
Work Session

The Common Council of New Albany, Indiana, will be having a Work Session to discuss Summit Springs on Monday, June 6, 2016 at 6:30 p.m. in the third floor Assembly Room of the City County Building. Should you have any questions regarding this meeting please see the City Clerk in Room 332.

Vicki Glotzbach, City Clerk.

THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY, INDIANA, WILL HOLD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON MONDAY, JUNE 6, 2016 AT 7:00 P.M.

INVOCATION: To be given by ministers of different faiths, if present. If none are present, then a moment of reflection.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Regular Meeting Minutes for May 19, 2016

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

COMMUNICATIONS – COUNCIL:

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

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

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

A-16-04	Ordinance Amending the Appropriation of EDIT Funds for the Homeless Coalition	Blair 1&2
A-16-05	Ordinance for Appropriation of EDIT/River Boat/Rainy Day Money for Self-Contained Breathing Apparatus	Nash 1&2

INTRODUCTION OF RESOLUTIONS:

R-16-07	A Resolution of the Common Council of the City of New Albany, Indiana Consenting to the Issuance by the Town of Utica, Indiana of an Economic Development Revenue Note for Community Montessori, Inc.	Caesar
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BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

ADJOURN:

INDIVIDUALS WITH DISABILITIES WHO MAY REQUIRE SPECIAL ASSISTANCE TO ATTEND THE ABOVE MENTIONED MEETINGS MAY MAKE THEIR REQUEST KNOWN BY CONTACTING THE CITY CLERK IN ROOM 332 OF THE CITY/COUNTY BUILDING OR BY CALLING 948.5336

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A REGULAR COUNCIL MEETING IN THE THIRD FLOOR
ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON THURSDAY,
MAY 19, 2016 AT 7:00 P.M.**

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Caesar, Mr. Phipps, Mr. Nash, Mr. Blair, Mr. Aebersold, Mr. Barksdale, Dr. Knable and President McLaughlin.

ALSO PRESENT: Mr. Lorch, Mrs. Moeller, Mr. Gibson, Officer Davidson, Mr. Hall and Mrs. Glotzbach

Mr. McLaughlin called the meeting to order at 7:00 p.m.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Caesar moved to approve the Work Session Meeting Minutes for May 2, 2016, **Mr. Barksdale** second, all voted in favor. **Mr. Coffey** abstained.

Mr. Barksdale moved to approve the Regular Meeting Minutes for May 2, 2016, **Mr. Caesar** second, all voted in favor. **Mr. Coffey** abstained.

COMMUNICATIONS – PUBLIC (AGENDA ITEMS):

COMMUNICATIONS – COUNCIL:

Mr. Barksdale stated that he spoke with several business owners downtown regarding concerns with parking. He said they are seeing several employees and some business owners parking on Pearl Street, Market Street, etc. and he wanted to bring it to the council's attention and perhaps work on resolving this issue. He also said there is a business owners group that meets once a month and that may be a way to get engaged and see what can be done. He stated that last night they had preservation awards and the mayor and his staff were there and the award winners were very appreciative for being recognized. He then stated that he feels that the council should bring forth a resolution next month on the school referendum. He said that he believes the school administrators have talked with most of the council members and, if not, they are still trying to get with them. He explained that after the school board approves the referendum, he would like to bring a resolution showing the support of the city in that.

Mr. Aebersold asked when the school board is going to officially approve the referendum.

Mr. Barksdale replied that it will be in June.

Mr. Coffey stated that it is going to go before the people to decide and he doesn't feel that it is fair to ask the council to represent it. He said that they came before the council once before and the council wouldn't do it and he feels that it is best left up to the voters. He then said that about twelve years ago the downtown employees were given the right to park in the parking garage at no cost but they just don't take advantage of it.

Dr. Knable stated that the federal building now has temporary lighting and a permanent solution is still being worked on. He said that he received a call a couple of weeks ago about lights being out on the upper deck of the Sherman Minton Bridge and repairs are

supposed to be made this Sunday and Monday night with rain dates of Tuesday and Wednesday. He brought before the council the issue of whether or not to have a work session on Summit Springs and asked that a decision be made after Mr. Aaron Hellems speaks.

Mr. Caesar suggested that the council address that when Mr. Hellems speaks because there are a couple of options such as having a work session or having a few of the council members meet with Mr. Wood.

Dr. Knable stated that the code inspection penalty revision committee is ongoing and he would like at some point to have an update on the rental registration publicly by Mr. Brewer to see how that's being implemented before we go to part two of that. He also stated that he discussed the used cars scattered around town previously and Mr. Wood is looking into that. He said that he met with the homeowners association at Blackberry Ridge and he will have more to say about it when we come back to the traffic study that should be close to completion for the new development that's taking place south of Grant Line Elementary. He has gotten numerous complaints about noise coming from the Rustic Frog and by the end of the summer he would like to revisit the noise ordinance and possibly revise the penalties because it is \$25.00 for the first offense and \$50.00 for the second which he doesn't feel has any teeth at all and there is also no objective way to define noise. He wants the council to think about considering possibly during the holiday season letting some of our speeders pay their fines in food at some of our collection banks. He knows that the annual take on speeding fines is about \$60,000.00-\$100,000.00 and was hoping that we could take a hit over the holidays if we could organize that with some of our charitable organizations. He stated that he hopes by the end of this calendar year to bring forth an ordinance to establish an affordable housing trust fund for the city and another to fund that ordinance. He thinks this would complement much of what the mayor is trying to do with looking at our housing stock because we have new units going up downtown and we're talking about revising the government units. He said he is talking about a fund that would serve in part as a revolving loan to developers targeting vacated homes and dilapidated homes with the intention of providing affordable housing that is not government provided housing for first time home buyers, veterans, working families, seniors, disabled, etc. He said this would be another option beyond government funding or upper to mid-tier cost housing. He said that the nice thing about this is that it would be checker boarded throughout the city and anywhere you see a dilapidated house, a developer could come in with our assistance on a short-term loan and we could have stipulations protecting any historic features on the homes. He is going to look into this in much greater detail and is going to speak with each council member privately but he wanted to bring it up publicly because you hear a lot about no transparency in the community. He wants to take the ordinance from its inception to its completion whether it is voted up or down and let the public vet it in the paper and the council can have discussions on it. He thinks it is a really good thing and Louisville is trying to do this but they don't have an ongoing revenue source. He said that what he is going to propose as a starting point for discussions for revenue sources is donations and he already has some people lining up for this with some pretty big money but he wants to have the city provide for revenue in the form of 1½-2% hospitality tax on our hotels. He said that it would be run by a board that the council would name and we would have one or two councilmembers on it, the mayor could have a slot, a banking representative from the community and someone who serves the underserved in the community.

Mr. McLaughlin stated that we have addressed the noise ordinance a few times and it has always been kind of an ongoing issue.

Dr. Knable stated that with the fine being just \$25.00 then people might just blast away and pay the \$25.00. He also stated that it is subjective to what is noise. He fully realizes that people have the right to have some fun downtown but we have to find a balance and

he is not looking to shut the sidewalks down at 11:00 p.m. He added that those things were voiced to him so he is just bringing forth to the council.

Mr. Coffey stated that it has to be enforced and not selectively.

Mr. Phipps asked if anyone else is being bombarded with emails from other communities wanting information on ordinances. He said that there is no unsubscribe feature and he wants off the list.

Mr. McLaughlin stated that he thinks it is through IACT.

Mr. Coffey stated that there is a serious flooding issue in the 1st District and they have had it for years. He said that for him it is a quality of life issue. He stated that there are two gentlemen here that are losing their ground on Martin Drive and there are actual holes in the yard. He said that storm water assured him that they were going to fix the problem but they didn't and instead of cleaning the ditch, they dug the ditch out wider and now they are losing their chain linked fence to the creek. He said that there are certain people from different departments that are supposed to be here at our meetings to answer our questions and they are not coming such as storm water and sewer. He feels it is up to this board to tell them they have to come in and show us their priorities. He explained that there were EPA mandated back in 1998 and we still haven't done them but we have had two rate increases to pay for them. He said that it is this board's responsibility to make sure that these things are being done and if they are not, we don't have to appropriate them any more money or approve any more raises in their fees. He then explained that there was a lady hit and killed on Spring Street and you can't cross that street at Vincennes Street because of the way it is set up. He added that he has literally gone out and blocked the traffic so people could cross. He also added that he has brought up a number of times that our handicapped people have to walk into the street because restaurants have taken over the sidewalks and we have an ordinance against that and we are not doing anything about it.

Dr. Knable asked Mr. Coffey if he has any solutions in mind for the flooding issue or for that particular intersection.

Mr. Coffey stated that storm water says it is not their responsibility because it is a lateral line but it is not a lateral line coming from his home out into the street, it's lateral lines coming from the street through his property to drain into the creek.

