

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A SPECIAL COUNCIL MEETING VIA ZOOM.COM ON
FRIDAY, MARCH 27, 2020 AT 4:00 P.M.**

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

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

President Caesar called the meeting to order at 4:00 p.m. and explained that it is an emergency meeting called by Mayor Jeff Gahan pursuant to I. C. 36-4-5-35 to authorize resolutions related to the COVID-19 virus.

MOMENT OF REFLECTION: **President Caesar** asked that everyone's thoughts and prayers go out to those that are suffering from the effects of this tragic situation especially to those that have the virus and those that have lost loved ones to the virus.

ROLL CALL:

INTRODUCTION OF RESOLUTIONS:

President Caesar stated that they are going to be suspending some of the rules here today so they can get everything done for this emergency situation.

Mayor Gahan thanked everyone for being present for this special meeting in response to the national emergency that has been declared by the president as well as the statewide Stay at Home Order and the statewide emergency issued by the governor of Indiana. He stated that emergency action has been brought on by the COVID-19 virus and he has responded to the emergency by closing parks, by reducing staff at city hall, by increasing public safety presence and personnel and by partnering with locals to help the local food industries. He also stated that he has allowed more work to be done at home to reduce the risk of the virus being spread throughout the city employees and to maintain city operations. He explained that there are five very important actions before the council that will help him protect students, businesses and wastewater utility customers. He said that they fielded a lot of good questions from the council and he wanted to thank them for taking time to understand just how important these actions will be to help everyone throughout this crisis. He stated that we now have 3M people that are unemployed and this will not fix the world's problems but it will go a long way to help ease the burden of some of the people here in New Albany. He said that many people and organizations are moving in concert right now and he is very proud of the actions being taken and feels they are amazing. He stated that now is the council's turn to help respond to the crisis and given the nature of the emergency and the uncertainty before us, he would like to see swift action and approval of all five of these items as written if possible. He added that we don't know how this is going to end but we have a lot of tools available to us as elected officials to make things a lot better on a daily basis. He said that it is important that we don't sit on our tools and resources and we need to take all steps we can to get everyone through this crisis.

**R-20-01 A Resolution Waiving Certain Procedures and Formalities
During Disaster Emergency Pursuant to I.C. 10-14-3-17**

Mr. Caesar introduced R-20-01 and moved to approve, Mr. McLaughlin second, all voted in favor with the exception of Mr. Turner who voted no.

Mr. Turner moved to table this resolution, there was no second.

Dr. Knable moved to amend the resolution to say that in the event that the mayor would become incapacitated, the second person would be president of the council or a member of the legislative body as elected upon by majority.

Dr. Knable withdrew his amendment.

Dr. Knable moved to amend the resolution to state that any contracts entered into would last no more than the duration of the state declared emergency plus 60 days, there was no second.

Dr. Knable moved to amend the resolution to state that there would be a cap of \$25,000.00 with regards to spending with a good faith effort to try to convene with both the board of works and/or the council to approve of anything over \$25,000.00, there was no second.

Dr. Knable moved to amend the resolution to state that any money spent on this or any contracts being entered into would be declared and notified to the board of works and the council within 7 days of those expenditures or agreements being entered into, there was no second.

Mr. Turner stated that we are not in a natural disaster and our infrastructure is intact and said that this is a public health crisis where people have been advised to stay indoors. He said that this resolution is unnecessary. He stated that our governor had the foresight to see that holding a public meeting could be problematic and has enabled us to continue electronically if we need to. He said that the president declared a state of emergency 21 days ago and if this were a true emergency then this meeting should have happened then. He said that it is clear that the council has the ability to meet electronically on a short notice so he would like to table this resolution until it became necessary.

