In the Council Chambers of the Showers City Hall on Wednesday, February 29, 2012 at 7:30 pm with Council President Tim Mayer presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
February 29, 2012

Roll Call: Mayer, Neher, Rollo, Ruff, Sandberg, Sturbaum, Volan, Granger
Absent: Spechler

ROLL CALL

Council President Mayer gave the Agenda Summation

AGENDA SUMMATION

There were no minutes for approval.

APPROVAL OF MINUTES

REPORTS:

- COUNCILMEMBERS

Marty Spechler explained why he believed "Peak Oil" was a myth. He called it a false premise and explained the differences between supply and demand, saying there was no shortage of oil supply.

Volan explained the council meeting process including the 20 minutes allowed at the beginning of the meeting for council members to speak and the 20 minutes for the public to speak on items not on the agenda.

Rollo talked about the myth that Spechler mentioned saying that the experts Spechler cited were not petroleum experts. He added that the information Spechler cited or reported were from data petroleum experts.

- MAYOR and CITY OFFICES

There were no reports from the Mayor or other city offices.

- COUNCIL COMMITTEES

There were no reports from committees at this meeting.

- PUBLIC INPUT

Buff Brown, from BTOP (Bloomington Transportation Options for People) described the Livable Cities Speaker Series which he said would feature Mark Fenton, an expert on Walkability.

Randy Paul called for County Auditor Amy Gerstman's resignation. He called for a joint resolution of the city council, county council and commissioners to do the same.

Frank Dennon read a statement about community activism.

Scott Wells addressed the issue of highways, transportation, and the related costs.

Daniel McMullen expressed his displeasure with the council's decision to cancel its meeting two weeks earlier.

Karastina Kelly said that the next day, March 1st was a National Day of Action for education.

Kay Bull played a guitar and sang about living off the grid.

BOARD AND COMMISSION APPOINTMENTS

- It was moved and seconded that Gina Forrest, Beth Kirk, and Jacqueline Fernette be appointed to the Commission on the Status of Women.
- It was moved and seconded that Claire Cumberland be appointed to the Commission on Sustainability.
- It was moved and seconded that Shirley Davies be reappointed to the Animal Control Commission.
- It was moved and seconded that Eric Ost be reappointed to the Telecommunications Council.

The reappointments and appointments were approved by a voice vote.

LEGISLATION FOR SECOND READING

Resolution 12-01 To Approve Recommendations of the Mayor for Distribution of Community Development Block Grant (CDBG) Funds for 2012.

It was moved and seconded that Resolution 12-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 9-0-0.
It was moved and seconded that Resolution 12-01 be adopted.

Lisa Abbott, Director of HAND (Housing and Neighborhood Development) introduced the resolution and the explained how the funds would be distributed for social services and physical improvements.

There were no council questions.

Public Comment:
Larry Jacobs, Vice President, Board of Directors of the Monroe County

United Ministries, thanked the Mayor and city staff for their work and the donation to United Ministries, which he noted was the oldest social service agency in Bloomington.

Resolution 12-01 *(cont'd)*

Council Comment:
Neher announced he was a member of the Board of Directors of Martha's House and said he had no part in this decision making.

Sandberg, a member of the allocation committee talked about how difficult the process was since there was so much need, and not enough money.

Mayer thanked the staff for making this process work.

Resolution 12-01 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 12-05 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 4-1-4.
It was moved and seconded that Ordinance 12-05 be adopted.

Ordinance 12-05 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District - Re: 700 North Walnut Street (Bloomington Historic Preservation Commission, Petitioner)

Nancy Hiestand, HAND Program Manager introduced this ordinance. She described the brick on this building and explained why it was historic. She noted that she followed local and federal regulations for historic designation, and that preservationists believed it was the unique and outstanding craftsmanship that was sought.

Council questions:
Rollo asked for some clarification on notable versus contributing designation. Hiestand said that the property was rated before deep research was done, and she added that properties were frequently upgraded in designation during a second analysis.