Dr. Knable stated that to him it looks like there has been more and more blacktop on the high ground and the drainage ditch that once upon a time may have been adequate is now carrying excessive volume when we get these three inch or above rains in a matter of hours. He spoke with the hospital CEO yesterday and asked him to please try to incorporate a discussion of this issue into their negotiations with the new owners. He said that county council is in charge of that particular sale and it might help if the gentlemen spoke with them because they can exert more pressure on the hospital to take care of the issues. He added that he hopes to get some goodwill and we won't have to rely on pressure. He then stated that in regards to the intersection at Spring Street and Vincennes Street, he doesn't know that we have any other options for that at this moment.

Mr. McLaughlin stated that he thought that Spring Street was going to be revamped from Silver Street to Vincennes Street.

Mr. Phipps stated that it is going to start July 11th.

Mr. Barksdale stated that it will be from Beharrell Avenue to Vincennes Street.

Dr. Knable stated that we have some unwieldy intersections and we need to start thinking outside the box with regards to maybe putting some overhead walkways on some of those or something. He then asked if it is the council's issue or the board of works issue because no one seems to know who has the authority to do these kinds of things. He said at the very least we can discuss it and sympathize with the fact that one of our own died out there and if there is anything within our power to decrease the chance of that happening again then we need to pursue and exert that.

Mr. Coffey stated that he thinks the council should stop funding some of these boards until they start doing some of the work that needs to be done. He also stated that at Summit Springs it scares him because that water is going to end up in that creek.

Mr. McLaughlin stated that he is shooting for the Thursday meeting in June for Mr. Wilkinson to come in to give an update on the sewer utility. He added that he has yet to hear from storm water but would like to get them in maybe the Monday meeting in June.

Mr. Coffey asked Mr. McLaughlin to ask them to bring in a list of projects.

Mr. McLaughlin stated that they used to send a quarterly report on what projects they are working and he will ask them to get back to that.

Mr. Blair stated that we need to be in communication with the boards and see projects being done. He said that five years ago we issued a \$6M bond to implement some of the projects in our master storm water plan and he would like to know where we are on that list. He also said that the spending is approved here and we are going to have to make tough choices on what we spend. He asked if we are going to do dog parks and cemeteries or if we are going to do storm water and sidewalks. He said that those will be tough choices. He then explained that he had the opportunity to attend the economic forecast that IUS does semi-annually and they are forecasting population gain and continued job growth. He stated that we want to attract people to our community and they want good housing, good neighborhoods, good infrastructure, amenities, etc. He thinks we are lacking on infrastructure. He said that in areas of his district the sidewalks haven't been touched in 40-50 years and there are some that are crumbling and uneven. He spoke with a lot of people in Oakwood, Castlewood, Woodside and Mellwood and they are still getting water in their houses and we give a lot of lip service that we are going to do this or that but these are things that need to be taken care of. He added that the drainage and piping there is inadequate and was designed for a less dense housing development so he asked what we are going to do about fixing those drainage problems. He said it will take funds and priority and those are the kinds of things that we need to address with storm water and that we need to address here with our Riverboat and EDIT funds. He said that his concern is that if we don't continue to improve the quality of housing then we are not going to attract the people that are making wages that have disposable income. He said we will end up attracting people who have been displaced from different places that have subsidized incomes and so forth and then what kind of city are we going to have. He commended Dr. Knable for looking at affordable housing because we have to have housing at all levels. He then asked Mrs. Moeller what the policy is on disbursing funds to entities such as Blessing in a Backpack, Haven House or The Homeless Coalition once the council has approved them.

Mrs. Moeller stated that it depends on where the money comes from as to whether it is tax dollars or not. She explained that sometimes the DLGF has to approve it first before it can be released and other times if it is not taxpayer's dollars it's reported to the DLGF and she can disburse it.

Mr. Blair asked about the appropriation that was done last fall for The Homeless Coalition.

Mrs. Moeller stated that it is still there and she received an invoice from them yesterday for \$75,000.00 to be payable to the Community Foundation and the appropriation was to the Homeless Coalition so if you want it to go to the Community Foundation then you will have to go back and re-appropriate that money.

Mr. Blair stated that the Community Foundation was set up as a fiscal agent and they are going to be responsible for the funding and tracking the financial records for the Homeless Coalition. He said that the city of Jeffersonville has already contributed their \$75,000.00 to that cause and now they are looking for our contribution.

Mrs. Moeller stated that the ordinance that was voted on states that the Homeless Coalition was to receive the money and she cannot disburse the funds to the Community Foundation. She added that there were some questions as to whether the council was going to pay that lump sum or require invoices as to where that money was going to go since it was a new organization.

Mr. Blair stated that he knows when they presented their business plan they had specific line items of where the funding was going to go and the Community Foundation was going to track that. He stated that it looks like he will be bringing back another resolution at the next meeting just to clarify as far as distributing the money to the Community Foundation versus the Homeless Coalition.

