COMMON COUNCIL
REGULAR SESSION
December 5, 2012

In the Council Chambers of the Showers City Hall on Wednesday, December 5, 2012 at 7:30 pm with Council President Tim Mayer presiding over a Regular Session of the Common Council.

ROLL CALL

Roll Call: Mayer, Neher, Rollo, Ruff, Sandberg, Spechler, Sturbaum, Volan, Granger
Absent: None

AGENDA SUMMATION

Council President Mayer gave the Agenda Summation.

APPROVAL OF MINUTES

There were no minutes for approval.

REPORTS:

- COUNCILMEMBERS

Marty Spechler issued a complaint about receiving "robo" email messages that he said were identical letters that clogged his mailbox. He said they were worthless and did nothing to advance a conversation, and he wanted people to know he had a negative response to them.

Steve Volan commented on Spechler's criticism of "robo" email messages and said if 20 people sent the same boilerplate message it was not likely to be read. He said, however, that comments added to the end of the messages were often of interest. He stated that he did not want to discourage anyone from contacting council members.

Andy Ruff announced the INDOT meeting on Thursday, December 6th regarding the I-69 Section 5 that would run from Bloomington to Indianapolis. He encouraged the public to pay attention and to "call the state out" about proceeding with I-69 construction in spite of the fact that there was not enough funding to complete the project.

Susan Sandberg thanked members of Delta Sigma Theta who were in attendance for sharing information, for hosting a reception for council prior to the meeting, and for their service to the community.

- MAYOR AND CITY OFFICES

Sandberg read a proclamation from the Mayor recognizing the Bloomington Fire Fighters' efforts to raise money for Muscular Dystrophy research and declaring December 5, 2012 "Fire Fighter MDA Day" in Bloomington. Lisa Vermette, Executive Director of the Muscular Dystrophy Association of Central Indiana, was on hand to thank the Bloomington Firefighters for their active support of the MDA.

Lindsay Buuck, Health and Wellness Coordinator in the Parks and Recreation Department, reported on the city's efforts to engage community members and city employees in the *Be Active* program to promote healthy behavior. She also mentioned recent awards the city had received for health and wellness programs.

- COUNCIL COMMITTEES

There were no reports from Council Committees.

PUBLIC COMMENT

Mary Howard Hamilton, President of Delta Sigma Theta Bloomington Alumnae Chapter, presented information on the sorority and their 2013 centennial celebration. She thanked the council for their efforts at inclusion of the under-represented in the community.

Chaim Julian, Democracy for Monroe County, talked about the mission of DFMC and spoke out against "wage theft."

Gabe Rivera, End The Drug War Today, talked about the recent legalization of marijuana in Colorado and Washington and stated his belief that recreational drugs should be legal in all states.

Marc Cornett advocated for street improvements along Patterson Drive.

PUBLIC COMMENTS (cont'd)

Scott Wells thanked Andy Ruff for his courage to speak out against the "fiasco" of I-69. He criticized Governor Mitch Daniels for promoting the I-69 project without adequate funding to complete it.

BOARD AND COMMISSION APPOINTMENTS

There were no recommendations for appointments.

LEGISLATION FOR SECOND READING

Appropriation Ordinance 12-04
To Specially Appropriate from Th General Fund, Parks General Fund, Fire Capital Fund, Risk Management Fund, and Rental Inspection Program Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds Within The General Fund, Parks General Fund, and Risk Management Fund; and, Appropriating Additional Funds From The Fire Capital Fund, Risk Management Fund and Rental Inspection Program Fund)

It was moved and seconded that Appropriation Ordinance 12-04 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 9-0-0.
It was moved and seconded that Appropriation Ordinance 12-04 be adopted.

Mike Trexler, Controller, stated that this was the traditional end-of-year appropriation ordinance and explained the proposed re-appropriations of the funds.

There were no questions or comments.

Motion to approve Appropriation Ordinance 12-04 received a roll call vote of Ayes: 9, Nays: 0.

Resolution 12-13 To Accept The Report Entitled "Common Ground: Toward Balance And Stewardship – Recommendations of The Joint City of Bloomington-Monroe County Deer Task Force" as An Advisory Document

It was moved and seconded that Resolution 12-13 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the Do Pass recommendation of 7-0-2.
It was moved and seconded that the resolution be adopted.