Neher asked for clarification on the brick used on the building and comments that had been critical. Hiestand said she thought the report had been misunderstood.

Spechler challenged the notion that this could be reused as a restaurant because of the limited number of parking spaces. Hiestand said the downtown buildings and uses could become more pedestrian friendly.

Sandberg asked about the impression that historic preservation was reactionary. She also asked for the Secretary of Interior's standards. Hiestand reviewed the 9 guidelines used in the Commission's review.

Volan inquired about the HPC's guidance for new development. Hiestand said the Commission worked with developer's designs for new construction.

Granger asked what the designation of "contributing" meant, and if property buyers were aware of a property designation when purchasing the property. Mayer said the petitioner would answer that later in the meeting.

Rollo asked about the planning implications with this proposal. Abbott said that the height could increase slightly in a new development, but the building already had such a high roof that the change would be negligible.

Chris Bomba, property owner spoke against the designation since it put limitations on his property, and said that was a property rights issue. He added that this decision was being based on just one report from the HPC.

Travis Vencel speaking for the property owner spoke against the ordinance.

Bomba added to the presentation by asking that this property not be designated, and that the building be permitted to be moved, due to inaccuracies in the report

Rollo asked staff to respond to allegations that there were errors in the HPC report. Hiestand said there were a few minor errors, but nothing changed the history of this property. She also said she stood by her count of buildings with tapestry brick, about 3, which made it rare.

Ordinance 12-05 *(cont'd)*

There was discussion concerning the covenant that Mr. Burns, the original owner, attached to the future sale of this house barring the sale to "a colored person or persons." Vencel talked about the rarity of such a covenant, but Patty Mulvihill, city legal department, said she did not consider it an anomaly and it was not that uncommon.

Mulvihill reiterated that the designation being proposed was not due to the original owner, but rather the historic quality of the house.

Ruff expressed concern that the covenant placed on the property was just discovered that day, and wondered if the council should take additional time to explore the issue of historical covenants which served to segregate the community.

Public Comment:
Nancy Rutkowski reported how widespread restrictive covenants were in the first half of the 20th century.

Sherry Holiday spoke in support of the historic designation.

Jill Lesh, a neighbor on Walnut Street, said she supported the historic designation.

Andy Walker, realtor, called this spot zoning and objected to the ordinance.

Tracy Lutes, realtor, objected to historic designation based on the prominence of the owner and asked what the regulations of historic designation were.

Carrill Mills supported the historic designation based on the HPC report.

Melissa Clark supported the historic designation based on the building and its location.

Jeremy Nation said the property needed to be preserved, and be preserved in its present location.

John Kirtland asked that the property not be designated at this time, and said the property owner should be allowed to move the house and then preserve it.

Jan Sorby said the value of the house should be considered apart from the owner.

David Ferguson noted the zoning of the area and mentioned how large the parcel was, and thought a new development could be accomplished without infringing on other properties. He added that members of the public were doing the best they could to receive information that the council had in order to understand the situation. He maintained that the house could remain, be boarded up, and he would still have enough space to build apartments on the remainder of the property. He urged council support.

Jon Lawrence supported the designation and said we needed to save what we had.

David Harstad, Chair of the Historic Preservation Commission, urged support of this designation. He also described the process of pouring over reports prior to making a decision on designation,

Tyler Ferguson talked about the change in neighborhood demographics and the change to younger residents. She described the trash that is thrown around, the lack of care to homes, and the negative view that others have of this neighborhood. She asked for the council to consider the homeowners that live there and their property rights.

Eric Sandweiss, advisory member of the HPC, talked about how preservation contributed to a healthy modern city and urged support of designation.

Steve Wyatt, Executive Director of Bloomington Restorations, said, not only was this property a landmark, it was also an important part of a run of

Ordinance 12-05 *(cont'd*

buildings that defined the corridor. Therefore moving this house would harm the area where the house now sits by removing a centerpiece of the neighborhood.