Mr. Coffey asked if we give it to the Community Foundation will they come back so we can micromanage them because that's the one thing that he doesn't like doing. He said that if we give them the money and they come back and we liked the way they did it fine and if we didn't then we won't appropriate again.

Mr. Blair stated that the one thing we had the discussion on with the Homeless Coalition was that they will come back in July or August and give an update on how things have transpired and what they have accomplished. He said that he does know that they have hired a director and are in the process of hiring a case worker so they will come back and be accountable to the council and let us know how they have progressed and how the funds have been used.

Dr. Knable stated that he is glad that Mr. Blair is overseeing that to a degree because he was not a voting a member at the time the appropriation was passed but he was at the meeting and remembers that the body had some reservations about turning that money loose because at the time they didn't even have a charitable ID number and were really loosely organized. He said that it may be better to funnel that through an organization that has the bookkeeping experience.

Mr. Blair stated that he feels much better with the Community Foundation which is an established group and reputable company that handles funds all of the time. He then asked Mrs. Moeller if it has to be a resolution clarifying the ordinance or a brand new ordinance.

Mrs. Moeller stated that she thinks it would have to be a brand new ordinance and start over.

Mr. Coffey asked Mr. Blair to check because he has seen money that was to be spent by certain groups get delayed and he doesn't want to see that happen here.

COMMUNICATIONS – MAYOR:

Mr. Hall stated that River Run Family Water Park opens on Saturday, May 28th and the following day Sunday, May 29th is Boomtown Ball & Festival downtown on Market Street and Bank Street.

Mr. Caesar reminded Mr. Hall to make sure that people don't park at Holy Family Church and to watch parking on Coyle Drive and Harris Court.

Mr. Hall stated that he knows that they are working on some parking out front and some other areas.

Mr. Coffey stated that they talked about the big lot at the corner of Daisy Lane and Green Valley Road but that is already being developed so there will be about 200 less parking spots from last year.

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

Mrs. Moeller presented the monthly financial reports.

Mr. Blair asked if there is any reason that these can't be put on the city website and let the council view them there.

Mrs. Moeller stated that she is not sure.

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

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

INTRODUCTION OF RESOLUTIONS:

R-16-06	Resolution Concerning Statement of Benefits for ZAM Properties on Behalf of McCrite Milling & Construction Co., Inc. by the Common Council of the City of New Albany	Caesar
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Mr. Caesar introduced R-16-06 and moved to approve, **Mr. Phipps** second, all voted in favor.

Mr. Caesar stated that Ms. Kathleen Crowley is present with information because there was a typo on one of the forms. He explained that McCrite Milling had a growth spurt a couple of years ago and expanded with equipment and employees but there was no time to build a building. He stated that they have been renting for the last couple of years and now is the time that they want to build a building to store their milling equipment. He stated that they are asking for the standard ten years on property and five years on equipment. He said that they will be adding four more very high paid, skilled employees and they desire to stay in New Albany so he highly recommended that the council vote in favor of this project.

Mr. Aebersold asked what the percentage is on a ten year abatement.

Mr. Caesar stated that it is 50% on the new tax. He said that it gives a big break in the first year and then slowly goes down.

Mr. Blair stated that it is at 90% the first year and then declines at 10% each year but over the ten year period they pay 50% tax.

Mr. Caesar stated that a large number of years ago the council decided that the ten year and five year was the standard that they wanted. He said that at some point he would be willing to look at it again if the council thought that it needed to be changed in some way.

Mr. Aebersold stated that when the New Albany Industrial Foundation was originally developed that is what they started out with.

Mr. Barksdale stated that this is about retention of these businesses as well. He added that we like new businesses coming in but we also want to retain those companies that have been here.

Mr. Caesar stated that all of the principals live in New Albany and have lived here for a very long time so we sure want to keep them here.

Mr. Blair stated that the big advantage is this is a company that has been renting something and they are going to move their entire operations so it opens up the whole region to them and they could go to a different community but they chose New Albany and he feels that is the huge benefit to us.

Dr. Knable asked if in the future the council could see a schedule of the abatements.

Mr. Caesar stated that there is a living document that Mr. Duggins has and it lists all of the abatement companies and when they started and when they are over.

Mr. Coffey stated that it is supposed to be reported at about the middle of each year.

Mr. Caesar stated that the council will see it when CF1 Forms start being approved.

Mr. Blair stated this is actually two companies and McCrite Milling is for equipment and ZAM Properties is for property. He asked if McCrite Milling needs to be approved also. He said that there is only one resolution and asked if that could be taken care of through an amendment.

