

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A REGULAR COUNCIL MEETING VIA ZOOM.COM ON
THURSDAY, NOVEMBER 19, 2020 AT 7:00 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, Mr. Gibson, Mr. Nash, Mr. Staten and Mrs. Glotzbach.

CALL TO ORDER:

President Caesar called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Dr. Knable moved to approve the Public Hearing Minutes for November 2, 2020, Mrs. Collier second, all voted in favor.

Dr. Knable moved to approve the Regular Meeting Minutes for November 2, 2020, Mr. Phipps second, all voted in favor.

COMMUNICATIONS – COUNCIL:

Mr. McLaughlin stated that he saw in the paper that the county commissioners' decision on the contract for Dr. Harris, Director of the Floyd County Health Department, is being put on hold so that they can look at it. He said that he hopes that is truly the case and that we are not looking at changing captain in the middle of this COVID storm. He stated that he has had some differences with Dr. Harris on some other issues like the wrestling in New Albany that he was right on, but he thinks that we should stay with Dr. Harris through this pandemic and hopefully getting through vaccines. He added that he wanted to put together a resolution on it but it was too late.

Mr. Blair stated that he does agree with Mr. McLaughlin about Dr. Harris and unless there is a serious reason to remove him from that position, he feels he should remain on and he is not sure why they are hesitating to reappoint him. He then stated that the last time he has seen their regular budget to actual financial statements was back in June when they were doing the budget process. He said that has been several months ago and he doesn't understand why that can't be produced. He urged the controller to get that information to them. He stated that he looks at trends and if they get several statements at once, it is hard to look at those trends. He also stated that they receive financial information monthly on sewer and storm water and there are a couple of things in those that he would like to ask some questions about. He said that it is probably a good time to bring in the sewer utility to do their annual report and he can ask those questions then. He stated that he can go on his own and ask the questions but feels that the council is the fiscal body and they should all want to know that information. He said that there are some big budget to actual variances in some of the revenue items and the insurance is over \$100,000.00 more than what was budgeted as well as some emergency repairs that are over \$500,000.00 more than what was budgeted. He stated that there are obviously some things going on in those areas that they didn't expect or budget for and he would like to understand that. He said that he appreciates when Mr. Wilkinson gives his presentation but he is more operational and he would like to hear from someone more financially.

Mr. Caesar stated that financial statements are in route and should be in members' hands in the morning. He then asked if they want Mr. McCormick or Mr. Wilkinson to come before the council to discuss the sewer utility finances because he would be happy to set it up.

Mr. Blair stated that it may need to be Mr. Sartell because it is not necessarily how the statements are prepared, it is what is going on as to some of the expenses and why they are so much more than they were expected to be.

Mr. Caesar said that he will get that lined up and thanked Mr. Blair for bringing that to their attention.

Dr. Knable stated that he read the same news article that Mr. McLaughlin read with the same concern and he has spoken with Dr. Harris at least weekly through this entire pandemic and has spoken with him three times this week. He said he also reached out to each of the commissioners and he is not at liberty to share some of their concerns and can respect where they are coming from on them, but he agrees with Mr. McLaughlin. He stated that at this eleventh hour with vaccines ready to roll out perhaps as early as late next week, we can't afford for any disruptions. He said he has encouraged the commissioners to please try to keep Dr. Harris at the helm at least through end of the first quarter of next year and let him see this pandemic behind us and then if there are some longer-term concerns, let those be addressed. He then stated that he wanted to inquire to see whether we could get some ultra violet sterilization units on the new HVACs at the new city hall covered by the CARES Act. He said that he wanted to spare Mr. Gibson a phone call on that tomorrow by asking him at the meeting tonight but he will just call him. He stated that also from today's headlines, we see that the fire museum may be in search of a new home in Jeffersonville but it did originate in New Albany so he wanted to ask Mr. Caesar to put an ad hoc committee together to see if we have a property. He also stated that he wanted the economic development team to look at things and see whether or not we have some properties that may meet their needs back home in New Albany. He said it would be nice to be able to get them back here.

Mr. Caesar stated that he knows Mr. Staten is probably a little more aware of the properties we have available in New Albany and he doesn't mind putting a committee together if the council thinks that is a good idea, but he doesn't want to waste the council's time either. He said that the fire museum did get started back in Mayor Doug England's first term and if we do have space, he does feel it would warrant to get it back here in New Albany.