Doug Wissing said he supported the historic designation of this property. He said as an Historic Preservation Commissioner he said the property owner's request and historic and architectural significance were considered. The HPC weighed the request to move the house, and used the Secretary of the Interior's guidelines that said moving a house changes its character and should be done in only dire circumstances.

Kurt Redhower supported the historic designation, and suggested it was important to build on the history to move the community forward.

Scott Wells said after listening to all of the arguments, he believed the property should be designated historic because it was part of what made Bloomington special.

Tyrone Morris said this house didn't reflect an important part of the history of Bloomington, and he supported Bomba being able to move the house. Bridget Edwards, member of the HPC said she felt unapologetic for supporting the recommendation for historic designation.

Marlene Newmann, registered architect and HPC member said reusing older buildings provided an opportunity for future development. She said this building was a gem that would make this area special.

Danielle Bachant-Bell member of the HPC clarified the process they used for reviewing designation of this property and how they worked with the property owners.

Marjorie Hudgins, member of HPC thanked all who presented important and convincing information. She said she supported this designation.

CW Poole described his 'emotional property rights' for the entire city as opposed to one property owner's rights. He said he supported the entire city not just one piece of property.

Randy Cassady said the council had the ability to help the property owners with waivers or tax abatements. He said he hoped all would work together to benefit everyone.

Mary Krupinski said we needed to all work to benefit the entire community, not just personal needs. She said the loss of this structure would be like a hole in the middle of a piece of fabric, which would render the entire thing useless. She asked the council to support this designation.

Council Comments:

Motion to Postpone

It was moved and seconded to postpone further consideration of this ordinance to March 21 based on the need for more time to further consider additional information and due to the late hour.

Neher said he wouldn't support the motion to postpone.

Spechler said he supported the motion due to the late hour and the need to fully discuss new information. He mentioned the racial covenant as part of this property and he needed input from the African American community.

Sturbaum said after 8 hours of listening to information, he was ready to vote, and it would be disrespectful to the process and the public to ask them to return for another meeting.

Ruff said Beverly Calendar-Anderson, Safe and Civil City Director, told him it would be prudent to take addition time prior to voting in light of the recent information about the racial covenant on the deed.

Sandberg said was ready to vote and would keep her comments brief.

Mayer said the matter could be concluded during this meeting.

Motion to postpone vote on Ordinance 12-05 *(cont'd)*

Volan remarked that this had been a very interesting conversation, and agreed that this meeting would take at least another hour. He added that if Beverly Calendar-Anderson said more time should be taken to consider the segregation deed, then he agreed, and he supported the postponement.

Rollo agreed with Volan that more time should be taken. He added that he also would like input from the Planning Department.

Ruff clarified that he contacted Beverly Calendar Anderson to ask if she thought members of the African-American community might want to weigh in on the racist covenant, and she agreed.

Vote on Motion to Postpone

The motion to postpone consideration until March 21st received a roll call vote of Ayes: 4 (Ruff, Rollo, Volan, Spechler), Nays: 5 (Neher, Granger, Sturbaum, Sandberg, Mayer) and thus FAILED.

Final Council Comments:
Volan said even though the petitioner promised not to demolish the house, the owner wanted to move it. However, he said the question here was the concept of history, and that the owner did not believe the house was historic enough. Volan maintained that if part of the history was racist, then that was a part of the house's history, and should be acknowledged. He said he thought that perhaps the owner didn't understand the larger picture of what this historic house represented, and would therefore vote to designate.

Spechler said he opposed this proposal because he felt the house could and should be moved. He said this was similar to spot zoning and allowing the house to move would offer more protection to the current neighbors, although they disagreed. Spechler said if Bomba could move the house, he could build a new structure that would serve as a buffer to the projected apartment development of High Point. He added that this house formerly owned by an avowed racist should never be memorialized by calling it historic. He said he would vote no.