Mr. Caesar stated that he thought it all came down as one entity.

Mr. Blair asked Mrs. Glotzbach to get with Mr. Duggins to make sure that this is the correct approval.

Mrs. Glotzbach stated that she would.

BOARD APPOINTMENTS:

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

Mr. Michael Shroul stated that he lives at 7 Martin Drive and they have drainage problems that are really bad. He stated that anything the council could do to help would really be appreciated. He said that the ground at their back fence has eroded totally away and there is a threat of mosquitos being right next to the hospital and the residences. He said that he doesn't feel that they are not getting their value for their tax dollars because they aren't getting anything done. He said that they have been talking to the hospital and they are aware of the situation too. He said that they need help from both the city and the hospital. He thanked the council for putting time into it and hopes that the council will continue to do so until satisfactory results are achieved.

Mr. Cecil Shroul stated that his father was fighting this until he died in 1985 and his mother is still paying taxes on a good portion of the land that is in the creek now. He said that they have a deep kindred ship and dedication to this community and they have

complained and complained and it just gets kicked aside. He also stated that allowing clear cuts on the knobs and building more hotels and things like that will create more watershed and that's going to go to the low points. He said that no one has even mentioned the fact that for 25 years they had raw sewage backing up in their basement. He also mentioned that they have a four ft. wide hole that has opened up in their driveway and you can't even mow the front yard because it is losing its substructure because of the sewer. He added that the hospital has offered to help. He said that they have mosquitos, rodents and stagnant water and would appreciate the departments working together to resolve these problems.

Mr. Mark Cassidy stated that in the past there have been incomplete CF1 Forms that were turned in and were being approved by the administration and the council. He said that he began digging into them and started complaining about it and the council stepped up and started asking questions about them. He stated that at one time the council required a principal of the companies seeking CF1 approval to be present at the meetings and that's been done away with. He said that he knows most of them would be passed anyway but we could at least require that the forms be filled out correctly because if that's not done then the information that Mr. Duggins submits in a spreadsheet wouldn't be correct. He said that he agrees with Mr. Coffey that the council should stay out of the school referendum and if you want to do it then you need to talk with your constituents. He stated that he was here a year ago when Dr. Hibbard and Dr. Snyder came and talked but they would not stay and answer any questions. He then mentioned that he doesn't see much of a difference between the council funding Blessings in a Backpack and Dr. Knable's suggestion to pay parking tickets with food.

Dr. Knable stated that he is looking for different ways to fill that void.

Mr. Aaron Hellems stated that he lives at 2229 Fawcett Hill Road that backs up to what ultimately will be Summit Springs. He said that when the trees were cut down there were at least two ordinances violated. He said that Mr. Wood spoke to that as well and owned up to it and that was refreshing to see. He explained that the problem is that there have been no penalties handed down and he feels that threatens the integrity of the city code and sets a dangerous precedent for future violations of the PUDD and any other city ordinance. He said that the PUDD ordinance is all he has to protect him and his family from the way the hill is developed. He said that specifically there is a 100 ft. vegetative buffer that is built in the plan and that is between his property line and where the development starts. He stated that if the trees have been cut without secondary approval (which was violation number one) and a permit for storm water controls issued (which was violation number two) then he sees very little from preventing the city, the Kellys or any other developer from intruding on the 100 ft. buffer especially given that they have pushed the envelope before and nothing has been done. He is asking the council to find out why the ordinances have not been enforced and what can be done to ensure that ordinances from this point forward are enforced. He asked that this process be transparent and open to the public.

Mr. McLaughlin asked Mr. Hellems if he has spoken in front of the plan commission.

Mr. Hellems stated that he wishes that he could have but the PUDD in question was passed in 2008 and he didn't live here then. He said that in 2012, they tried to bring this issue back to the plan commission and he did speak against it then. He explained that the city council would not support the PUDD as it stood in 2012 so the developer back doored around city council and prevented it from having any say as to what would go on up there and used the 2008 PUDD claiming they had a vested right which a judge, after a two year battle, agreed to. He also explained that the judge said they could move forward with the 2008 PUDD but they would still have to get secondary review. He said that he spoke with Mr. Wood a few days after the story broke and he said that the trees could be cleared because it was private property. He said that it hasn't been private property since

2008 because it is a PUDD. He said that Mr. Wood stood before the council and said nothing like that but instead said that he gave permission for the trees to be cut to meet the Indiana Bat guidelines. He said that he doesn't know what to say to that and he understands why it happened but it's illegal and nothing is being done to enforce it.

Mr. McLaughlin stated that the plan commission has monthly meetings but he doesn't know if they have non-agenda items at that meeting or not.

Mr. Phipps stated that there are usually no comments from the public unless there is a particular hearing. He added that this situation happened before he was on the plan commission.

Mr. Coffey stated that this has happened time and time again and this is at a huge level. He said that a case in point is when Spring Street Hill collapsed which didn't take six months and they had already given back the performance bond to the person that did the work. He said that these people are doing these things and are not held accountable for anything and if it goes bad, the taxpayers pay for it. He added that it's all about transparency and we don't have it and every year we lose more and more of it. He said that ultimately the plan commission has the say but this is the board that writes the ordinances. He then said that a vegetation barrier could be no more than a strip of grass. He said that he has to question how hard our legal team actually fought this.

Mr. Gibson stated that the legal team fought for years.

Mr. Coffey asked how long a PUDD is allowed to stay on the books.

Mr. Gibson stated that the judge said that it is a zoning change and when the council makes a zoning change, it is required to go back and be changed in classification of zoning which is done by this body.

Mr. Coffey stated that is different than what Mr. Wood told them because he said a PUDD lasted for so long and then reverted back.

Mr. Gibson stated that they argued that it had a time limit and they didn't meet the time limit and the judge disagreed and said that it was a zoning change.

Mr. Coffey stated that we need to change these things and be on top of it.

Dr. Knable stated that he thinks that maybe this is evidence that there needs to be a work session on this so that Mr. Lorch and Mr. Gibson can give a timeline through it because he doesn't know what authority or penalties even exist to hand down.

Mr. Hellems stated that there are two pieces that are in the city ordinances under land use and toward the end there is a section titled remedies with two items. He explained that the first item says that any person or persons may seek an injunction against any public ordinance to prevent it from violating law. He pointed out that the city council is indeed a person or persons and could use their power to force an injunction until we figure out a way for the PUDD to be successfully regulated to make sure that no other issues come about.

Dr. Knable stated that he assumes that Mr. Hellems as an individual as well as his neighbors would also have the same authority to exert such a power.

Mr. Hellems stated that they would but they don't have the money to fight a municipality for an extended period of time over such an issue.

Dr. Knable stated that he remembers a passage somewhere about trying to resolve things on the way to court which is why he would love to see a presentation here.

Mr. Hellems stated that the second section states that there is a \$10-\$300 fine per offense or per day for any violations of the ordinances. He stated that they started cutting trees back in March so that would be about 80 days.

Dr. Knable stated that almost every code in the book has an exemption for the city and the government itself but he hasn't read this one so he is not sure if an exemption exists in this particular case.

Mr. Hellems stated that he believes that the developer would be on the hook for that.

Dr. Knable stated that it was one of the city's agent, Mr. Wood, which authorized the clearing. He stated that from a pragmatic standpoint trying to protect Mr. Hellems interest going forward, he thinks the best pathway is to set up a meeting and try to give some reassurance. He stated again that he would like to have a work session with Mr. Lorch and Mr. Gibson present so he can hear the timeline and the argument for why everything was done by law or not.

Mr. Nash asked Mr. Hellems what would be his perfect solution today if he could go to the developer.

Mr. Hellems stated that he would not want to speak to that because he would want to speak with his neighbors.

Mr. Nash asked if he has any ideas.

Mr. Hellems stated that he has rough ideas and he would just want to work it out and have understanding and assurance.

Mr. Nash asked if they come to him and said that they would maintain the 100 ft. buffer and plant 1,000 trees, is that type of resolution something that he is looking for.

Mr. Hellems stated that would be in the ballpark.

Mr. Coffey stated that he would hope that we can set it up so we don't have a situation like this again because everyone knew what the rules were and the PUDD said that they couldn't cut the trees to begin with and someone gave them the okay.

Dr. Knable stated that Mr. Wood owned that particular decision and it was based upon the roosting of the bats and he answered questions exhaustively and honestly here at the last meeting. He added that it would be nice to have safeguards in place going forward but focusing on the here and now, he looks to the leadership of the council to try to help come up with a way to resolve this.

Mr. McLaughlin asked if the council should include the plan commission in this.

Mr. Coffey suggested letting them do their own. He said that he wants to revisit the issue of the bats. He said that the PUDD says that there will be no clearance activity on the site until the PUDD's secondary review. He then asked if there was a secondary review.

Dr. Knable replied that there wasn't and that's why there was a violation.

Mr. Coffey stated that there wasn't a problem with the bats because the trees were there for them.

Dr. Knable stated that it was done without permission with the thought that they would lose the entire year of development if they didn't proceed at that time.

Mr. Aebersold stated that he thinks if the council does their work session and gets all of the information then we will need Mr. Hellems and his neighbors to lay out what they want.

Mr. Hellems stated that they will do that.

Mr. McLaughlin set a work session on Monday, June 6th at 6:30 p.m. regarding Summit Springs.

Mr. Caesar stated that he feels that a few council members should talk with storm water about Martin Drive and see if there can't be some action taking place out there.

Mr. Coffey stated that he wants the engineer to come out as well Joe Ham.

Mr. Blair stated that they should just go to the storm water meeting.

Mr. Coffey stated that he has been there and he is tired of lip service and he is tired of giving them the money they want and then they play around on all these little projects.

Dr. Knable stated that it would be nice to meet onsite because you can't really describe the sinkhole in the driveway and the erosion taking place. He said that he would prefer to meet on a Thursday or Friday afternoon or on a Saturday.

Mr. Coffey stated that they should be given X amount of time to come up with a plan because ultimately, that may be the county's hospital but the city approved all of the work back there.

Mr. Barksdale asked that he be called when a date is settled on to meet onsite and he will get Mr. Mark Truman from the hospital.

ADJOURN:

There being no further business before the board, the meeting adjourned at 8:25 p.m.

Pat McLaughlin, President

Vicki Glotzbach, City Clerk

Bill No. A-16-04

Ordinance No. _____

**ORDINANCE AMENDING THE APPROPRIATION OF EDIT FUNDS
FOR THE HOMELESS COALITION**

WHEREAS, the City's legislative and fiscal body, the New Albany City Common Council (hereinafter "City Council") has the discretion to evaluate and determine which funds the City can rely on to fund and participate in projects such as the Homeless Coalition efforts;

WHEREAS, the City Council previously appropriated via Ordinance A-15-14 funds from Economic Development Income Tax (hereinafter referred to as "E.D.I.T") funds in a manner so as to provide consistent services and operations for public benefit for such use;

WHEREAS, there is an issue performing the appropriation in that the previous ordinance did not specify that the funds could be disbursed to the Community Foundation of Southern Indiana as the fiscal agent for the Homeless Coalition;

THEREFORE, the City Council finds it necessary and proper to amend the ordinance to appropriate Seventy-Five Thousand Dollars (\$75,000.00) from E.D.I.T. to participate in the Homeless Coalition efforts along with other area municipalities, and that such funds should be disbursed to the fiscal agent for the Homeless Coalition;

NOW, THEREFORE, BE IT ORDAINED BY THIS COMMON COUNCIL OF THE CITY OF NEW ALBANY, INDIANA, that an appropriation of Seventy-Five Thousand Dollars (\$75,000.00) shall be made from the E.D.I.T. fund for participating in the Homeless Coalition efforts and that such payment shall be made to the Community Foundation of Southern Indiana as it is the acting fiscal agent for the Homeless Coalition Initiative;

SO ORDAINED by this Common Council of the City of New Albany, Indiana, this _____ day of _____, 2016.

**COMMON COUNCIL OF THE
CITY OF NEW ALBANY, INDIANA**

Pat McLaughlin, President

Attested by:

**Vicki Glotzbach,
New Albany City Clerk**

CERTIFICATE OF PRESENTATION TO MAYOR

The undersigned hereby certifies that on the ____ day of _____, 2016, the above Ordinance was PRESENTED by me, as the duly elected Clerk of the City of New Albany, Indiana, to the Mayor of the City of New Albany, Indiana.

**Vicki Glotzbach,
New Albany City Clerk**

APPROVAL BY MAYOR

The undersigned, as of this _____ day of _____, 2016, and as the duly elected Mayor of the City of New Albany, Indiana, hereby APPROVES the above Ordinance as evidenced by my signature affixed below.

**JEFF GAHAN, Mayor of the City of
New Albany, Indiana**

Attested by:

**Vicki Glotzbach,
New Albany City Clerk**

Bill No. A-16-05

Ordinance No. _____

**ORDINANCE FOR APPROPRIATION
OF EDIT/RIVER BOAT/RAINY DAY MONEY
FOR SELF CONTAINED BREATHING APPARATUS**

WHEREAS, the New Albany Fire Department provides for the safety of citizens and it is necessary for them to have up to date equipment which is safe and certified to perform their duties.

WHEREAS, THE Common Council of the City of New Albany deems it necessary to appropriate monies in the amount of \$283,780 for the purchase of Self Contained Breathing Apparatuses, supporting equipment, and structural fire-fighting gear.

WHEREAS, the New Albany Fire Department's current air canisters have reached the fifteen (15) year service life.

WHEREAS, the New Albany Fire Department has been granted a Federal Grant of \$249,400. The City of New Albany is required to provide a ten percent (10%) match or \$24,940.

WHEREAS, the structural fire-fighting gear worn by members at fire scenes has reached the OSHA life span of 5 years as primary gear. The current gear will be converted to secondary gear which as a life span of 10 years. A total of 80 sets are needed to rotate gear as per OSHA life spans with a total cost of \$188,240.

THEREFORE, the City Council finds it necessary and proper to appropriate \$283,780 which is broken down as follows (\$24,940 for the matching grant funds; \$70,600 for \$95,540 on balance of Self Contained Breathing Apparatus and their supporting equipment; and \$188,240 for protective gear) from EDIT/Riverboat/Rainy Day Fund.

SO ORDAINED by this Common Council of the City of New Albany, Indiana, this _____ day of _____, 2016.

**COMMON COUNCIL OF THE
CITY OF NEW ALBANY,
INDIANA**

PAT MCLAUGHLIN, PRESIDENT
COMMON COUNCIL, NEW ALBANY

Attested by:

**Vicki Glotzbach,
New Albany City Clerk**

CERTIFICATE OF PRESENTATION TO MAYOR

The undersigned hereby certifies that on the ____ day of _____, 2016, the above Resolution was PRESENTED by me, as the duly elected Clerk of the City of New Albany, Indiana, to the Mayor of the City of New Albany, Indiana.

**Vicki Glotzbach,
New Albany City Clerk**

APPROVAL BY MAYOR

The undersigned, as of this _____ day of _____, 2016, and as the duly elected Mayor of the City of New Albany, Indiana, hereby APPROVES the above Ordinance as authorized by the provisions of IC 36-4-6-16 and as evidenced by my signature affixed below.

**Jeff M. Gahan, Mayor of the City
of New Albany, Indiana**

Attested by:

**Vicki Glotzbach,
New Albany City Clerk**

RESOLUTION NO. R-16-07

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF NEW ALBANY, INDIANA CONSENTING TO THE ISSUANCE BY THE TOWN OF UTICA, INDIANA OF AN ECONOMIC DEVELOPMENT REVENUE NOTE FOR COMMUNITY MONTESSORI, INC.

WHEREAS, Community Montessori, Inc., an Indiana 501(c)(3) not- for-profit corporation, engaged in the business of educating children from Floyd and Clark Counties, Indiana, including New Albany and Utica, proposes to refinance its debt associated with its facilities, located at 4102 St. Joseph Road, within the boundaries of the City of New Albany, Indiana (the "Improvements") in an amount not to exceed \$6,659,683; and

WHEREAS, Community Montessori, Inc. has requested that the Town of Utica (the "Town") issue its economic development revenue note pursuant to Indiana Code Section 37-7-11.9 and 12 *et seq.* (collectively, the "Act") in an amount not to exceed Six Million Six hundred Fifty-Nine Thousand Six Hundred Eight-Three Dollars (\$6,659,683); and

WHEREAS, it is deemed in the best interest of the City of New Albany to assist Community Montessori, Inc. in carrying out the proposed financing to create or retain opportunities for gainful employment and to enhance the educational environment in and around the City of New Albany; and

WHEREAS, it is provided in Indiana Code Section 36-7-12-22 that economic development facilities that are to be located outside the corporate boundaries of the Town may not be financed without the consent of the fiscal body of the unit in which the facilities are to be located which is the City of New Albany;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF NEW ALBANY AS FOLLOWS:

Section 1. The recitations set out in the foregoing preamble are adopted and incorporated as a part of this Resolution. Terms defined in the foregoing preamble have the same meaning when used herein.

Section 2. Pursuant to the provisions of Indiana Code Section 36-7-12-22, the Common Council of the City of New Albany hereby consents to the Town to proceed with the issuance of a Town of Utica economic development revenue note for the benefit of Community Montessori, Inc. in order to refinance debt associated with its facilities.

Section 3. The adoption of this Resolution and any other action taken by the City of New Albany in connection with the described financing of the project shall not be deemed to, and shall not, impose any financial liability or responsibility whatsoever upon the City of New Albany.

Section 4. This Resolution shall be in full force and effect from and after its adoption as provided by law.

Passed and adopted this _____ day of _____, 2016.

ATTEST:

Pat McLaughlin
Presiding Officer

Vicki Glotzbach
Clerk Treasurer

Presented by me as Clerk and Treasurer to the Mayor of said City of New Albany this _____ day of _____, 2016.

Vicki Glotzbach
Clerk-Treasurer

Approved and signed by me this _____ day of _____, 2016.

Jeff Gahan, Mayor

87259-2:JEFFERSONVILLE