COMMON COUNCIL
REGULAR SESSION
May 18, 2016

In the Council Chambers of the Showers City Hall on Wednesday, May 18, 2016 at 7:34 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

ROLL CALL
[7:34pm]

Roll Call: Granger, Mayer, Sandberg, Ruff, Volan, Piedmont-Smith, Rollo
Absent: Sturbaum, Chopra

AGENDA SUMMATION
[7:34pm]

Council President Ruff gave the Agenda Summation.

APPROVAL OF MINUTES
[7:35pm]

There were no minutes to approve at this meeting.

REPORTS

- COUNCIL MEMBERS
  [7:37pm]

Councilmember Rollo announced a joint constituent meeting with Councilmember Volan. He said that it would be held at Bear's Place at 5:30pm on June 2nd.

Councilmember Piedmont-Smith announced a constituent meeting to be held on the last Saturday of the month in the McCloskey Room of City Hall at 10:00am.

Councilmember Mayer reminded the public that mowing lawns and leaving grass in sidewalk and street violated code, was unsightly, and was dangerous for bicyclists and motorcyclists.

- The MAYOR AND CITY OFFICES

There were no reports from the Mayor's office.

- COUNCIL COMMITTEES

There were no council committee reports.

- PUBLIC
  [7:39pm]

President Ruff called for public comment.

Gabe Rivera spoke about the criminal justice system in Monroe County and the United States.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:45pm]

It was moved and seconded to appoint Ryan Conway and Ethan Horvath to the Bloomington Commission on Sustainability.

The motion was approved by a voice vote.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Ordinance 16-01: To Amend Chapter 20 (Unified Development Ordinance) of the Bloomington Municipal Code Re: Amending 20.05.051 ("Home occupation – General"), 20.05.064 ("Municipal services – General"), 20.05.079 ("Sign standards – General"), 20.05.080 ("Sign standards – Temporary signs"), 20.05.081 ("Sign standards – Residential"), 20.05.082 ("Sign standards – Permanent display cabinets"), 20.05.083 ("Sign standards – Nonresidential"), 20.05.084 ("Sign standards – Commercial limited"),

It was moved and seconded that Ordinance 16-01 be introduced and read by title and synopsis. The motion was approved by a voice vote.

Clerk Bolden read the legislation and synopsis, giving the committee recommendation do pass 7-0-2.

It was moved and seconded that Ordinance 16-01 be adopted.

Patty Mulvihill introduced the legislation and commented on the three amendments that were scheduled to be introduced later in the meeting.

Mulvihill said there were two main points in *Reed v. Town of Gilbert*. One, you were no longer allowed to single out signs by type, because it was regulating speech. Next, it said that all signs in a public right-of-way had to be treated equally.

Key highlights of the new ordinance included eliminating any reference to 'sign type', with the exception of 'public signs'; prohibiting the placement of all signs except for 'public signs and

sandwich board signs in the commercial downtown and limited zoning districts, in the city's rights-of-way; and last, a by-right-signage allotment, which would allow signs that do not require permits. Mulvihill also noted additional changes in ordinance that were not directly related to signs.

Mulvihill classified the common council amendments as technical amendments, dealing with the definition of "sign" and dealing with the definition of "display cabinet", and as a substantive amendment, related to the wall signage allotment for legal nonconforming, multifamily residential uses.

Council Questions:

Volan asked how temporary was defined. Once it was clarified that it was related to the material of the sign, and not to the duration of the sign display, he then asked if it would be regulated by the city.

Volan then commented that the amendment that reduced the sign size would decrease the visual impact.

Piedmont-Smith asked where signs were currently defined in the ordinance. James Roach clarified that the only definitions included in the amendment were the ones which actually changed.

Granger expressed some concern over the fact that what was seen in the summer may differ from what was seen in the winter. Mulvihill acknowledged that it was not a new problem that the city has faced, but that they did not know how to correct it.

Rollo asked a question about the meaning of some proposed wording in Amendment 01. Mulvihill said that staff did not know the policy reason for the language, and that staff did not see any reason to retain the wording.

Volan asked how quickly signs would have to conform if the ordinance passed. Mulvihill replied that the city would focus on a heavy education campaign before enforcement.

Piedmont-Smith suggested a revision to Amendment 01 to read "... to display signage within, for a purpose related to the use or occupant of the premises."

Piedmont-Smith asked about the purpose of the waiver of right to damages section. Roach explained that it was related to the state law that talked about payments to owners of signs if municipalities required a sign to be removed.

Rollo talked about the permanent display cabinet at Samira.

Mulvihill noted that the flyers in the display would be regulated by the proposed changes. She added that if the council wanted to remove the regulation of what was said, and just focused on the usage, it would be fine with the administration, and would be more consistent with the rest of the changes proposed that evening.

Piedmont-Smith agreed that it would be more consistent to remove the clause from Amendment 01. Dan Sherman, council attorney, confirmed that it would have to be in writing once it was introduced, and confirmed how it should be written.

20.05.085 ("Sign standards – Commercial downtown"), 20.05.086 ("Sign standards – Sandwich board signs"), 20.05.097 ("Special conditions – Community garden"), 20.05.110 ("Temporary uses and structures – Generally"), 20.07.070 ("Easement standards"), 20.07.160 ("Street and right-of-way standards"), 20.07.190 ("Street sign standards – Residential, commercial and industrial"), and 20.11.020 ("Defined Words") to Render Provisions of the Bloomington Municipal Code Regulating Signs Compliant with the U.S. Supreme Court's Holding in *Reed v. Town of Gilbert* [7:46pm]

It was moved and seconded to adopt Amendment 01 to Ordinance 16-01.
The motion to adopt Amendment 01 to Ordinance 16-01 received a roll call vote of Ayes: 7, Nays: 0.

It was moved and seconded to adopt Amendment 02 to Ordinance 16-01.

Piedmont-Smith summarized the amendment for the public.

Volan commented that the residents of district 6 would appreciate the amendment and that he endorsed it.

Piedmont-Smith mentioned that her family owned a nonconforming, multifamily building, that had no wall signage, and the thought of how ugly 25 feet of wall signage would have been provided the impetus to bring up this amendment.

The motion to adopt Amendment 02 to Ordinance 16-01 received a roll call vote of Ayes: 7, Nays: 0.

It was moved and seconded to adopt Amendment 03 to Ordinance 16-01.

Ruff explained that the amendment was meant to clarify the definition of a sign.

The motion to adopt Amendment 03 to Ordinance 16-01 received a roll call vote of Ayes: 7, Nays: 0.

Ordinance 16-01 *(cont'd)*
Amendment 01:
1. Section 42 of Ord 16-01 shall be amended by adding the phrase "that is attached to a building that is" immediately before the word "constructed" so that it reads:

"Permanent display cabinet means a cabinet that is attached to a building that is constructed of durable materials and intended to display signage within. ~~, for the duration of time that the use or occupant is located on the premises.~~" [8:20pm]

Amendment 02:
1. Section 5 of Ord 16-01 shall be amended by creating a new subsection (d), entitled "Legal Nonconforming, Multifamily Residential Uses", to read as follows:

(d) Legal Nonconforming, Multifamily Residential Uses. Legal nonconforming multifamily residential uses in single family zoning districts with at least three (3) units shall be permitted wall signage not to exceed ten (10) square feet.

(1) This subsection supersedes subsection 20.05.080(b)(2).
(2) Freestanding signage is prohibited.

2. All remaining subsections in Section 20.05.080 shall renumbered accordingly. [8:23pm]

Amendment 03:
1. A new Section 46 for Ord 16-01 shall be created which shall modify the definition of the term "sign" so that the definition reads as follows:

"Sign. Any display or device placed on a property in any fashion

that can be seen from a public place or a public right-of-way that is designed, intended, or used to convey any identification, message or information other than an address number." [8:24pm]

It was moved and seconded to adopt Ordinance 16-01 as amended.

Granger thanked the staff.

Mayer also thanked the staff for their work.

Vote to adopt Ord 16-01 as amended [8:27pm]

Rollo noted that staff had a lot on their plate and also said thank you.

Piedmont-Smith noted that she was proud of staff, the planning commission, and the council for being the first city in Indiana if not the country to revise their sign ordinance in response to *Reed*.

Volan said that it was a shame that not-for-profits were one of the victims of the court case, but that city has sought to ameliorate the problem as best as was possible. He offered kudos to staff.

The motion to adopt Ordinance 16-01 as amended received a roll call vote of Ayes: 7, Nays: 0

It was moved and seconded that Ordinance 16-07 be introduced and read by title and synopsis. The motion was approved by a voice vote.

LEGISLATION FOR FIRST READING

Ordinance 16-07 – To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District – Re: Kirkwood Manor Historic District Located at 322 East Kirkwood Avenue (The Ellis Company, LP, Petitioner)

Ordinance 16-07 [8:27pm]

There were no comments in this segment of the meeting.

ADDITIONAL PUBLIC COMMENT

There were no changes to the council schedule.

COUNCIL SCHEDULE [8:28pm]

The meeting was adjourned at 8:31pm.

ADJOURNMENT

APPROVE:

Andy Ruff, PRESIDENT
Bloomington Common Council

ATTEST:

Nicole Bolden, CLERK
City of Bloomington