Dr. Knable stated that he wanted to thank Mayor Gahan and Mr. Gibson for putting this particular resolution out before the public because this did not happen in all municipalities and some people just took it upon themselves to pass this without public comment. He said that he thinks it is up to them to make it as good as it can be and he has four amendments that he would like to present one at a time. He stated that the first one is needing clarification in the line of succession to the mayor. He explained that according to the statute that Ms. Stein and Mr. Gibson looked up for him, the mayor does have the opportunity to name a successor if he has the opportunity to do so and if he does not then it would fall on President Caesar to take on that role of mayor. He said there is a small technical issue with this in that if the mayor were to become ill and anticipates not being able to serve in his capacity, he would name someone other than Mrs. Moeller so there would be two people rather than just one with regards to this. He stated that it is a little convoluted so his first amendment would be that in the event that the mayor would anticipate being incapacitated, he would name someone other than Mrs. Moeller to be the second one in charge of the emergency decisions so that there would be two people rather than just one.

Mr. Gibson stated that if it comes down to that, the statute says that it would be a member of the city's legislative body so it couldn't be Mrs. Moeller.

Dr. Knable said that according to what Ms. Stein sent him, it would be Mrs. Moeller.

Ms. Stein stated that she thought it says that it reverts to the council president if he doesn't name someone and then it would be caucused.

Dr. Knable said that he just needs to name someone other than the controller so that there would be two people.

Mr. Gibson stated that is what the statute says.

Dr. Knable stated that is correct but not in regards to this resolution. He added that he would be okay with it as long as the mayor wouldn't name Mrs. Moeller the active mayor and she would have both roles.

Mr. Gibson stated that according to state statute she can't. He said that it has to be an appointment by the legislative body and an elected official.

Dr. Knable stated that as long as what he sent him supersedes what Ms. Stein him sent then he is okay with that.

Mr. Caesar stated that he knows that it has to be an elected official and he knows that because of a situation that he was involved in with a gentleman in Indianapolis some years ago.

Dr. Knable stated that if it was some years ago then it could have changed but he will withdraw his amendment and they can move on but he would like to see that clarified. He then asked if it is correct that the measures being spent are only for public safety.

Mr. Gibson stated that is correct.

Dr. Knable stated that he would like to propose the amendment that any contracts entered into would last no more than the duration of the state declared emergency plus 60 days. He stated that he would also like to propose the amendment that there would be a cap of \$25,000.00 with regards to spending with a good faith effort to in order to try to convene with both the board of works and/or the council to approve of it. He said that in this day and age, there is no reason to think that the board of works couldn't meet as we are meeting now through telecommunications. He added that as the legislative body, they are supposed to put some controls on the spending on this. He said that he realizes that if everything falls apart, the mayor is going to have the power to do what he needs to do but he thinks there needs to be a good faith effort to call a meeting of the council and/or of the board of works for anything that would exceed \$25,000.00.

Mr. Caesar asked Dr. Knable if he does know that this emergency I.C. 10-14-3-17 only deals with emergency items.

Dr. Knable stated that he is satisfied with regards to that but he would still like to see a limitation upon a contract entered into.

Mr. McLaughlin mentioned that a public health crisis by definition is a disaster under Indiana Code.

Mr. Gibson stated that the whole gist of this is to be able to move quickly if necessary or addressing the immediate issues. He said that is not for going out and purchasing additional equipment to make the city operate or for purchasing property to turn into something else. He stated that it is purely to be able to address the issues in front of us when they arrive but hopefully they don't arrive.

Mr. Aebersold stated that he thinks they may be stretching this out too much. He said that there is a time limit on it and this is for the situation that we have come up against only and sometimes decisions may have to be made in hurry so he feels that they need to trust that this is going to be done. He added that he is sure that if anything comes up out of the ordinary, they will be informed and be involved in making a decision. He said that a lot of these things may be relatively minor and it is good to have someone in place that can take care of them.

Mr. Phipps stated that he concurs with what Mr. Aebersold said.

Mrs. Collier said she does too.

Mr. Applegate said he does too and he thinks that the mayor is elected to be the head of the executive body of the city and this gives him the power to be able to lead when he needs to step up and make a quick decision.

Dr. Knable reiterated that they are elected to be the legislative financial oversight body of the city and he thinks that \$25,000.00 is quite a bit of leeway and it is very unlikely that they would not be able to convene a quorum of the council or the board of works electronically if need be.

Mr. Blair asked if there is a deadline or time period that a contract could be in place because they are just going to be temporary.

Mr. Caesar said that anything done for this would definitely not be a long-term contract because it has to deal with the emergency only.