The Deer Task Force Chair, Dave Rollo, reviewed the report that was presented the previous week at the Committee of the Whole. He explained social carrying capacity as an issue of people's tolerance vs. biological carrying capacity where resources would limit deer numbers by starvation and disease.
The report recommended a variety of non-lethal and lethal management tools for consideration, based on humaneness, deer welfare, safety, efficacy, cost, and Indiana Department of Natural Resources (IDNR) policy.
Rollo noted DTF support from the Environmental Commission, the Commission on Sustainability, the Environmental Resources Advisory Committee, the Monroe County Identify and Reduce Invasive Species group, the Sassafras Audubon Society, and over 40 professors in the IU Department of Biology.

COUNCIL QUESTIONS

Spechler asked if sharpshooting and bow hunting were safe and humane. Susanna Smith Berchel spoke about the difference between safety and humaneness. She pointed out that shooting would be done from an elevated position so that an errant bullet would go into the ground. An archer would shoot from close range so as not to deflect an arrow off a tree. The most humane method would be to have highly proficient hunters with appropriate equipment do the killing.
Spechler asked about regulations that applied to bow hunting. Berchel said that the IDNR had guidelines for bow hunting as well as rifle hunting.
Bob Foyut, DTF member, talked about the DTF's proposal to add restrictions and regulations to increase humaneness, including proficiency tests for hunters.

Ruff asked if the determination on compromised forest health at Griffy was derived solely from Dr Angie Shelton's research and if standardized methodology was used.
Dr Angie Shelton stated that a literature search resulted in 4,489 papers on the ecological effects of deer, pointing out that Bloomington's

Resolution 12-13 (cont'd)

problem at Griffy Woods was not unique. She stated that there was a marked difference in the condition of the understory at Griffy and in other local forests. She explained that the study's use of exclosures was a standardized method and that they collected data over 4 years.

Dr. Keith Clay, via telephone, said that the issue of the ecological effect of deer was not new or unique to Griffy. The IDNR explored the issue 10 years ago, especially in Brown County State Park. A hunt was instituted there, the deer population was reduced, and the wildflowers returned.

Mayer clarified with council attorney, Dan Sherman, that approval of this report did not commit the council to any action or any expenditure of funds. Sherman responded that this report was advisory in nature and was not binding.

Spechler asked Dr. Shelton whether her study had been peer reviewed and approved. She said it had not been published but had been presented to professional associations and therefore informally peer reviewed.

Neher asked about the binding nature of the legislation and whether the council could create future legislation if this resolution was defeated, or could take no action even if it were passed. Sherman answered that was correct.

Ruff asked if invasive species became well established in Griffy Woods how difficult would it be to reduce the invasives. Dr Shelton said that Griffy Woods would likely not return to its prior state once the invasive plants and bushes were well established.

Ruff asked if the status regarding deer contraceptives had changed since the early work of the Deer Task Force. Josh Griffin, wildlife biologist with the IDNR, said it was widely accepted among wildlife managers that contraception was not viable in a free range environment. It was the educated opinion of the IDNR that immuno-contraceptives would not be effective in the Griffy situation.

Sandberg commented on the public fear that hunting at Griffy would be similar to a wild west environment. She asked for clarification on the process of qualifying potential sharpshooters. Griffin said the sharpshooting would be performed by hired professionals with a high level of expertise.

Ruff asked why there had been no increase in deer-car collisions if the population of deer in the city had increased. Rollo said that deer-vehicle collisions numbered 40 in 2000 and had increased to 110 by 2011. He stated that the DTF had data from the previous 4 years, and that it was unknown as to why collisions seemed to be at a stable level.

PUBLIC COMMENT

Public Comment:
Lucille Bertuccio reminded everyone that invasive species were brought here by humans and noted that they were entrenched. She said that making our forests contiguous - instead of fragmented - was an important issue that should be addressed. She stated that our ecological problems were created by humans and exacerbated by global climate change; the deer were not the cause.

Scott Wells showed photos from his property in the Lake Monroe watershed area where the trees had been eaten by deer. He stated that it was more humane to shoot the deer than to allow them to starve.

Maggie, a child, said that in Sycamore Knolls Neighborhood some

Resolution 12-13 (cont'd)

people were upset about killing the deer, but she also knew that many people had bad experiences with aggressive deer. She stated that she didn't like the idea of killing, but she agreed with the report of the DTF. She said we needed to think in terms of systems not just particular species.