Mr. Phipps stated that he would just like to kind of reiterate what has already been said. He said that he agrees that this would be a horrible time to remove Dr. Harris in the middle of a pandemic. He stated that the times he has spoken with him on the phone, he has always been very open and honest with him and he thinks he is doing a pretty good job so he thinks they should at least reconsider that until we are through this. He then stated that he wanted to remind everyone to keep wearing masks and keep social distancing. He added that just because there is a vaccine on the horizon doesn't mean we can stop all of these other things because it is probably going to be mid-summer before we get all of the population vaccinated. He stated that he knows next week is Thanksgiving and people want to be with their families and travel but don't let culture kill you because it is far better off not to visit those family members than to have visit them in a hospital or funeral home. He asked everyone to keep being safe.

Mr. Aebersold stated that he agrees with Mr. McLaughlin on the Dr. Harris concerns and his first thought is that we are in the middle of some rough waters and rough seas so why change the captain because he has been there for a long while. He said that he would be very cautious with that for whoever is looking into it. He then stated that the Caesars Foundation is moving along and they are down to about three or four people to interview and will probably be down to a person within a week or two.

Mr. Applegate stated that he is of the same reasoning of Mr. McLaughlin and sees zero reason to throw any gas on the fire with the situation we are in with the pandemic. He said that he also wants to go along with what Mr. Phipps said about masks and social distancing and what we have said the entire time. He said that we see that because people have not been as accountable as they should, we are having to slow down businesses and it is going to hurt our small businesses. He stated that with that he just wanted to say

wear masks, protect yourselves and others and be accountable. He added that it is going to be tough not to see people during the holidays or make arrangements this year, but you want to be able to see them next year and he thinks that is an important lesson that needs to sink in.

Mr. Turner stated that this week he went out to Larkwood because there is a lot of work being done with water mains so he wanted to check up on that. He said that he went out there at about 5:00 p.m. one evening and they were all working hard and he thinks they are doing a great job. He stated that the driveway approaches look good and he thinks it is quality work so he is very proud to see some progress in that part of his neighborhood. He then said that he has these “Coffee with a Councilman” once a month and Dr. Harris has attended two of them since he started that. He stated he thinks that is very gracious of him to give his time up on a Saturday to speak to his constituents about some of their concerns with COVID. He added that he has gone above and beyond for him and has done a good job, but at the same time, he knows it is a county decision and he wouldn’t want to overstep his boundaries.

Mr. Caesar stated that you can’t say too much about COVID right now and in these next two weeks he just wants everyone to use good common sense. He then said that he would like to speak with Mr. Staten on the fire museum and see what he says and if he doesn’t want to go forward with it then he will put a committee together very shortly. He stated that the council has to vote on two appointments tonight to the Historic Preservation Commission and these are reappointments that the mayor actually made but we have to vote on them. He said that he would like to move them up on the agenda and take that vote now and would need a unanimous vote to do that. **The entire council voted in favor.**

BOARD APPOINTMENTS:

Reappointments to the New Albany Historic Preservation Commission

Mrs. Collier moved to approve the reappointment of Mr. Colt Sanders and Mr. George Budd to the New Albany Historic Preservation Commission, Mr. Phipps second, all voted in favor.

Mr. Caesar stated that the reappointments are Mr. Colt Sanders which is for a three-year term and will expire in November, 2023 and Mr. George Budd which is also for a three-year term and will expire in October, 2023.

Dr. Knable stated that he would just like to thank both of these gentlemen for stepping up to serve. He said that they both have commendable resumes and both have a willingness to serve.

Mr. Applegate agreed with Dr. Knable and wanted to make sure that there have been no address changes and that they both still live in New Albany.

Mr. Sanders stated that is correct.

Mr. Budd stated that is correct.

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

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

FIRE COMMITTEE – Mr. Turner

Mr. Turner stated that he did have a chance to speak with Mr. McLaughlin about their fire committee meeting and they both spoke with Fire Chief Juliot so he doesn’t think

that is a necessary meeting for them to have and they have an understanding of what is needed.

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

COMMUNICATIONS PUBLIC: Z-20-04 Dennison Avenue Vacation

COMMUNICATIONS PETITIONER: Z-20-04 Dennison Avenue Vacation

Z-20-04 An Ordinance for the Vacation of a Public Way Aebersold 3
Pursuant to a Petition filed by Inspired Living
Solutions, LLC and Reservation of Permanent
Utility Easement

Mr. Aebersold introduced Bill Z-20-04 and moved to approve the third reading, Mr. Phipps second, all voted in favor.

Mr. Aebersold stated that this is just a 15 ft. easement and they want to build a duplex on their property so they need this easement to be able to do that. He said that he hasn't heard anything from planning and zoning or anyone on why they can't.

Mr. Caesar asked if all of the neighbors have been informed as far as he knows.

Mr. Aebersold replied yes.

Mr. Phipps stated that he doesn't have a problem with a vacation if it is something for a school or some type of public building but when we give vacations just for private people or residents, we are actually giving away city land. He said that he really hadn't thought about that before until this week and he just doesn't know if we should do that.

Dr. Knable stated that for the most part, these are alleys between two residences and we are still going to collect tax money on it and, frankly, we give up the burden of upkeep on it so it becomes beholden to the property owner who is probably going to do a better job of cutting the grass, etc. than the city has. He added that is not because of negligence on the city's part, but just because they don't know where these little areas are. He said that's why he thinks it is good for them to look on the map in each case to make sure we are not giving up any honey holes or anything like that.

Mr. Phipps asked if the properties are sort of re-platted thereafter and it increases the tax value.

Dr. Knable stated that there should be a small incremental as the property line shifts over.

Mr. Applegate stated that it would make sense if there was maybe a checklist or something to say that the ground had been checked to make sure there are no easements there. He said it would be nice if there was a checklist that came to them with these to make sure everything has been looked at.

Mr. Caesar stated that he thinks that is a grand idea and suggested that he schedule an appointment with Mr. Wood to find out about doing that.

Mr. Gibson stated that is done internally now. He said that they do go through each department and they ran into a problem with the one on Jollissaint Avenue because there was an issue with a sewer line not being recognized. He stated that the city engineer, sewer utility, storm water and flood control are all forwarded the information when we get those internally and are asked to look and see what, if any, issues there are. He added that the answer to doing these is not mostly yes but mostly no unless there is just no reason not to. He stated that in this case, they were required to reserve a utility easement

on land that they already owned to feed a back property because they weren't at that time developing a front property. He said that plan has now changed so really, they granted the city this easement and it is not needed so it needs to come off of the city's books otherwise it will show an easement through the property that they are going to build on.

Mr. Applegate stated that makes him feel better and thanked Mr. Gibson for explaining the process.

Mr. Gibson stated that they get them so rarely that there really wasn't a formal process but we have had so many lately that Ms. Jarboe in his office has created a system to do that.

INTRODUCTION OF RESOLUTIONS:

COMMUNICATIONS PUBLIC: R-20-13 Modification of Zoning Ordinance

Mrs. Glotzbach read an email from Mr. Kevin Gould who resides at 2554 McDonald Street into the record. The email was in favor of R-20-13 and is on file in the city clerk's office. She read the next email from Ms. Tammy Stull who resides on Broekers Lane into the record. The email was in favor of R-20-13 and is on file in the city clerk's office. She read another email from Ms. Diane Williamson who resides at 916 Brookwood Drive into the record. The email was in favor of R-20-03 and is on file in the city clerk's office. She read the next email from Larry Campbell of Campbell's Fencing into the record. The email was in favor of R-20-13 and is on file in the city clerk's office. She read the last email from Mr. Scott Whalen who resides at 3601 Klerner Lane into the record. The email was in favor of R-20-13 and is on file in the city clerk's office.

COMMUNICATIONS PETITIONER: R-20-13 Modification of Zoning Ordinance

R-20-13 Resolution Initiating Modification of Zoning Turner
Ordinance to Permit Chain Link Fences

Mr. Turner introduced R-20-13 and moved to approve, Dr. Knable second, Mrs. Collier, Mr. Phipps, Mr. McLaughlin, Mr. Blair, Mr. Aebersold, Mr. Applegate and Mr. Caesar voted no, Mr. Turner and Dr. Knable voted yes.

Mr. Turner stated that there are three main reasons why he has done this. He explained that Mr. Campbell owns a fencing business and is one of the people that has been affected by this and there are just a lot of people that want it. He stated that this ordinance was adopted in 2019 and he just thinks it is one of those things where we tried it out and this is a great opportunity to give the people what they want. He said that in September of this year, lumber costs went up 135% so it is costing people a lot of money for lumber. He also said that he just has a hard time with the government trying to tell people what they can do with their person property because they do pay property taxes. He stated that he knows this is a big ask to take this all the way off so he is kind of going in with the intention of working through it so that everyone in the city can win off of this. He stated that the council did get an email today from animal control regarding the material of their fence and however this goes down, he hopes that they can work with the city to get some kind of relief and appeal to that material change. He added that they are the only department that decreases their budget and for them to take on more costs, he doesn't think that is fair.

Mr. Phipps stated that he was actually on the zoning revision committee and they spent hours and months putting that together and he really hates to see it carved up. He said that they based this on zoning codes from Bloomington, Fischer and other cities in Indiana. He also said that in response to Mr. Turner's comment that government shouldn't be able to tell us what to do with our property, he asked if he should be able to turn his house into a business and stay open until midnight every night in a residential district. He asked if he should be able to quit cutting his grass if he doesn't want to cut his grass or put billboards in his front yard. He said in response to one of the emails that referred to a homeowner's association, the zoning code is the homeowner's association

and rules for people that don't have the privilege of living in gated communities or high-income communities that have excessive regulations. He feels these are basic regulations that we put on to live in a civil and aesthetically pleasing community. He stated that aesthetically, he thinks chain link fences are horrible and one of the emails even said that and referred to the fence that the city put up at the animal shelter as twisted wire and aesthetically unpleasing, but yet she wants these in her neighborhood. He also stated that a chain link fence doesn't protect people from vicious dogs if they stick their fingers through it. He said that they also rust. He stated that he may be persuaded to say they are okay in back yards, but in no way would he agree to them being in the front yard and under no circumstance should they allow them in the historic district.

Dr. Knable stated that if they vote in favor of this tonight, it does not change anything and just puts it back to the plan commission for further consideration and asked if that is correct.

Ms. Stein stated that is correct. She explained that the council can initiate the change and then it will go to the plan commission and they would do a public hearing for comments and make a recommendation. She said that it would then come back to the council for a vote.

Dr. Knable stated that he just wanted to make sure that people know there are multiple steps to this if they proceed with it.

Mr. Wood stated that Ms. Stein is correct that it would go back to the plan commission for a public hearing. He said that the plan commission would then vote on it and send it back to the council to vote on amending the ordinance.

Dr. Knable asked Mr. Wood if the commission is meeting in person at this point.

Mr. Wood stated that they have been meeting in person but with COVID coming up the way it is, he doesn't know how long that is going to last.

Dr. Knable stated that even if they didn't meet in person, there would be opportunity for public comment by email or by zoom participation. He asked Mr. Wood if that is correct.

Mr. Wood replied absolutely and stated that they are required to conduct a public hearing so the public would have a chance to comment.

Mr. Caesar stated that he knows that people can have a zoning variance if they want to so he suggested to Mr. Turner to do an active committee and talk about some things that maybe could be done or couldn't be done and come back with this later. He said that if he doesn't want to do that, they can go ahead and put it to a vote.

Mr. Turner stated that he kind of thinks that the committee would be Mr. Wood's department so he would rather put it to a vote to send it that way. He said he would like to hear from everyone else too because he thinks it is a great opportunity for them to all work together and make this work.

Dr. Knable stated that he would be more in favor of moving it forward for more discussion at the plan commission than squelching discussion on it.

Mr. Applegate stated that someone could apply for a variance for a chain link fence from the BZA if it made sense for the property and it would be voted on.

Mr. Wood stated that is correct that someone could apply for a chain link fence. He said that they went back and looked at their fence permits since 2017 and in the 2+ years before the zoning ordinance went into effect, they issued 94 fence permits. He also said that in the 20 months since then, they've done 140 permits so it hasn't stopped anyone from installing a fence as far as they can see from the record.

Mr. Turner asked if there is a cost associated with that.

Mr. Wood stated that it is \$35.00.

Mr. McLaughlin stated that he would have definitely been for this at one point but gave two scenarios with his sons buying properties with fences that weren't conducive to protecting his grandchildren from dogs so he is no longer in favor of chain link fences.

Mr. Phipps stated that he wanted to add that a dog can climb out of a chain link fence, if they get traction, a lot easier than they could a wood fence.

Mr. Blair stated that he was also on the committee for revising the zoning ordinance and they did spend lots of hours considering everything and this is one of those items that he knew was in there and could be changed if it needed to be down the road. He said since then he has had two constituents in his district that had really good arguments; one was for it and one was against it. He stated that the one thing that he heard from the person that was against the chain link fence was that property values were depressed for properties that had chain link fences. He said that he provided a study that supported that and obviously we don't want that for the city. He stated that another thing he has noticed is that anytime you see a chain link fence or wire fence, they seem to be in more disrepair and are not as aesthetically pleasing as the wood fences that he sees. He added that if someone wants a chain link fence, they can go to the BZA to request a variance but he feels this was in the zoning code for a reason.

Mrs. Collier stated that she ironically had a call this week about this same situation and we have a clear process so she really doesn't even see why we are dealing with this because in her opinion, it is a plan commission thing. She added that as far as the animal shelter is concerned, that was an error and it is coming down.

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

ADJOURN:

There being no further business before the board, the meeting adjourned at 7:58 p.m.

Bob Caesar, President

Vicki Glotzbach, City Clerk