Mr. Blair asked Ms. Stein or Mr. Gibson to comment on that.

Mr. Gibson stated that everything that deals with this is related to the emergency in front of us and is not to extend long-term contracts or to enter into new contracts that don't address this specific issue which is COVID-19.

Ms. Stein stated that her understanding of the governor's executive order is that since it is not conducive to conduct public meetings and most things that a city does goes through public meetings then cities should not be doing anything other than dealing with this situation right now because there is limited opportunity for the public to observe and be informed. She said that she feels like that is a limitation on statewide municipalities right now.

Dr. Knable said that he wanted to recommend another amendment that says that any money spent on this or any contracts being entered into would be declared and notified to the board of works and the council within 7 days of those expenditures or agreements being entered into. He said that he would like for there to be accounting in this in close to real time.

Mr. Gibson stated that the guidance from the governor and the public access counselor is that any actions taken must be ultimately ratified by that respective governing body so if it is a purchase or something like that it goes to the board of public works for their ratification in an open meeting when things are moving again.

Dr. Knable said so the timetable is when normalcy returns but by that point everything has been spent so he guesses that the accountability comes at the next scheduled public meeting whether it be teleconference or in in person.

Mr. Gibson said that the guidance from the public access counselor states the governing body will ratify those actions when normal meetings resume.

Dr. Knable stated that he feels the amendments that he put forward are very reasonable and he is disappointed that they weren't considered more fully by this body. He said that he is going to swallow this very bitter pill and vote for this because he doesn't ever want to get in the way of public safety and he doesn't want something to happen and turns out that we advertently or inadvertently tied the mayor's hands. He also said that he is going to watch this very, very closely and he wants an accountability of how it is spent. He added that he has trust in the mayor and the administration that they do want what is best for the people of New Albany but he thinks the council missed their responsibility to give greater oversight than we could have.

**R-20-02 A Resolution Waiving Sewer Billing Late Fees
 During Disaster Emergency as amended**

Mr. Caesar introduced R-20-02 and moved to approve, Mr. Phipps second, all voted in favor with the exception of Mr. McLaughlin who was not present for this vote.

Dr. Knable moved to amend the resolution to extend waiving the late fees from a 30-day period to a 60-day period, Mr. Blair second, all voted in favor.

Mr. Blair moved to amend the resolution to read that late fees will not be incurred for the April 10th billing cycle and the May 10th billing cycle and strike out during the duration of the governor's emergency declaration, Mr. Aebersold second, all voted in favor.

Mr. Caesar stated that this would just essentially waive the late fees on sewer bills during the emergency and one month thereafter. He added that people will still have to pay their sewer bills and it just waives the late fees. He said he thinks this is a good thing that could help citizens out that need help at this time.

Dr. Knable stated for clarity that this is for late fees accrued during this emergency only and doesn't include prior late fees.

Mr. Caesar stated that is correct.

Dr. Knable proposed an amendment to this to extend the period to 60 days rather than the 30 days in the resolution. He said that he doesn't think that 30 days will be enough time for some people to get back up on their feet.

Mr. McLaughlin asked Mr. Gibson if they would be able to extend that period at some point in time if this thing goes further.

Mr. Gibson replied yes.

Mr. Blair stated that he is concerned about what the sewer utilities financials look like and how long we can go without receiving revenue if we have a large amount of sewer users not making payment. He said that he is afraid that some people may take advantage of not making payment. He also said that he thinks that they need to limit the number of months that users can forego payment and have the late fees waived. He proposed to only waive the late fees for the April and May billing cycles and then reevaluate it in June.

Mr. McLaughlin stated that they just extended waiving the late fees from 30 days to 60 days.

Mr. Blair stated that they extended the payment of the late fees but they don't have a date as to how long payments can be deferred and not paid.

Mr. Caesar stated that they are just waiving the late fee. He said they are not doing anything with the regular payment and they still have to pay their sewer bill.

Mr. Blair stated that if he doesn't pay his sewer bill next month then he will not accrue a late payment.

Mr. Applegate stated that we will be the last to be paid but it gives the user a little time to balance out. He said that he doesn't believe that people are just going to say that they are not going to pay their sewer bill for an extended period of time because they won't get a late fee.

Mr. Blair stated that it says during the duration of the emergency declaration and that could be months so he really thinks that they need to put a restriction on the number of months that they are willing to incur that and then reevaluate it in two or three months.

Dr. Knable stated that he understands that Mr. Blair wants to put a limit on the calendar months that this will be applicable.

Mr. Blair stated that is correct. He said that if you just change the resolution to say during the months of April and May instead of during the duration of the governor's emergency declaration.

Mr. Aebersold suggested that they call the sewage billing department and tell them that for the next 5 months or 6 months or whatever to not record any late fees on any statements.

Mr. Blair stated that the user would still be able to not make payment and build up a past due amount.

Mr. Aebersold stated that if a guy is not going to pay his \$50.00 bill because he has a late fee of another \$10.00 and we are worrying about him paying the \$10.00, we can just have him pay the \$50.00 and put a notice out that we are doing away with late fees for the next five months or so.

Mr. Phipps stated that sounds logical to him.

Mr. Gibson stated that this has nothing to do with the regular payments, just the late fees. He said that Mr. Blair is asking how that affects cash flow if this goes on extensively.

There was a lengthy discussion regarding sewer late fees, regular sewer payments and sewer liens.

Mr. Blair then gave the scenario of the emergency lasting for six months and he doesn't pay his sewer bill for those six months and pays the lump sum at the end of those six months. He asked if the sewer utility would have enough cash to sustain for those six months. He said that he doesn't feel that they should extend waiving the late fees for that long because it could cause a cash flow problem.

Mr. Gibson stated that they could set a time period and at the end of that time period they could revisit it if need be.

Mr. Blair suggested setting the time period for two months and then possibly reevaluate it.

Mr. Gibson asked if he wanted to waive the late fees for the April billing cycle and May billing cycle.

Mr. Blair replied yes.

**R-20-03 A Resolution of the Common Council of the City of
New Albany Authorizing Emergency Stay Home**

Mr. Caesar introduced R-20-03 and moved to approve, Mrs. Collier second, all voted in favor.

Dr. Knable stated that he asked both attorneys who are present to provide clarification as to whether the city pays unemployment insurance and if we have an account, how much do we have in it.

Ms. Stein stated that Dr. Knable did ask her that earlier and she apologized because she did not get that information.

Dr. Knable asked Mr. Gibson if he was able to get that information.

Mr. Gibson replied unfortunately not. He said that they obviously do deal with an insurance provider that administers ours and how it works after that he does not have knowledge of.

Dr. Knable stated that if the city has unemployment insurance then employees could go on voluntary furlough and be paid through the Unemployment Insurance Act through us and we may be able to be reimbursed by the federal government action that was just signed before this meeting. He said that he is okay with the way this resolution is written but would like to explore that option. He suggested that they possibly consult an employment attorney to answer those questions.

Mr. Gibson stated that he would gladly continue to look into that to see what the best avenue is for the employees first and then what the best avenue is for us.

Dr. Knable stated that Mrs. Moeller may know because it is a requirement to pay x number of dollars into that so if that account exists, she will know about it.

Mr. Applegate stated that whatever it is we need to make sure that even our part-time employees are taken care of and to do what is best for the employees and the city and hopefully they match up.

Dr. Knable stated that we have two categories of employees which are our full-time people and our contract people so he asked that as they look into it, please make sure that we can be equitable to both groups of employees.

Mr. Turner asked that they please look at aid from the state and federal level to see where those gaps are.

Mr. Caesar stated that is a good point.

Mr. Blair stated that he wanted to thank Dr. Knable for looking out for the best interest of the employees while looking for ways for the city to save money.

**R-20-04 A Resolution Authorizing Funding for Caesars Foundation
 COVID-19 Small Business Emergency Forgivable Loan
 Program as amended**

Mr. Caesar introduced R-20-04 and moved to approve, Mr. Phipps second, all voted in favor with the exception of Mr. Blair who voted no.

Mr. Turner moved to amend the resolution to read that the money will go to New Albany only, Mrs. Collier second, all voted in favor.

Mr. Turner moved to amend the resolution to read that there is no restriction of two years for a business, Dr. Knable second, all voted in favor.

Mr. Caesar stated that Floyd County has written a check for \$50,000.00 for Caesars Foundation, Ogle Foundation wrote a check for \$30,000.00, Community Foundation wrote a check for \$10,000.00 and the City of New Albany is proposing to put in \$50,000.00. He said that this will be administered by the Caesars Foundation Loan Committee and they do this all of the time with their small business loans and are very adept to it and know the right questions to ask. He also said that if we want to designate our money for New Albany we can. He explained that the money will actually go to the Community Foundation and then they pay Caesars back. He stated that he talked at length with Mr. Jerry Finn today and that's just the way it needs to be done because of a paperwork situation. He said this will be forgivable loans from \$2,500.00 up to \$10,000.00 to help businesses get through this tough time.

Mr. Blair stated that he appreciates the heart and the groups coming together to give some relief to our businesses. He said they established guidelines a week ago but things are changing rapidly and they could be redone. He explained that today the federal government passed the relief act, they gave small businesses the paycheck protection program and there are other ways that these businesses will be able to get relief and assistance. He stated that he thinks that he is just concerned about the accountability of it because you are making a loan credit decision and they are getting very little information from the applicants and just basically asking for a tax return and a balance sheet but not asking them to project out what their needs are. He said that he feels we are doing them a disservice if we don't ask them what their needs are and have them make a projection of how they are going to stay in business and how these funds are going to help them. He stated that he is also concerned because right now it looks like a first come, first serve basis and it is a 48-hour turnaround for this loan decision. He also stated that if we are looking at \$50,000.00 and the maximum is \$10,000.00 then we are looking at only five businesses getting these loans. He said that to him there has to be some way of evaluating these companies to see who is more deserving of these funds. He is afraid that the demand is going to be much higher than what we have funding for. He said that we

are going to make five businesses happy and probably another 40-50 mad because the funds weren't available to them or they didn't know about it. He stated that at the very least they should add some stipulations as to how the money is spent and make the process a little fairer to give everyone the opportunity to receive this funding.

Mr. Caesar stated that he knows that they have a very smart group of people on the loan committee at Caesars Foundation and some of them are bankers. He said that in looking at the loans that they have approved over the years, they know what they are doing and know the right questions to ask and hopefully they will be able to help more businesses than what Mr. Blair is talking about.

Mr. Turner stated that he is worried that this could get abused. He said from a business standpoint, you can apply for a \$10,000.00 loan and only make a \$100.00 payment a month for a year and afterwards that is forgiven and that bothers him.

Dr. Knable stated it will actually be 15 months of repayment at \$100.00 a month. He said he spoke with Mr. Jerry Finn at great length about this and one criterion that wasn't brought up is that businesses would have had to have been present in the community for at least two years or greater. He also said that right now in aggregate with all of the money out there that is being talked about and was actually received by the new loan entity, there would be about \$300,000.00 to work with. He stated that this is also something that individuals can donate to if they so choose to do. He said that Caesars wants this money to be out there rapidly and repayment is not their greatest concern but business survivability is. He said that he and Mr. Finn agreed that they would, along with any checks that go out, include a letter from the committee that strongly encourages applications for small business administration loans be a part of their overall package. He said that two people on the committee serve as counselors and guidance advisors for these folks as well and will be letting them know everything available to them. He stated that they are also going to encourage repayment beyond the minimum and let people know that any money that we get back from this or leftover from this is going to go into the Community Foundation in an earmarked fund for this type of loan when and if this happens again. He said that he hears the concerns out there about this but if it saves three businesses in downtown New Albany after this, it was well worth the \$50,000.00 investment that the city made.

Mr. McLaughlin stated that he feels they have dual oversight with Dr. Knable and Mr. Aebersold on there as well so he feels pretty comfortable with that. He added that he wished we could get a little more dedication from the Community Foundation but he hopes that will possibly change for the better.

Dr. Knable agreed.

Mr. Caesar stated that he thinks that will because Clarksville and Sellersburg have talked about putting money in but they just haven't done it yet.

Mr. Turner stated that he would like to see that \$50,000.00 stay in New Albany.

Mr. Aebersold said that is one thing that is good about this because we can designate where we want it to go. He stated that if the city wants it to stay in the city, it will stay in the city. He also stated that he would like to see more people involved so they will have to see how to advertise for it.

Mr. Turner said that he is concerned with Chicago Pizza and the RC Shop in his district because they have just recently opened up and have expended a ton of capital into their business only for them to get crippled early on. He asked if there is a way that the committee could be flexible with the two-year requirement.

Dr. Knable stated that they did not ask for their input when they put the bylaws together but he can certainly ask them to revisit that because he agrees that somebody just starting up may need more help than someone who has been there for five years.

Mr. Turner stated that he would love for those two businesses to get noticed.

Mr. Applegate stated that as a small business owner, times are tough and if you have to lay off employees, you want to have a business for them to even be able to come back to. He said hopefully if we all do what we are supposed to do in the public with social distancing and we actually shut our doors except for essential businesses, we can get through this a lot quicker. He said that the longer we are in the thick of this, the more money people are going to need. He stated that he appreciates these organizations being a part of this for the small businesses.

Mr. Caesar asked Ms. Stein if they should vote on that the money is for New Albany only in this.

Ms. Stein stated that the safer thing would be to go ahead and amend it.

Mr. Gibson agreed with Ms. Stein.

Dr. Knable stated that if Mr. Turner wants to amend it to say that the money will go to those regardless of how long they have been in business, he thinks they could do that.

Mr. Blair stated that he realizes that this is being done with the best of intentions but this is no more than a feel-good type of appropriation. He said that he knows that people have the intent to have oversight but unless you have things documented with terms and conditions there is not going to be any oversight. He also said that there is going to be a bigger need than \$10,000.00 for most of these small businesses and he really doubts that it will help anyone. He stated that he would encourage those in charge to at least require a projection of cash flow and establish a deadline for submission and try to grant the request on a priority basis.

Mr. Applegate stated that he would bet that the majority of people that are going to get these loans probably couldn't get one from a bank so he thinks it is very important that we have this opportunity for them.

**R-20-05 A Resolution Authorizing Funding for New Albany Floyd
County School Corporation and City of New Albany Spring
Break Student Feeding Program**

Mr. Caesar introduced R-20-05 and moved to approve, Mr. Phipps second, all voted in favor.

Mr. Caesar stated that this is a program that currently goes on during spring break to help kids have meals so they don't go hungry. He said it is a program that is done every year and they are simply wanting to extend the program and it is \$10,000.00 which will come out of the Rainy Day Fund.

Mr. Gibson stated that he sent out information on this program and normally the plan is to do this during spring break but they are extending it now based upon the schools being closed. He said that we do work in conjunction with the school system through our parks department and provided a list of facilities that do hand out food. He said that the food is prepared by the New Albany Floyd County School Corporation and it gives students two meals a day and the next day's meals because they are given out on Monday, Wednesdays and Fridays. He added that on Fridays they actually get three meals to make it through the weekend. He said that this is just to assist them because they have done this on their own but they will have it just in case a need arises in the program. He stated that he believes they potentially give out a couple of hundred meals a day to students that are near their facilities.

Mr. Turner stated that he is on a call everyday with the EMA and Mr. Bill Wisheart spoke so he has a little better number as of yesterday. He said that the school has given out nearly 3,200 meals to 800 kids and the number is starting to grow everyday so it will

definitely help. He also said that it is not just students but is available to 18 years old and under so it is helping out many people during this crisis.

Dr. Knable asked if that age stipulation is in the final draft.

Mr. Gibson stated it is not but it is helping fund their program so their guidelines apply.

Mr. McLaughlin commended everyone on having the meeting and said everyone has had some good points and he's glad everyone is working together to help the businesses, feed kids, etc. and he hopes and prays that what they have done will suffice.

Mayor Gahan thanked everyone for their help and said there were some really good comments and a lot of good action by the council.

ADJOURN:

There being no further business before the board, the meeting adjourned at 5:35 p.m.

Bob Caesar, President

Vicki Glotzbach, City Clerk