Chaim Julian, speaking as a private citizen, said he hoped the council would accept the report but commented that since it was advisory only, there was no mandate to action.

Sandra Shapshay asked that the council table the resolution or vote no. She said there was no evidence to prove that there was a deer overpopulation problem.

Darryl Boggess, resident of Park Ridge East, commended the work of the DTF. He cited four phases of the process at hand: acquiring data, making decisions, taking action, and evaluating results. He especially emphasized the importance of evaluation.

Robert Fakelmann, professor emeritus of architecture, expressed concern about the absence of precedence studies in the report. He said he didn't dispute the science but suggested that the successes and failures of other communities should be looked at.

Ramsey Harik commended the DTF for its exemplary conscientiousness in promoting the report. He found the science to be indisputable, but he had some misgivings about the suffering involved in the culling and - to a greater extent - what would happen if no action was taken. He endorsed the recommendations of the DTF but asked that non-lethal solutions continue to be explored in the future.

Alexis Braden, retired teacher of landscape architecture and design, believed that discussions about deer management at Griffy and deer management in the city should be separate conversations. She said it would be helpful to state the landscape goals for the areas.

Tommy Grubb, acting secretary of the Sassafras Audubon Society, said that there was also an abundance of deer on the west side of Bloomington but that it was less of a problem due to the open rural acreage there. He stated that hunting and fishing were a big part of the conservation efforts in Indiana. He encouraged the council to support the resolution.

Alyce Miller asked that the council table the motion as an expression of their "best selves". She said that the issue wasn't the deer, but rather the human degradation of the environment. She asserted that slaughtering deer to solve a human social problem was morally wrong.

Danna Jackson, Bryan Park Neighborhood, shared her concerns about how long the culling would need to last and who would be paying the costs. She expressed resentment that property taxes would probably be used whether the property owner agreed with the action or not.

Bruce Bundy said he was an environmentalist, a tree hugger, and venison lover. He wanted an amendment to the deer resolution that blocked the building of I-69 which would destroy hundreds of acres of deer habitat. He said that the displaced deer would head to the nearby suburbs and make the situation much worse.

Eric Knox, Director of the IU Herbarium, professional botanist and teacher of local flora classes, said he regularly took his students to Griffy Woods and the IU Research and Teaching Preserve. He reported a significant decline in the native understory over the past 3 years. He

said the deer population was too large and needed to be controlled for good environmental stewardship. He hoped the DTF report would be accepted and implemented.

Resolution 12-13 (cont'd)

Kathleen Boggess, Park Ridge East, said she agreed with Eric Knox that it was time to accept this report after the years of study that had been put into it. She suggested increased fence heights as a method for keeping deer out of gardens.

Eric Ost, Bryan Park Neighborhood, objected to the proposed lethal methods. He alleged that there was no evidence of how many deer existed in the community and that looking at impact only was not a reliable way to determine overpopulation.

Council Questions of the Deer Task Force:

COUNCIL QUESTIONS

Neher asked whether the DTF took into account actions taken in other communities with deer problems. Council Deputy Administrator/ Researcher, Stacy Jane Rhoads, said that the DTF looked at over 200 other communities. She pointed out that ongoing maintenance was proven to be the key to success.

Spechler asked about Dr. Shelton's study methodology regarding the exclosures, particularly if smaller animals would have been able to enter. Dr Shelton explained that other small mammals could get under the fence, but that deer browsing was easily distinguished from other animals' impact on the vegetation.

Ruff asked if there was another step that could be taken to determine social carrying capacity. Rollo replied that step would likely be a formal survey. Stephano Fiorini talked about the importance of considering the social landscape in the next survey.

Mayer commented that white tail deer were eliminated from Indiana in the late 19th century and then reintroduced in the 1930's. He asked if the re-introduced deer were considered invasive species. Dr Shelton said that deer were behaving and having effects much like invasive species. She added that since humans caused this problem, it was humans' responsibility to manage it. Rollo added that the opinion of the DTF was that white tail deer were a native species, but due to overpopulation, they were acting similar to an invasive species.

