

**COMMON COUNCIL, CITY OF NOBLESVILLE
AUGUST 24, 2010**

The Common Council of the City of Noblesville met in regular session on Tuesday, August 24, 2010. Mayor Ditslear called the meeting to order pursuant to public notice with the following members present: Mary Sue Rowland, Mark Boice, Gregory P. O'Connor, Stephen C. Wood, Dale Snelling, Brian Ayer, and Roy Johnson.

Also present were Clerk-Treasurer Janet Jaros, City Attorney Michael Howard, department directors, and interested citizens.

APPROVAL OF MINUTES: AUGUST 9, 2010 – BUDGET MEETING

Mr. Snelling moved to approve the minutes as submitted, second Mr. Wood, seven aye.

APPROVAL OF MINUTES: AUGUST 10, 2010

Mr. Boice moved to approve the minutes as submitted, second Mr. Wood, seven aye.

APPROVAL OF AGENDA

Mr. O'Connor moved to approve the agenda as presented, second Mr. Wood, seven aye.

PETITIONS OR COMMENTS BY CITIZENS WHO ARE PRESENT

Mr. Johnson stated there is one petition to speak regarding the first item on the agenda. The petitioner can speak when the item is presented.

MAYOR'S REPORT TO COUNCIL

Mayor Ditslear stated it has been an exciting week. There is a conference going on at City Hall involving members of the community looking into forming a Family Justice Center here in Hamilton County and in Noblesville specifically. This would be a center for those who have been victimized to go and have all the services they need including legal, counseling, police, prosecution, etc. This has been a dream of the community for a while. It is something that has been successful in other areas. The group is getting together at City Hall for a few days to talk about it under the leadership of the head of the National Family Justice Center. Mayor Ditslear stated he presented the Noblesville Community Vision Plan to the hospital executives. They will look it over and see how it might fold into projects and programs they are looking at. Mayor Ditslear stated he attended a reception for some Firestone retirees out at Lutz's Steakhouse. It was an enjoyable night with a lot of history in the room. Mayor Ditslear gave a report to the retirees on events and happenings in the City. Please check out www.destinationnoblesville.com for the next Jazz Squared event, as well as all the other upcoming events in the community.

COUNCIL COMMITTEE REPORTS

Mrs. Rowland stated the Vision Committee met today. The surveys are out. The City sent out 1,200 in the first mailing. There will be a second mailing that goes out in about a week. We hope people will mail the questionnaire back in a timely manner. The Committee is hoping to have results from the survey ready October 12th. At that time, the information will be reviewed to see where there are strengths and weaknesses. The Committee will not meet again until October 12th. The benchmarks will also be reviewed to see what will go into the final measurements. That will be a detailed process. Mrs. Rowland stated the Planning staff has been very positive and helpful. The Committee is very anxious to see what the community thinks about the job we are doing.

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Mr. O'Connor stated the roundabout on Clover Road in front of the Wal-Mart is now open. This has helped traffic immensely. Everyone's patience during this has been appreciated. 156th Street is now closed for approximately 1 week. There are a couple of more roundabouts coming up.

APPROVAL OF CLAIMS

Mr. O'Connor moved to approve the claims as presented, second Mr. Wood, seven aye.

PREVIOUSLY DISCUSSED ORDINANCES

#16-5-10 COUNCIL TO CONSIDER ORDINANCE #16-5-10, AN ORDINANCE ANNEXING 5909 EAST 169TH STREET (ANDY WERT)

Mr. Wert stated it would be appropriate to recap this item. This parcel is a private residence. It connected to the sanitary sewer system in 1997. The owner of the residence at the time did submit a petition for annexation. The City could not act on it at the time because we lacked contiguity on the parcel. Since then, the parcel itself has been truncated and sold to the developer of the Essex subdivision. That subdivision has been started and annexed. This parcel is now totally surrounded by City Limits. The street that it fronts is a City street. There are new owners, the McGinley's, who are in the audience tonight. The easement documents have been included in Council's packets. The City is looking at this as a voluntary annexation. There are new owners. Mr. Johnson stated Mr. McGinley would like to speak at this time.

Mr. Ray McGinley, at 5909 E. 169th Street, Noblesville, stated he is the owner of the property to be annexed by the City. Mr. McGinley thanked the Council for allowing him to speak and for taking care of the 6 ft. weed patch that had surrounded his property. Mr. McGinley stated he is surrounded by City property and there are weeds on all of that property. They have been mowed previously, but need to be mowed again. There are other issues that were mentioned at a previous Council meeting such as an open pit, downed trees, other weeds and under brush, and a pile of house siding. Mr. McGinley asked the Council for clarification on who is responsible for those issues. Mr. Huntley stated the property owner is. The City can take some action once the owners have been notified. Mr. Ayer stated the Planning Department is responsible for making notification of any violations to the property owner. Mr. McGinley asked when it might be mowed again. Mr. O'Connor responded that, according to ordinance, the City has to notify the property owner by mail and then the City can take measures. The City's recourse is to put a lien on the property. Mr. Wood asked if those procedures have been started. Mr. Huntley responded a tenant in the large storage building has been notified. The City will contact them again. Mrs. Rowland asked about the other property. Mr. Huntley replied the Department would look into it. Mr. Johnson stated Mr. McGinley's allotted 2 minutes have expired. Mr. Johnson stated specific questions should probably be directed to the Planning Department. Mr. McGinley stated the next issue is the annexation of his property. Mr. McGinley stated he received a certified letter on May 11th notifying him of the hearing. June 29th copies of the sanitary sewer easement agreements signed by the former owners were received. These were dated January 14, 1997. Mr. McGinley stated he was shocked and surprised about being annexed. The real estate agent, title company, and previous owner had said nothing about the annexation. Mr. McGinley stated he feels blindsided. He has been told by the Assessor his taxes would increase by over \$400.00. Mr. McGinley stated he has 2 daughters home from college who are not yet working. The sewer easements were signed in 1997. It is 13 years later. No prior homeowners have been subjected to a tax increase. Mr. McGinley stated it is not fair or reasonable for him to have to pay the tax increase. Mr. McGinley stated he respectfully requests a special consideration or adjustment if the property is annexed. Mr. McGinley stated if the property is annexed he would comply with all regulations and ordinances. Mr. Snelling asked if all the time Mr. McGinley has owned the property he has been on

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sanitary sewer and has been receiving monthly sewer bills. Mr. McGinley stated yes, that is his understanding. Mr. Snelling stated all this time he has not been annexed in the City, but has received City services. Mr. McGinley responded that is his understanding. Mr. Wood asked what the cost estimate would be for adding sewer to that residence. Mr. Hendricks responded it would be somewhere between \$10,000.00 - \$15,000.00. Mr. Wood stated the roads have also been maintained and snow removed from those streets. Mr. McGinley stated he has copies of checks paid to the original owners in the consent to annexation paperwork. Mr. Ayer stated those are tap on fees. Those were waived and the sewer was put in for no tap on fee. Mr. Boice asked Mr. McGinley if he had a chance to talk with the City Attorney on why the consent to annexation was done in 1997 and is only now being done. Mr. McGinley stated his response was that everybody just dropped the ball. Mr. Howard strongly objected. Mr. Howard stated he did not state that everyone dropped the ball. Mr. Howard stated he told Mr. McGinley the land was not contiguous in 1997, and therefore it could not be annexed at that time. Mr. Howard stated he told Mr. McGinley his title company dropped the ball by not picking up the consent to annexation in the title work at the time he purchased the property. Mr. Howard stated he reviewed Mr. McGinley's title work and that was omitted. The City did not drop the ball by not annexing the property in 1997. Mr. McGinley has had the benefit of City services for most of that time without paying for it. Mr. McGinley stated he has owned the property for 3 years.

The following roll call vote was recorded for Ordinance #16-5-10.

AYE: Brian Ayer, Mark Boice, Gregory P. O'Connor, Mary Sue Rowland, Dale Snelling, Stephen C. Wood, and Roy Johnson

Seven aye, motion carries

#25-7-10 COUNCIL TO CONSIDER ORDINANCE #25-7-10, TEXT AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING ARTICLE 2 – DEFINITIONS, ARTICLE 7 – PLANS, MAPS, AND ZONING DISTRICTS, ARTICLE 9 – GENERAL REGULATIONS, ARTICLE 11 – SIGNS, AND ARTICLE 12 – LANDSCAPING AND SCREENING (STEVE HUNTLEY)

Mr. Huntley stated this is the item that at the last Council meeting we left the room thinking it was adopted. A motion was made to amend the fee of \$50.00 for the neighborhood garage sale signs. This is a fee schedule. The fee schedule is not part of this ordinance to begin with. The fee schedule needs to be heard through the Plan Commission and the public hearing process. It would then be submitted back before the Council. This ordinance needs to be adopted as it was originally presented to the Council. Mr. Boice's motion and the Council's acclamation will be taken to the Plan Commission supporting the specific fee reduction. Mr. Boice moved to approve Ordinance #25-7-10 as it was originally presented, prior to the modification at the last Council meeting, second Mr. Wood, seven aye. The following roll call vote was recorded.

AYE: Mark Boice, Gregory P. O'Connor, Mary Sue Rowland, Dale Snelling, Stephen C. Wood, Brian Ayer, and Roy Johnson

Seven aye, motion carries

NEW ORDINANCES FOR DISCUSSION

- #26-8-10 COUNCIL TO CONSIDER ORDINANCE #26-8-10, AN AMENDMENT TO THE CORPORATE CAMPUS PLANNED DEVELOPMENT CHANGING THE LAND USE CATEGORY FROM FLOOD HAZARD AREA TO COMMERCIAL AND COMMERCIAL/OFFICE/FLEX FOR PROPERTY LOCATED AT THE NORTH OF CAMPUS PARKWAY AND WEST OF BODEN ROAD AND SOUTH OF CAMPUS PARKWAY WEST OF BROOKS SCHOOL ROAD EXTENDED (STEVE HUNTLEY)

Mr. O'Connor moved to introduce Ordinance #26-8-10, second Mr. Boice. Mr. Huntley stated this item follows an agreement the Council entered into with the developer within the last 2 months. This property is along 141st Street and the Brooks School/Boden Road connection and Campus Parkway. The zoning proposal was that the ground that is currently outside the flood plain and any ground that may eventually be raised outside the flood plain could be changed to a commercial classification. The Plan Commission has forwarded this to the Council with a 10-0 favorable recommendation. Mr. Huntley stated Mr. Steve Hardin representing the developer is here to explain any specific details. Mr. Hardin stated he represents Mrs. Bubenzer and her family who is the property owner. Council did approve the economic development agreement a few months ago that provided benefits for the City, as well as the development of Corporate Campus with land swaps including right-of-way that would allow a connection road for Boden and Brooks School. The key document today provides that Mrs. Bubenzer would be able to rezone some of the property she has in the Corporate Campus. Mr. Hardin stated as someone who has owned land in the Corporate Campus area the longest, Mrs. Bubenzer is pleased to continue working with the City of Noblesville for the benefit of everyone.

MISCELLANEOUS

- #1 COUNCIL TO CONSIDER APPOINTMENT TO THE FIRE MERIT COMMISSION (ROY JOHNSON)

Mr. Johnson stated he would like Chief Gilliam to explain the reappointment. Chief Gilliam stated in 2006, Council approved the establishment of the City's Merit Commission pursuant to State statute. This allows formation of such a body to oversee hiring, promotions, and disciplinary actions. Some of these functions were previously performed by the Board of Public Works and Safety. The reason for a separate commission is the fact that all of those activities are now merit based, it is a time consuming and complex issue. The Commission is voluntary; there is no pay for the members and no cost to the City. The Commission is a 5 member Board; 2 are appointed by the Mayor, 2 are appointed by the Department, and 1 is appointed by the Council. Mr. Johnson stated Mr. Dale Martz is the Council's current appointee. His term expires in September. It is a 4 year term. It is Mr. Martz's second term. Chief Gilliam stated Mr. Martz's decision making has been very thoughtful and objective. He has been a great asset. Mr. Snelling moved to reappoint Mr. Dale Martz to the Fire Merit Commission, second Mr. Wood, seven aye.

- #2 COUNCIL TO CONSIDER RESOLUTION #RC-8-10, ACQUISITION OF REAL ESTATE (MIKE HOWARD)

Mr. Howard stated this resolution concerns the acquisition of real estate for a future roundabout at 196th Street and Hague Road. There is not funding at this time and the City is not ready to build the roundabout, however the owner of the southeast quadrant of land is in the process of filing their last plat. It is cheaper to get the land before it becomes platted. Under statute if property has a value of more than \$25,000.00, the

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resolution must be passed by City Council authorizing the acquisition. The resolution also includes the owners of the parcel on the northeast side. The City does not know how much it will be, if it will be over \$25,000.00. The resolution will be in place when the City is able to move forward. Mr. O'Connor moved to approve Resolution #RC-8-10, second Mr. Boice, seven aye.

#3 COUNCIL TO CONSIDER RESOLUTION #RC-9-10, A RESOLUTION
 ALLOWING INVESTMENTS PURSUANT TO I. C. 5-13-9-5 AND I. C.
 5-13-9-5-3 (JANET JAROS)

Mrs. Jaros stated during the legislative process this last year, government agencies were given the opportunity to do some expanded investments. This is an effort to help local governments in being able to collect more interest in a safer environment with the CDAR program. A resolution is required. Mrs. Jaros stated she was asked if the City would still be offering to local banks. The answer is absolutely. If the local institutions have the highest bid, that is what the City would take. The City is also able to evaluate the participating financial institutions. The City is able to remove institutions at any time. Mr. O'Connor stated this expires in 2 years. Mrs. Jaros stated that is part of the statute. Mr. O'Connor stated this is good due to the FDIC insurance reverting back to \$100,000.00 in 2013. Mr. O'Connor asked if anyone locally participates in CDAR. Mrs. Jaros responded Flagstar has advertised that they participate. Mr. Wood moved to approve Resolution #RC-9-10, second Mr. Boice, seven aye.

COUNCIL COMMENTS

Mr. Ayer stated the Common Council has a meeting with the School Board here at City Hall on Thursday at 6:30 p.m.

ADJOURNMENT

There being no further business before the Common Council this 24th day of August, 2010, Mr. O'Connor moved to adjourn, seven aye.

JOHN DITSLEAR, MAYOR

ATTEST:

JANET S. JAROS, CLERK-TREASURER