Neher disagreed that approving historic designation indicated racism. He said we shouldn't run away from our history, but try to understand it. He added that these parts of history needed to be told. Neher reminded councilmembers that if they wanted to allow the house to be moved, that they first had to designate the house as historic. Therefore voting against this was not going to accomplish that. He said he would vote for designation.

Sturbaum said the discussion on the proposal proved the value of history, and added that moving the house would harm the structure and its historic character. He said the one question the council was required to answer "was the house historic," which he said he was based on the unanimous recommendation of the HPC.

Granger reminded all that history should not be forgotten, and to recognize it had nothing to do with glorifying past mistakes. She said the building was historic and would vote yes.

Rollo acknowledged that historic designation affected future planning, and said a site plan for integration of the adjoining property would have been useful, but staff from Planning was not present, which he said was too bad. He added that he did not find it compelling that this house was notable, nor that the history was notable. He said what was compelling was the commentary from the neighborhood and protection of the neighbors.

Sandberg believed the correct decision was to support designation. She also had spoken to the property owners about their future plans for development of the High Point area and said she knew it would be a good project. She concluded by saying there were property rights of the property owner, but also of the neighborhood.

Ruff said this ordinance needed more time to consider. He wondered aloud whether this was about the Burns' history, or the neighborhood, or moving the house, or the integrity of the neighborhood. He said there were so many

disjointed issues, that it was difficult to make this decision without more discussion. He also disagreed that this was a landmark, and said for his entire life he never even noticed it.

Ordinance 12-05 *(cont'd)*

Mayer said that historic designations were the hardest decisions he had to make on council. He said creative use of the building would spur future development in the area.

Ordinance 12-05 received a roll call vote of Ayes: 7, Nays: 2 (Ruff, Spechler).

Appropriation Ordinance 12-01 To Specially Appropriate from the Parks Land Acquisition Fund Expenditures Not Otherwise Appropriated (Appropriating Funds for the Purchase of Black Lumber Rail Spur)

LEGISLATION FOR FIRST READING

CW Poole commented on Agent Orange being used on Midwestern corn.

PUBLIC INPUT

It was moved and seconded to hold a Special Session on March 7, 2012 at 7:30 p.m. to consider Resolution 12-02 (To Authorize Expenditures from the Industrial Development Fund to Support an Economic Development Project [Cigital, 100 S. College Avenue]) at one Hearing.

COUNCIL SCHEDULE

Ruff asked why the issue should only be discussed at one hearing. Volan said that staff asked for it because the council would not meet on March 14, 2012.

The motion received a roll call vote of Ayes: 5 (Neher Sturbaum, Sandberg, Mayer, Spechler), Nays: 4 (Ruff, Rollo, Volan, Granger)

It was moved and seconded to amend the schedule for consideration of Ordinance 12-04 (Regarding the Rezone of 718 East 8th Street – Cheryl Underwood, Petitioner) by placing this ordinance on the agenda for the Special Session on March 7, 2012 with the intention of voting on a motion to table the ordinance at that time.

Volan said that he was opposed to withdrawing the ordinance because it was unfair to the petitioner. He said that a court decision was pending on the issue.

Neher said it was prudent not to hold a public hearing about the case.

Volan said that the motion could prevent the petitioner from speaking to the council.

Spechler said that the issue should be postponed until a court decision.

The motion received a voice vote of Ayes: 6 (Neher, Granger, Sturbaum, Sandberg, Spechler, Mayer), Nays: 3 (Ruff, Rollo, Volan).

It was moved and seconded to approve the revised annual schedule to include the dates, times, and places for staff/council internal work sessions for the remainder of 2012.

The motion received a roll call vote of Ayes: 9, Nays: 0

The meeting was adjourned at 1:25 am on March 1, 2012.

ADJOURNMENT

APPROVE:

Tim Mayer, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington