVC main. He stated that right now the guys that he has running Utica Water Plan have updated him with the prints and the reason we are having main breaks, which is because they are trying to up pressure in that area. He said that it stops right there at Broeker Lane. He stated that Edwardsville Water comes in over the backside of Powderhouse Lane and it ends in a two-inch water main. He said you only have one two-inch hydrant right there and it cannot accommodate this either. He stated that the sewer is an eight-inch clay and has been outdated for decades and it cannot handle this volume and flow as well. He said that between this meeting and the last, he noticed that they are doing perc tests on top of Miller Hill for a building going up there because there are not city sewers, therefore, they are going to have to run a septic. He stated that where they are going to run the water lines runs in the valley that cuts straight across this property, so you are going to have sewage running through the middle of the property where you all plan on developing these 40 homes. He said that is something that no one is looking at because the valley cuts right through it and runs through a culvert under Powderhouse Lane. He stated that the infrastructure does not support what you are planning to build. He said that if he heard correctly, you just said something about taking loans and you don't have money to update infrastructure and so on and so forth earlier in your discussions. He stated that why those facts don't play a role in what you all are deciding to do is beside him. He said that doesn't make sense at all and is asinine. He said that on top of that, he was handed a speech by one of the biggest owners of this town that was pretty disgusting and he is not going to repeat it. He stated that you have a lot of people against it and you haven't taken in the facts. He said that we all know why; we know what the end date on the contract is and we know what is going on. He asked that the council makes a motion to table this. He stated that he wasn't present at the last meeting because he had other endeavors in LA that he had to take care, but he noticed that two board members had enough of a conscience to realize that they need more time on this. He said that one made a motion to table it, the other second and the rest of you all stayed silent. He thinks at this

point in time it would best benefit everyone involved, in the city and the council, to take a step a back and identify, look at the infrastructure and look at the budget moving forward. He said that not only will the infrastructure need to be updated as far as sewage, hydrants and water lines, but so does the road. He stated that you will have to put in sidewalks, widen the road and put in a caution light or red light in the intersection at Broeker Lane, because when you look at the property in layout, there are only two ways that you will be able to enter this property because of the easement of the power lines. He said that is a lot of money to be spent. He asked if anyone has looked at when the dividends are going to be returned on the taxes that it is going to cost the city to invest, and what you are going to have to do in order to accommodate this? He stated not only that, but because of his experience of this, you are wanting to accommodate 40 homes and that means that you are going to make a six-inch-by-six-inch tap for fire service. He said that it probably won't handle it; it won't handle what you have now. He stated that you will have to run a three-inch domestic pipe and all large services, which is \$40,000.00 in its own. He said that he knows that goes to the building but it doesn't help in infrastructure. He added that it will destroy it and collapse it because it can't handle it. He stated that one last thing he would like to leave on this is that his aunt had a medical emergency less than a quarter mile from this property. He said that it took them 25 minutes to respond and they got lost, as he described before, because the GPS scrambles once you top Miller Hill. He stated that luckily, he saw them and got them to her home so she didn't die. He said you are talking 45 minutes in time. He stated that they run on the same emergency system that we use for Louisville Water Company. He said that we are tied in to the police station with everything we do; we are running the same systems. He stated that it is lack of service and it won't accommodate. He said that you really need to step back and take a look. He stated that this is not the place, and like Mrs. Freeberg said, we don't care to help you find it. He said that we know you have a dividend and a goal of 900 more single-family residences; we know what is going on. He asked the council to motion to table this until they can get further research and information as a board. He thanked the council for their time.

**COMMUNICATIONS PETITIONER: Z-24-02 AMENDING CODE TITLE XV
CHAPTER 156 BUDD ROAD**

**Z-24-02 Ordinance Amending the Code of Ordinances of FitzGerald 3
New Albany, Indiana Title XV Chapter 156**

**Mr. FitzGerald introduced Bill Z-24-02 and moved to approve the third reading,
Mrs. Collier second,**

**Ms. Murphy motioned to table this item until they have more clarification on the
annexation situation, Mrs. Griffith second, all voted in favor.**

Mr. FitzGerald stated that he believes that they are still considering the zoning change from low density to mixed density. He would appreciate some insight into the information brought up about the 2017 map superseding the 1987 map.

Mr. Wood stated that the city council amended and adopted the two-mile fringe area in 1987 and incorporated all of this area, including the petitioner's property. He said to the best of his knowledge, the council has never taken affirmative action to change that two-mile fringe area limit. He stated that the resolution you adopted in 2017 was entitled The City of New Albany and Two-Mile Unincorporated Fringe Area Comprehensive Plan Year 2036, which covered the entire comprehensive plan. He said that if there was a mistake in a map, there was a mistake in a map, but the two-mile fringe area was part of the comprehensive plan. He told the council that they have authority to change the zoning this evening.

Mrs. Griffith stated that she just thinks with the information that they received tonight and the questions on the map, she does think that they need to check everything with their attorney also. She said that they do have 90 days, so if they put a pause on this for the next council meeting, she doesn't think it is asking that much.

Ms. Murphy stated that she agrees with her colleague that they need more clarification on the annex piece before they do the zoning piece. She said that it seems that we are putting the cart before the horse if we zone it before we know what we have annexed.

Mr. Phipps stated that the zoning is not depending on annexation though because we have zoning authority in the fringe area, so they are actually two separate items.

Mr. Dickey thinks that Mr. Phipps made a clear point. He said that they are two separate items, they are not directly connected. He stated that the council has authority to exercise zoning jurisdiction in the two-mile fringe. He said that annexation follows a separate state statute proceeding and it would be a separate issue that obviously could be informed by what something is zoned, but it would be a separate action nonetheless with its own fiscal plan and proceeding.

Mrs. Manning stated that is correct.

Mr. FitzGerald stated that he does believe that they have kind of paired them together as they have gone through this process. He asked Ms. Murphy if she is suggesting tabling it until just the next council meeting?

Ms. Murphy said that would give them additional time to get information about the annexation.

Mr. Blair stated he agrees that it is an opportunity to take a pause. He said that this development is going to take a long time period and a couple of weeks is not going to be critical to the development of this, so he thinks it is worthwhile to take a pause. He said that the other thing that he wants to understand, which was mentioned a couple of times is what is the city's fiscal plan? He asked how we are going to improve the infrastructure on Budd Road leading into this development? He stated that at worst, we are probably going to do nothing, and at best, we are going to take resources and money from other areas of the city and move it to that Budd Road area. He said we are lacking infrastructure improvements in a lot of areas of the city. He stated that he can go to his district and see where we haven't done sidewalk maintenance, storm water and street improvements, and we're not putting enough funding to it so now we are taking on another project that needs more funding. He said that if we do a TIF, he would like to know if that TIF is going to be used for improvement of the approach of Budd Road to this development or is that TIF going to be used within the development. He would like to see a fiscal plan from the city and understand how we are going to fund it and how we are going to make those improvements. He agrees and is going to vote yes to tabling this.

Mr. Dickey reminded Mr. Blair that the fiscal plan is connected to the annexation, not the zoning request.

Mr. Blair stated that he is going to vote to table that too.

Mrs. Collier stated that she can understand these concerns obviously and understands why we should definitely figure that out. She wanted to see if there is potential reasoning why that may be an issue and whether or not we could consider a special meeting if that was the case, so we could hear it before the next meeting if we needed to.

Mr. Dickey stated that as far as a special meeting, the council would have authority to call a special meeting if there are five council members that so indicate that they want a special meeting. He said or the executive called for a special meeting. He stated that meeting would have to follow appropriate notification under Indiana Code as a public meeting. He added that he would leave that to others if they feel that would be in order.

Mr. Unruh asked Mrs. Collier what she suggests on who the council would hear from and what kind of information she would like to receive?

Mrs. Collier stated that she can understand why we may want to table it, but she can also understand that there may be circumstances that they need to move forward on their decision. She said there are contracts at hand with the current owner of this piece of property, and she thinks the council should make a determination to have a special meeting if we are going to table this. She stated that way we can hear it sooner rather than our next scheduled meeting in October.

Mr. Dickey said as far as this discussion, he wants to be fair to all parties concerned. He sees that Mr. Fisher is in audience and asked if he wants to make any statements to the council at this time?

Mr. Fisher stated that as far as the time of a potential tabling, if it was to be tabled until the next council meeting, that is okay with him. He said they are obviously here this evening asking for requested action, but as far as any discussion of any contracts or a special meeting, there is no need for the council to have a special meeting. He would ask that the council consider the facts that were presented to them this evening and consider the motion that was originally on the table. He said that they did agree to, as part of the zoning ordinance that is being presented, the voluntary commitment for the 40 lots and a single-family development. He stated that they continue to offer that as part of this project.

Mr. Blair stated that he would like to see the information researched and then bring it back to this body when they are ready. He said that's when you make the decision. He stated that this whole thing about if it is in the comprehensive plan, what our fiscal plan is for infrastructure and improvements and so forth is what we need to know. He said that when the petitioner is ready with that information, that is when he thinks it should come back before this body.

Mr. Phipps said that could potentially hold it up for months.

Mr. Blair stated that the burden is on the petitioner though.

Mr. FitzGerald stated that the point of order right now is discussion of the motion.

Mr. Dickey stated that the motion is to table this item and we are carrying into the discussion on passage, so yes, he accepts Mr. FitzGerald's point of order.

COMMUNICATIONS PUBLIC: X-24-02 ANNEXATION OF REAL PROPERTY LOCATED ON BUDD ROAD

Mr. Jacob Antrim, Bose McKinney & Evans, stated that he had another handout and it was passed out to the council to review. He said that the handout is a copy of the statute that lays out the fiscal plan requirements, which is a requirement for every single annexation in the state of Indiana. He added that it is for each annexation including voluntary annexations. Said handout is on file in the city clerk's office. He stated that as you see, there are a lot of requirements there for a fiscal plan. He said that it is his understanding that at the September 5th meeting by resolution, this council passed a one-page fiscal plan. He stated that there are a lot of issues that he has highlighted there that he doesn't believe that your fiscal plan meets the statute. He said in the interest of time, he just wants to draw their attention to one particular requirement. He stated that requirement is that a fiscal plan needs to provide an analysis of the effects of the annexation on other political subdivisions in the county for a period of four years. He said that means that the fiscal plan needs to have calculations (numbers) on the effects of this annexation on the county, the townships and the schools that are impacted by this annexation. He stated that we have taxing districts that will receive less money because of the annexation and that needs to be reflected in your fiscal plan. He said that we need to have a municipal financial advisor come in and prepare a fiscal plan that does these calculations. He stated that in addition to the other taxing units, you also have to have a four-year projection of the income that is going to be going to the City of New Albany as well, and that was not included in your fiscal plan either. He said there are a number of

different issues that he has highlighted in that statute, which again, he does not believe have been taken care of. He stated that based on that, your fiscal plan does not comply with Indiana law, and as he previously stated, this fiscal plan that meets all of the statutory requirements has to be adopted before you go on to your ordinance for annexation. He said that specifically he is looking at the ordinance before us right now and it says, "Whereas following the public hearing and before the final adoption of this ordinance, the council has considered and adopted by resolution a fiscal plan for the provision of useful services for the annexation territory as required by law". He stated that if we take a look at your fiscal plan, it has not complied with the requirements by law, and so therefore, this council cannot pass this ordinance tonight because it hasn't met the statutory prerequisite for the fiscal plan. He thanked the council for allowing him to speak.

Mr. Paul Detwiler, 2620 French Creek Road, stated that he is not going to repeat himself from the last time, but he believes that we need to add some additional information. He stated that Mr. Phipps is one that believes in safety, he does as well and we need to be safe. He said that the construction company for this building, Denton Floyd, had someone that had to do some calculations for this room on how many people can be in here or we will be down on the next floor, right? He stated that the state's capacity is 17, well, you're doing good. He said that the other side of the room though is 104 and the police department has helped them with keeping within that, but we were probably over it at the last meeting that we attended. He added that we didn't have the floor go through so that's good. He wants to come to a comparison of what we have at Budd Road. He said right now, we have appropriate weights that are being taken care of, however, what you are proposing is a larger amount of people that are going to affect the ground that they are going to be on. He went back to his earlier thing about the river going underneath. He stated that river is 283 ft. and that is three times the distance between over here at Louisville Mega Cavern. He said that if you have ever been over there for the Christmas lights, you notice these big columns that are holding up 95 ft. of earth. He stated that we are talking half of that over a longer spread of 283 ft. that's three times what they have calculated to hold up that area in Louisville. He is very concerned about the safety of what you are going to build with more structures on that area.

Mr. Joe Caruso, 425 Powderhouse Lane, stated that he has talked with the council before about issues in the environment and biodiversity, and he doesn't want to repeat all of that. He just wanted to focus again on some of the particular species that could have deleterious impacts from this, in particular, the American Woodcocks that are declining. He said that they use that area for a breeding area. He stated that wild turkeys also use it for a breeding area. He stated that this area is remarkable and is biodiversity. He said that Debbie and he are not ornithologists or field biologists; we are a couple of retired musicians, but we have been studying nature for decades, and it is a remarkable area. He stated to keep it remarkable, he thinks we really have to take great care in what goes forward. He said for that reason, he is asking the members individually and as a body to see to it that there is an environmental study done on this area, so we can ascertain everything that is there. He stated that much of that he can't touch because there is so much of the natural that he knows nothing about, but DNR can cover it. He was also going to ask that the amendment to zoning be tabled, and that has been done and he thanked the council very much for that. He said that we still have a lot of work to do before this is ready.

Mr. Homer M. Barger, III, 1711 High Water Road, stated that one thing he would like to point out that no one has ever brought up. He said when you rezone and annex into the city, the two-mile fringe moves. He stated that he lives close enough to this property as he farms his land, has livestock on his land and also has a gun range on his land. He also hunts on his property. He said that when you bring that out there, he has to comply by city ordinances, which doesn't allow him to do any of the above. He spent a lot of money on his property for his wife and you are getting ready to take away his rights by rezoning, because you will keep creeping onto his property. He wanted to point that out because he doesn't think that any of the council members took consideration of that and he doesn't think that the people out here really realize that.

questions. He stated that there is a 90-day statutory from when that plan commission action was taken on that initial date, and because it received no recommendation, you have to take action within that 90-day period. He said that he would much more prefer that the council take action at the October 7th or October 17th meeting on the rezoning third reading.

Mrs. Manning stated that she wanted to reiterate that is correct that is has to be within 90 days of when it was certified by the plan commission.

Mr. Wood stated that it was certified by the plan commission on the 26th day of August, so the 90 days would be the end of November.

Ms. Murphy asked if it would be possible at our November 4th meeting to talk about zoning and annexation and have the public meeting, and still be within the 90 days and still be within the notification date?

Mr. Dickey replied yes.

Mrs. Griffith wanted to clarify that if Mr. Phipps withdraws his motion, October 7th would be the third and final reading for zoning, but at that time if we don't have the proper information, it could be tabled if needed.

Mr. Dickey said you could.

Ms. Murphy wanted to clarify that at this point, zoning would be discussed on October 7th with the possibility of tabling it and then November 4th would be when we would discuss annexation so that we would meet the publication deadline.

Mr. Dickey said yes, but you have to remember that we would have a public hearing scheduled for October 17th to receive comment from the public again on the annexation. He also said for the record, that hearing will be scheduled for 6:00 p.m. that evening so that we would afford enough time for the public and also our regular scheduled business.

Mr. Phipps stated that he wanted to withdraw his original motion and substitute another date of October 17th, which is a compromise between the two other dates so that way it is not pushing too late for the developer, but we will still be within the timeline and it won't be as quickly as the next meeting.

Mr. Dickey stated for clarification purposes the zoning ordinance will be presented again on October 17th and there will also be a public hearing on the annexation on October 17th, and then presumably the third reading on the annexation ordinance will be on November 4th.

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Mr. Mark Hengartner, 2504 Larkwood Drive, stated that he was present on behalf of St. Mark's Church to make a request for Harvest Homecoming. He said that the past two years the city has allowed us to change our 3rd Street parking entrance and exit to Market Street, which has been endorsed by the police chief last year saying that it helped the traffic on 3rd Street and it flows easier. He stated that they have a dedicated entrance and a dedicated exit as opposed to the same entrance/exit. He said this also allows the health department to set up on the property with their free shots. He added that the state comes down also. He stated that they will just need the street department to put up barricades in the four parking spots that the entrance would go across on Market Street, which already has curb cuts.

Mr. Dickey referred Mr. Hengartner to the board of works for his request.

ADJOURN:

There being no further business before the board, the meeting adjourned at 9:36 p.m.

Adam T. Dickey, President

Vicki Glotzbach, City Clerk