Spechler asked if all invasive species were obnoxious and if all native species were innocent. Rollo responded that some non-natives were benign and some were aggressive invasives. Dr Shelton said that non-native species that had a deleterious effect on the ecological community were generally considered invasive. Griffin said "exotic invasive species" was a buzz word nowadays. He pointed out that aggressive species and non-natives were two different issues.

Council Comments:

COUNCIL COMMENTS

Granger clarified that the vote was to accept the report. She thanked the DTF for the work that was completed but suspected that this was not the end of the deer issue.

Spechler said he had concluded that trap and shoot was the only safe, humane and effective way to manage the deer population. He urged his colleagues and the mayor to approve action to save the Griffy Preserve and then address the neighborhoods' deer problem.

Volan said that people in his district (downtown) were not impacted by the deer. He stated that suburban sprawl was the culprit of the deer problem. He also pointed out that what they were voting on was a non-binding resolution, not an ordinance.

Resolution 12-13 (cont'd)

Sandberg said she generally appreciated the public's input but was disappointed with the hyperbole, catastrophizing and name-calling. She stated that accepting the report and putting it on a shelf was not acceptable, and that there needed to be follow-through action. She thanked and recognized Stacy Jane Rhoads, and commended and thanked the members of the DTF.

Ruff recognized and appreciated the thousands of volunteer hours of "unrewarded effort" demonstrated by the DTF. He strongly condemned those who impugned the character, motives, and professionalism of DTF members and/or city staff.
He said that more information was needed regarding the social carrying capacity, but that scientific data had confirmed the devastation of the Griffy area by too many deer.

Neher said that none of his past questions or comments were meant to denigrate the DTF work, but rather to manage expectations. He stated that Dr Shelton's research existed within the context of much additional research that went beyond our community. He stated that the science was convincing, and he supported the resolution.

Sturbaum said it was time to adopt the report, which he viewed as a menu with a variety of recommendations. He did not support use of lethal methods within the city, but he trusted in the conclusions of the dedicated DTF regarding Griffy.

Rollo recognized the fine people who comprised the DTF and their perseverance in the face of attacks and criticisms. He said he took issue with the public criticism that charged the DTF with a lack of transparency, even though they held two years of open meetings, encouraged public comments, solicited input through five community outreach meetings, and constantly updated information on their website. He appreciated the unprecedented support of many biologists and other scientists in the community. He acknowledged the moral dilemma involved in the decision-making process.

Mayer thanked the DTF members (and Rhoads) for all their time putting the report together. He pointed out that this was an advisory report, an important first step in a long journey. He said he was ready to accept the DTF report.

Resolution 12-13 received a roll call vote of Ayes: 9, Nays: 0

LEGISLATION FOR FIRST READING

Ordinance 12-28

Ordinance 12-28 To Amend Title 10 of The Bloomington Municipal Code Entitled "Wastewater" – Re: Revisions To Chapter 10.04 General Rules, Chapter 10.08 Wastewater Rates and Charges, Chapter 10.12 Prohibited Wastewater Discharges and Chapter 10.16 Industrial Wastewater Dischargers and The Addition of Chapter 10.17 Food Service Establishment Wastewater Dischargers.

PUBLIC COMMENT

Public comment:
Glenn Carter spoke about his concern that the GPP catered to the affluent. He said the poor and homeless were being displaced from downtown, and he proposed an urban human wildlife refuge downtown to house the "feral people" where the public could view them safely.

COUNCIL SCHEDULE

Mayer asked Council Attorney/Administrator Dan Sherman to review the 2013 annual calendar for the Council.
It was moved and seconded that the council approve the 2013 annual calendar. The motion was approved by a voice vote: Ayes:8, Nays:1 (Volan).

Sherman noted that the council would be on recess after the meeting on

December 19th until the first council meeting in 2013, which would be an organizational meeting on January 9, 2013.

COUNCIL SCHEDULE (cont'd)

Sherman proposed having an Executive Session with the Bloomington Police Department to discuss security standards and protocols. The motion to approve an Executive Session for Wednesday, December 12th at 5:30 pm was approved by a voice vote.

The motion to schedule a Special Session to decide the new City Council District boundaries on December 12th at 7:30 pm was approved by a voice vote: Ayes:8, Nays:1 (Volan)

The meeting was adjourned at 11:13 pm.

ADJOURNMENT

APPROVE:

Timothy Mayer, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington