

City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 06 September 2023

Regular Session at 6:30pm



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
REGULAR SESSION
WEDNESDAY | 6:30 PM
06 SEPTEMBER 2023

*Council Chambers (#115), Showers Building, 401 N. Morton Street
The meeting may also be accessed at the following link:*

<https://bloomington.zoom.us/j/82298542351?pwd=cVBpUVZlZ2JlTHNlMzJBdnp2REdTQT09>

- I. **ROLL CALL**
- II. **AGENDA SUMMATION**
- III. **APPROVAL OF MINUTES:**
 - A. February 16, 2022 – Regular Session
 - B. September 21, 2022 – Regular Session
- IV. **REPORTS** *(A maximum of twenty minutes is set aside for each part of this section.)*
 - A. Councilmembers
 - B. The Mayor and City Offices
 - C. Council Committees
 - D. Public*
- V. **APPOINTMENTS TO BOARDS AND COMMISSIONS**
- VI. **LEGISLATION FOR SECOND READINGS AND RESOLUTIONS**
 - A. Resolution 23-16 - Calling for an Increase to the Salary of the City Clerk in the 2024 City Budget
- VII. **LEGISLATION FOR FIRST READINGS**
 - A. Ordinance 23-20 – To Amend Title 12 of the Bloomington Municipal Code Entitled “Streets, Sidewalks, and Storm Sewers,” Re: Establishing a New Section 12.04.130, Entitled “Obstructing the right-of-way”
 - B. Ordinance 23-21- To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic,” Re: Amending Section 15.32.150 to Remove the Four Hour Limit on All Accessible Spaces

*Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Individuals may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

Auxiliary aids are available upon request with adequate notice. To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail council@bloomington.in.gov.

Posted: 01 September 2023

VIII. ADDITIONAL PUBLIC COMMENT *

(A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

*Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Individuals may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

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Posted: 01 September 2023



**City of Bloomington
Office of the Common Council**

Minutes for Approval

16 February 2022 | 21 September 2022

In Bloomington, Indiana on Wednesday, February 16, 2022 at 6:30pm, Council President Susan Sandberg presided over a Regular Session of the Common Council. Per the Governor's Executive Orders, this meeting was conducted electronically via Zoom.

COMMON COUNCIL
REGULAR SESSION
February 16, 2022

Councilmembers present via Zoom: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Susan Sandberg summarized the agenda.

AGENDA SUMMATION [6:33pm]

There were no minutes for approval.

APPROVAL OF MINUTES [6:34pm]

Flaherty noted his upcoming constituent meeting.

REPORTS

Sims extended well wishes to everyone for Black History Month.
Rollo spoke about neighborhood trees.

- COUNCIL MEMBERS [6:35pm]

Sandberg expressed condolences to the families of Randy Paul and Jerard Powell who were two community members that had recently passed away.

Mayor John Hamilton spoke in favor of the proposed Catalent tax abatement with the city and encouraged council members to support it.

- The MAYOR AND CITY OFFICES [6:45pm]

Smith presented the Transportation Committee Report for the 2022 Sidewalk Funding Allocation.

- COUNCIL COMMITTEES [6:48pm]

There was a brief council discussion regarding some of the projects following the report.

Greg Alexander commented he appreciated the work the committee had done but more sidewalk projects should be given priority.

Public comment:

DJT inquired if the meeting would be recorded for future viewing.

Piedmont-Smith expressed her appreciation to the committee members and staff who were involved in the project.

Council comment:

Rosenbarger echoed Piedmont-Smith's appreciation of staff.

Rollo expressed gratitude towards the city staff and highlighted the limited funding available for sidewalk projects. He suggested that the city administration collaborate to develop a comprehensive plan for future sidewalk projects.

Flaherty conveyed his appreciation to all those who contributed to the project. He suggested that a significant portion of the city's budget should be dedicated to sidewalk projects.

Sims echoed the sentiments of thanks to the committee and stated that he supported the recommendation.

Rollo moved and it was seconded to approve the 2022 Transportation Committee Report.

The motion to approve the report received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to approve the Sidewalk Committee report [7:16pm]

Christopher Emge introduced himself as the new Advocacy Director of the Greater Bloomington Chamber of Commerce.

• PUBLIC [7:16pm]

Greg Alexander commented about the lack of snow removal cleanup on sidewalks.

Flaherty moved and it was seconded to appoint Mitch Rice to seat C-3 on the Bicycle and Pedestrian Safety Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:22PM]

Flaherty moved and it was seconded to reappoint Sarah Ryterband to seat C-3 and Ryne Shadday to seat C-6 on the Traffic Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Volan moved and it was seconded to reappoint Megan Parmenter to seat C-1, and Jeff Ehman to seat C-3 on the Utilities Services Board. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Volan moved and it was seconded to reappoint James Sanders to seat C-2 on the Martin Luther King, Jr. Birthday Celebration Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Volan moved and it was seconded to appoint Nana Amoah-Ramey to seat C-1 on the Commission on the Status of Women. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Rollo moved and it was seconded to appoint Chris Sturbaum to seat C-4 on the Historic Preservation Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Rollo moved and it was seconded to appoint Chris Corey to seat C-1 and Gerard Pannekoek to seat C-4 on the Bloomington Arts Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Rollo moved and it was seconded to reappoint Dairo Baez to seat C-1 and Francisco Ruiz Lemus to seat C-4 on the Commission on Hispanic and Latino Affairs Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Piedmont-Smith moved and it was seconded to reappoint Colin Murphy to seat C-4, and to appoint Matt Austin to seat C-3 and Sarah Congress to seat C-5 on the Commission on Sustainability. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Piedmont-Smith moved and it was seconded to reappoint Tracy Gates to seat C-1 and Eoban Binder to seat C-3 on the Parking Commission. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Sgambelluri moved and it was seconded to approve and ratify the following mayoral appointments for the Historic Preservation Commission: Marleen Newman to seat M-1, Doug Bruce to seat M-2, Daniel Schlegel to seat M-3, Sam DeSollar to seat M-4, John Saunders to seat M-6, Elizabeth Mitchell to seat M-7, Allison Chopra to seat M-8, and Reynard Cross to seat M-9.

The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 2 (Rollo, Smith).

LEGISLATION FOR SECOND
READING AND RESOLUTIONS
[7:38pm]

Rollo moved and it was seconded that Resolution 22-05 be read by title and synopsis only. The motion was approved by voice vote. Clerk Nicole Bolden read the legislation by title and synopsis, giving the committee do-pass recommendation of Ayes: 9, Nays: 0, Abstain: 0.

Rollo moved and it was seconded that Resolution 22-05 be adopted.

Alex Crowley, Director of Economic and Sustainable Development (ESD), presented the legislation. The legislation was the proposed tax abatement for Catalent. Andrew Espejo, General Manager of Catalent Bloomington, and Grant Echols, Director of Facilities and Engineering, gave an overview of the mission of Catalent and the proposed job expansion for the tax abatement.

Rollo asked the timeline for the proposed job positions to be created and filled.

Espejo said that due to the potential job growth in Bloomington, Catalent wanted to fill positions within six to twelve months.

Volan asked if additional bus routes, that might be needed for the job growth Catalent proposed, had been discussed with the Transportation Department.

Crowley said he had been in touch with the department and were in the early stages of planning.

Volan asked Crowley to be specific with their transportation goals to incentivize employees to reduce the number of miles traveled.

Crowley stated an example of an incentive was the organization of a vanpool for employees to travel together.

Volan asked about the possibility of implementing a parking cash-out program for employee incentives to reduce vehicles that traveled to Catalent.

Crowley stated it had not been discussed but they were open to discussion with Catalent for this type of program to reduce car travel.

Sgambelluri asked Crowley to elaborate on the twenty-year estimated number figure for the abatement and its total.

Crowley said the tax rate was a factor and had an effect on the number. He also explained the personal property abatement.

Flaherty asked Crowley to clarify if it was correct that there would be an additional 1,000 total jobs.

Crowley stated that it was correct and was based on the 52% of the County Optional Income Tax (COIT).

Flaherty asked if the city's portion of COIT would be \$1.35 million.

Crowley stated yes.

Rosenbarger expressed her concern about the housing market and asked about the possibility of revisiting the Unified Development Ordinance (UDO) discussion if the abatement led to the creation of 1,000 jobs.

Crowley said that apartment buildings were being constructed and the city was behind, but the Planning Department was looking at the UDO to improve the quality of affordable housing. Staff was

Resolution 22-05 - To Designate an Economic Revitalization Area, Approve the Statement of Benefits, and Authorize an Abatement Period for Real Property Improvements and Personal Property Re: Properties at 1300 S. Patterson Drive (Catalent Indiana, LLC, Petitioner)

Council questions:

considering the housing issue but did not want affordable housing to get in the way of the potential economic growth.

Rosenbarger asked for clarification on the turnaround time for the project.

Espejo responded that Catalent wanted to start the expansion right away, and to add the 1,000 jobs over the next five to seven years. The strategic team was working on implementing the expansion.

Crowley stated the type of growth that Catalent was looking to do attracted housing developers and potentially accelerated the housing development.

Piedmont-Smith asked how the council should interpret the value of the real estate and business personal property abatements which had totaled \$29.1 million dollars.

Crowley explained the levies were not tied to property taxes. The tax rate was based on assessed value and would slightly decrease if there was no abatement. He also stated the investment was proportional to the assessed value.

Piedmont-Smith asked if the \$350,000,000 investment was not abated, would the city see a tax rate decrease because the levy remained the same.

Crowley said yes.

Sgambelluri asked how the project would impact the consolidated Tax Increment Financing district (TIF).

Crowley said the TIF districts only captured real property, not personal property. He said without an abatement, \$10 million would flow into the TIF but 97% of the investment would be ineligible for TIF.

Sgambelluri asked Crowley to confirm that the city's ability to meet debt obligations would not be compromised by this project.

Crowley stated that was correct.

Rollo asked if the positions to be filled would be from residents within Bloomington and Monroe County or from surrounding counties.

Espejo stated that 52% of employees resided in Monroe County. They did not think that would change drastically.

Volan asked why the city should be solely responsible for the abatement when half of the employees lived outside Monroe County.

Crowley said that it was due to Catalent being in the city's jurisdiction and another county could not provide an abatement for the city.

Larry Allen, Assistant City Attorney, said there were no mechanisms in place to allow other counties to assist with the abatement. If the city wanted to share responsibilities with other jurisdictions it would take interlocal agreements with other surrounding counties to be prepared.

Volan asked about incentives for employees to live in Monroe County instead of somewhere else.

Crowley responded that the city was a regional economy and thousands of people lived in Bloomington and work at Crane. It was the individual's choice to decide where to live and where to work.

Volan commented he still did not understand the logic that Crowley explained and that he would wait for the comment period to make his point.

Resolution 22-05 (cont'd)

Flaherty asked what the potential impact of lost revenue would be for the city as a result of the abatement.

Crowley stated that communities with a decrease in their assessed value would see an increase in tax caps, which was a significant loss. Bloomington had experienced an increase in its assessed value and was not facing such losses, resulting in minimal impact.

Flaherty asked if it was correct that based on the increase in tax cap credits, that there would not be much loss to the city.

Crowley said that was correct, broadly speaking.

Piedmont-Smith asked what the value of previous incentives was for Catalent.

Crowley said there was a tax abatement in 2019 with a different structure and schedule than the current one. He said they focused on assessing the value of the abatement in terms of job creation and found that the current abatement cost only around \$29 per job, compared to the 2019 abatement's cost of about \$31,000 per job. That information was important for understanding the effectiveness of the current abatement.

Piedmont-Smith asked what the total abatement in 2019 was.

Crowley stated the total capital investment was \$125 million, the cumulative value of the abatement was \$6.2 million, and 200 jobs were committed.

Sandberg asked how the proposed abatement would impact other small businesses economically, due to the employee shortage in the city.

Crowley said all businesses were having challenges of employee shortages that were related to the pandemic. Staff hoped that growth would continue to progress.

Smith asked if he was correct in his assumption that if 1,000 jobs were created, and 52% of the employees were local and would earn \$60,000 a year that would equate to \$30 million in the local economy.

Crowley stated the annual amount of payroll would be \$33 million. The investment was a part of a growth curve that would take years.

Volan asked how many acres were being designated for parking.

Echols said it would be about 550 parking spaces.

Volan asked how Catalent anticipated 1,000 new jobs but only 550 parking spaces.

Echols responded that the shifts were balanced out since Catalent operated on a twenty-four hour basis.

Volan asked if Catalent had considered that a fifth of the land be for housing for employees instead of the parking, to reduce carbon footprint.

Espejo said they would discuss that with the strategic planning team.

Volan commented that he disliked parking more than he liked giving up city tax revenue, and that developing housing for employees would be beneficial to Catalent. He wanted to discuss that before confirming the resolution.

Crowley explained that was an unreasonable accommodation at the time, but that staff would work with Catalent for future opportunities for workforce housing.

There was a brief discussion between regarding the possible development of workforce housing on the Catalent campus.

Rollo asked about challenges regarding infrastructure that were either on-site or in the community that they should be concerned about.

Echols stated that he was not aware of any challenges that would be a roadblock to the potential investment.

Sgambelluri asked for clarification on the thirty year Economic Revitalization Area (ERA) abatement.

Allen said that the investment period had to be extended to ensure maximum abatement claim, and council had to conduct an annual evaluation of Catalent's performance. The personal property was exempt for twenty years and would undergo a reevaluation after ten years.

Flaherty asked what the current the annual taxable income for Catalent and the expected annual growth was, and would be after the investment.

Espejo said he did not have that information available but would follow up with council.

Flaherty said he was asking was because he was having a hard time weighing a sizable abatement. He asked for more details as to why that specific abatement was necessary.

Crowley stated that negotiations were necessary and challenging. The goal for the abatement was to signal to Catalent that the city saw the value of their potential investment in the community with the addition of new jobs and more.

Jacob Everett, Catalent advisor, McGuire Sponsel, said that while the tax climate was complex, and advisors to Catalent took into account all the layers of taxation and provided guidance to help make informed decisions.

Jen Pearl, President of the Bloomington Economic Development Corporation (BEDC) spoke in favor of the potential local economic growth for the local economy and supported the resolution.

Public comment:

Dave Conner, Chief Financial Officer of Harrell Fish, Inc., commented on how his company had contributed and partnered with Catalent. He urged the council to support the resolution.

Sarah Rogers noted the significant growth that Catalent had provided the community and urged the council to support the resolution.

Piedmont-Smith asked about the timeline for the confirmatory resolution if Resolution 22-05 passed that evening.

Council comments:

Allen said the vote on the resolution and the public hearing would be all on the same night but would have the tenday notice for the public hearing.

Piedmont-Smith asked what happened if council needed more time to vote on the resolution.

Stephen Lucas, Council Attorney, stated that there was no statutory requirement to hold a vote but there was a requirement to have a public meeting. If council needed to postpone for any reason it would be helpful for Catalent to get clarity on the reason.

Espejo said they were well into the strategic planning process and were hoping to conclude soon.

Crowley provided additional information on the process.

Sgambelluri asked what would give Catalent reservations about potentially growing in Bloomington.

Resolution 22-05 (cont'd)

Espejo stated that Bloomington was a great place for continued growth but would have competition with Kansas City and Wisconsin.

Volan asked why smaller businesses in the city that hired employees at the rate of \$16 an hour did not qualify for abatements. He asked if the city only targeted larger corporations.

Crowley stated that an abatement was the capital investment of the job and there was no bias towards larger employers or larger capital investments.

Rollo commented that Catalent had been a great partner in the community. He said even though 52% of the employees lived in the area and the other half live outside of the area, Bloomington served as a regional job hub. He thanked Crowley and the other presenters and said that he planned on supporting Resolution 22-05.

Smith said the investment would help revitalize parts of Bloomington and that he supported Resolution 22-05 and urged his colleagues to do as well.

Sgambelluri commented on how the Steel Mill industry in Gary, Indiana experienced fluctuations in its workforce, and how that affected the local community. She noted that Catalent had demonstrated a successful work initiative in Bloomington, and said she supported Resolution 22-05.

Sims said the city could lose a lot if they decided not to invest and would rather have the challenge of growth rather than of decline. He supported Resolution 22-05.

Flaherty acknowledged the possible consequences of denying the abatement. Bloomington should be able to attract investments and growth on its own, without the need for an abatement. He would vote in favor of Resolution 22-05 but wanted to voice his reservations.

Volan expressed similar concerns that Flaherty had regarding the size of the abatement. He strongly suggested that Catalent consider turning some of their parking spaces into housing for their employees to reduce their carbon footprint, as it would benefit Catalent, their employees, and the city. He would be voting in favor of the Resolution 22-05.

Piedmont-Smith commented on Catalent bringing Bloomington well-paying jobs and creating partnerships within the community. She strongly urged city officials to continue discussing the development of housing near the Catalent area and suggested implementing a structured parking system or creating more green space in the area. She expressed her support for Resolution 22-05 and said she looked forward to learning more about the financials that were involved.

Rosenbarger planned on voting in favor of the Resolution 22-05. She stated while there might be trade-offs regarding the proposal, council would be able to address housing shortages and transportation issues without sacrificing one over another. She expressed her interest in collaborating with Catalent and other employers to provide transit benefit programs and was excited about the new job opportunity.

Sandberg said quality of life and affordable housing was something that she was very passionate about. She commented on the wage shortage that the community was experiencing. She said that by supporting the Resolution 22-05, she was addressing those concerns.

Resolution 22-05 (cont'd)

The motion to adopt Resolution 22-05 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 22-05 [9:59pm]

There was no legislation for first reading.

LEGISLATION FOR FIRST READING [9:59pm]

There was no additional public comment.

ADDITIONAL PUBLIC COMMENT [10:00pm]

Lucas reviewed the upcoming council schedule and said council could consider canceling the Committee of the Whole meeting that was scheduled for Wednesday, February 23, 2022.

COUNCIL SCHEDULE [10:02pm]

Volan moved and it was seconded to cancel the Committee of the Whole (COW) scheduled for Wednesday, February 23, 2022.

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

Vote to cancel COW [10:02pm]

Volan moved and it was seconded to adjourn.

ADJOURNMENT [10:04pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ___ day of _____, 2023.

APPROVE:

ATTEST:

Sue Sgambelluri, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, September 21, 2022 at 6:30pm, Council President Susan Sandberg presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
September 21, 2022

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan

Councilmembers present via Zoom: Dave Rollo

Councilmembers absent: none

ROLL CALL [6:30pm]

Council President Susan Sandberg summarized the agenda.

AGENDA SUMMATION [6:31pm]

Rollo moved and it was seconded to approve the minutes of December 01, 2021, December 15, 2021, and September 14, 2022.

APPROVAL OF MINUTES [6:31pm]

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

December 01, 2021 (Regular Session)
December 15, 2021 (Regular Session)
September 14, 2022 (Special Session)

Sgambelluri announced her upcoming constituent meeting.

REPORTS

Piedmont-Smith said that she and Flaherty attended the Climate Leadership Summit in Richmond, Indiana. She briefly described some of the sessions and recommended it to others.

- COUNCIL MEMBERS [6:35pm]

Smith highlighted the kind actions and compassion of officers that he witnessed in the community.

John Zody, Director of Housing and Neighborhood Development (HAND), introduced Mary Morgan. Morgan, Director of Housing Security from Heading Home of South Central Indiana (HHSCI), gave a report detailing their overall mission to decrease homelessness and housing insecurity, and their vision to make homelessness rare, brief, and non-repeating. She noted the advisory board, current and upcoming projects, regional collaborations, cross-agency training, committees, outreach efforts, shelter check-ins, the Housing & Eviction Prevention Program (HEPP), Rental Renovation Pilot Project, Landlord Risk Mitigation Program, Community Loan Center, planned communications on the efforts and goals, and Indiana University (IU) courses, connections, and interns.

- The MAYOR AND CITY OFFICES [6:38pm]

Sgambelluri asked what the major sources of funding were.

Morgan stated that the city was a major contributor to the program. She understood that the city collaborated with the county in using funds from the American Rescue Plan Act (ARPA). She described the funding and its sources.

Sgambelluri noted the grant to HEPP funded by HHSCI and asked if there were going to be additional grants like that.

Morgan responded no but it could be considered in the future. She said the goal was to make programs like HEPP sustainable.

Piedmont-Smith asked if any HHSCI's committee members had lived experience of being unhoused.

Morgan said that was being worked on. The group recognized the need for inclusion but that it needed to be done well, without tokenizing the individual. Their perspective needed to be integrated.

Smith asked how data would be collected to inform HHSCI.

Morgan stated that full participation of all service-providers was necessary, but not completed, and relationships needed to be built with those organizations. She noted that the Homeless Management Information System (HMIS) was difficult to use. It might be a possibility to have an intern for data management, or a possibility for a grant-funded, full-time position.

There were no council committee reports.

Bradley Rushton, President of Local American Federation of State, County, and Municipal Employees (AFSCME) 2487, spoke about the importance of increasing compensation in the ongoing contract negotiations

William Coulter, Elm Height resident, spoke in support of increased compensation to AFSCME employees.

Stephen French played a video exchange between Cm. Rollo and Mayor John Hamilton at a meeting on May 04, 2022 related to employee compensation.

Christopher Emge, Greater Bloomington Chamber of Commerce, encouraged all residents to register to vote. He also noted an upcoming event, Elect Connect, to be held on October 03, 2022.

Dave Burnworth acknowledged the Bloomington Police Department, the State Police, and the Bloomington Fire Department for their efforts in capturing the individual who fled into the sewer system.

Greg Alexander spoke about the importance of sidewalks by telling an ironic story.

Dave Wolfe Bender, Director of Student Relations for Indiana University Student Government (IUSG), thanked the various public safety agencies for keeping everyone safe the previous day during the sewer incident, noted the upcoming Rosh Hashanah holiday, and IUSG's plan to support emergency contraceptives for the student body for the 2022-2023 academic year.

Paul Post, President of Fraternal Order of the Police, Lodge 88, in Bloomington, spoke on behalf of his organization in support of AFSCME.

There were no appointments to boards or commissions.

Rollo moved and it was seconded that Ordinance 22-23 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Clerk Nicole Bolden read the legislation by title and synopsis, giving the committee do-pass recommendation of Ayes: 0, Nays: 2, Abstain: 4.

Rollo moved and it was seconded that Ordinance 22-23 be adopted.

- The MAYOR AND CITY OFFICES (*cont'd*)

- COUNCIL COMMITTEES [7:09pm]

- PUBLIC [7:09pm]

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:25pm]

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:26pm]

Ordinance 22-23 – To Vacate A Public Parcel – Re: Two, 12-Foot Wide Rights-of-Way in the Lone Star Addition Within A Triangular-Shaped Block Bordered by West Cottage Grove on the North, West 10th Street on the South, and North Monroe Street on the West (Solomon L. Lowenstein, Jr. and

David Ferguson, counsel for the petitioner, presented the legislation to the council, and showed a visual map of the proposed area of vacation, as well as photographs to support the petitioner’s case. He explained the issues that prompted the petitioner to request right-of-way vacation and provided extensive details.

Julia G. Beerman, Petitioners)
[7:26pm]

Elizabeth Carter, Senior Zoning Compliance Planner in the Planning and Transportation department, briefly presented the legislation which summarized the presentation from the previous week’s meeting. She gave an overview of the petition timeline of the right-of-way vacation petition, noted the denial of the petition by the Board of Public Works (BPW), and gave a review of the criteria for evaluating vacation petitions. She listed the various departments, utilities, and agencies that offered recommendations related to the request.

Mike Rouker, City Attorney, gave a brief historical overview of the petitioner’s requests for an alley vacation. He clarified that the city had not inappropriately taken the petitioner’s property. He described the encroaching properties and said that it was the petitioner’s responsibility to identify any defects in the property at the time of sale. Rouker provided additional case law details in support of the city’s stance.

Piedmont-Smith asked if the proposed easement language the petitioner had sent to the city the previous week was acceptable to the City of Bloomington Utilities (CBU).

Council questions:

Chris Wheeler, Assistant City Attorney, said that CBU had not agreed to acceptable language for an easement and he did not know if it was relevant because CBU did not approve alley vacations. If council decided to vacate the alley, then CBU would need to look at the need for a replacement causeway or easement so the city would still be able to reach the current water line. The city was not currently using the alley, but did not know if it would be needed in the future.

Piedmont-Smith asked what happened if a private property owner refused to allow CBU workers access to their property for work.

Wheeler answered that the city did not have any utilities on the property, but accessed utilities behind the alley. He said that if the property owner did not want the city on their land, they would probably have to petition the courts.

Rouker added that there were several tools at the disposal of the city to enter private property.

Rollo asked about the usefulness of the proposed easement in exchange for the right-of-way that the city already possessed.

Wheeler said that without having walked the property lines himself, he could not say whether the proposed area would be more or less beneficial to the city.

Stephen Lucas, Council Attorney, reminded people that the meeting that evening served as the legal public hearing. He noted that if there were any objections or remonstrances from affected property owners that was the time to make them known.

Public comment:

There was no public comment.

Smith asked if there had been enough time to negotiate the matter between the parties.

Ferguson recalled that he and Wheeler agreed that they would be able to hash out language, should there be a need, for council approval of the legislation.

Wheeler recalled that Ferguson thought language supplied in a previous email would be acceptable. He reiterated that there was not an agreement and could not tell council that there would be one until there was a signed agreement in hand.

Smith paraphrased that there had not yet been enough time to finalize an agreement.

Ferguson said that was correct.

Volan asked for clarification of the timeline.

Lucas said that the filing of the petition by the property owner triggered a thirty-day window for the council to hold a public hearing, which was what they were doing that evening.

Volan asked if there was a deadline for action.

Rouker reiterated the deadline Lucas had explained, and noted that the process had been ongoing for over two years. If council believed more time was warranted, that was for councilmembers to decide.

Volan said that he was exploring all options.

Ferguson rebutted Rouker's earlier comments including the city's retention of an easement, the change in the petition from previous requests, and that originally the City of Bloomington Utilities (CBU) had not objected.

Flaherty asked about the merits of an easement versus a right-of-way.

Beth Rosenbarger, Assistant Director of Planning and Transportation, explained that right-of-way was city property that was owned outright. Easements were recorded agreements that allowed access onto a private property. Staff did not support the use of an easement in this case.

Rollo asked what use the city currently had for the specific right-of-ways at that location and in consideration of obstacles.

B. Rosenbarger said there were many uses for platted alleys. She described a redevelopment project that was using a platted alley for access, and explained the preference for reducing drive cuts on public streets. She noted that property ownership was transient and control over utility access could be lost if parcels were sold to separate owners in the future.

Rollo asked for clarification of the right-of-way location and utility placement on the map.

B. Rosenbarger answered that there was a standard width for alleys in the city.

Rouker added that the city frequently made improvements to right-of-way infrastructure.

Sandberg said her questions had been answered over the course of the evening and at the Committee of the Whole (COW) meeting. Alleys were a valuable resource for the city that should not be given up easily and she was not in support of the legislation.

Smith thought there was time for further discussion and proposed that council delay action so that easement language could be finalized.

Flaherty did not support the legislation. His vote would not change even with an easement agreement because it was not

known how or if the right-of-way would be used in the future. He was concerned about what would happen in the next 50-100 years.

The motion to adopt Ordinance 22-23 received a roll call vote of Ayes: 1 (Smith), Nays: 8, Abstain: 0. FAILED

Rollo moved and it was seconded that Resolution 22-17 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis. There was not a committee do-pass recommendation.

Rollo moved and it was seconded that Resolution 22-17 be adopted.

Flaherty provided a brief history of the legislation, and explained that its purpose was to have council guidance for city staff on the overlay district. He noted that alleys would be included in right-of way dedications. He explained other conversations that arose from the drafting of Resolution 22-17.

B. Rosenbarger said staff participated in drafting Resolution 22-17 and was available for any questions.

There were no council questions.

David Wolfe Bender, Director of City Relations for IUSG, spoke in favor of Resolution 22-17.

Phil Stafford, noted that the Commission on Aging called for an overlay in that area as a lifetime community district. He provided additional information on accessibility and aging.

William Coulter commented on the dangers of walking around the city and spoke about a recent incident he experienced.

Smith asked if what Stafford described was included in Resolution 22-17.

Flaherty responded that there was some overlap, but some of the things would not be contained in development code, which was what Resolution 22-17 was addressing. Some items noted by Stafford were under planning and not development. Other items like mixed use mobility options, access to amenities, livability, and more were part of principles of compact urban form and were included in the legislation. He invited community members to participate in the process to have the items included.

Smith asked if it was possible to attach the fifteen page report from the Commission on Aging.

Flaherty said it might be difficult to attach the report as an exhibit.

Lucas explained the appropriate process to attach a report, was for council to first see the report, prior to amending Resolution 22-17 and to not include it without seeing it.

Rollo shared Stafford's concerns and wished for the best outcome of the Hopewell site. He noted additional items that could be included in the process. Rollo supported Resolution 22-17.

Sims supported Resolution 22-17 and believed that the overlay was a continuation of the community discussion. He appreciated the concerns from the public speakers.

Ordinance 22-23 (cont'd)

Vote to adopt Ordinance 22-23 [8:19pm]

Resolution 22-17 – To Initiate a Proposal to Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code Re: Preparation of a Proposal to Amend Chapter 20.02 “Zoning Districts” and Related Sections to Establish an Overlay District and Related Development Standards for the Hopewell Neighborhood

Council questions:

Public comment:

Council comments:

Smith stated he learned a lot from the process and what could be done during development. He supported Resolution 22-17.

Resolution 22-17 (cont'd)

Volan thought the process had worked well, and that the overlay was thoughtfully considered and drafted. It was important to take time with legislation.

Flaherty commented on the process and said that Resolution 22-17 was not the end and that discussions would continue. This was an opportunity to explore development standards. Pedestrian scale design considered things like first floor residential, where homes were at grade and right by the sidewalk, and were uncomfortable to live in. He also commented on parking, both minimums and maximums, and what developers could build.

Sandberg thanked her colleagues and said that originally, many councilmembers did not want to vote on the alley vacations for the Hopewell site to allow more time for the community conversations in the development of the site. She commended staff for their discussions regarding the site.

The motion to adopt Resolution 22-17 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 22-17 [8:46pm]

Rollo moved and it was seconded that Ordinance 22-24 be read by title and synopsis only. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0. Bolden read the legislation by title and synopsis. There was not a committee do-pass recommendation.

Ordinance 22-24 – To Amend Title 2 of Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Amending Article VI of Chapter 2.04 (Common Council) to Establish Councilmanic Districts for the City of Bloomington [8:47pm]

Rollo moved and it was seconded that Ordinance 22-24 be adopted.

Lucas summarized Ordinance 22-24 and the Citizens’ Redistricting Advisory Commission (CRAC) as well as state law requiring redistricting. Redistricting requirements included districts that were contiguous, reasonably compact, and populations as equal as possible. Districts could not cross county precinct lines, and had to comply with federal laws, constitutional laws, and the voting rights act. He noted additional information that guided the redistricting, and explained council’s role and possible procedural outcomes.

Alex Semchuck, Chair, CRAC, discussed the process and the proposed new district map, and highlighted some key considerations.

There was brief council discussion regarding process and the introduction of an amendment.

Lucas explained the actions council could take that evening, and provided information regarding annexation.

Piedmont-Smith asked how CRAC had considered the student population.

Council questions:

Semchuk said that there were students throughout the city and it was difficult to group them together. Commissioners believed that IU could be its own district but that was also difficult to do.

Volan said there were around forty three thousand students and asked why CRAC had not put all of the students into one district.

Semchuk explained that the size of that district would be enormous. He said that the average district had twelve to fifteen thousand people.

Ordinance 22-24 (cont'd)

Piedmont-Smith asked how CRAC viewed minority populations in the city and if the idea was to spread them out in order to have a voice in each district, or to concentrate them in one district.

Semchuk said that one mapping tool was population density based on race and ethnicity, and that was one of the final components CRAC considered. The good news was that the minority populations were fairly equally represented across the districts. He provided additional information on how CRAC used that information in shaping the districts.

Piedmont-Smith asked about socioeconomic status factors in the proposed map.

Semchuk said that was not robustly discussed and explained that the goal was to make the districts as compact as possible, and to have them be contiguous.

Sandberg asked Semchuk to describe some of the challenges, and tools, CRAC had used. She asked if CRAC felt they had sufficient time to complete the task of proposing a redistricting map.

Semchuk stated that CRAC had the support of council staff to assist with the process and mapping tools. He said it was difficult to ensure that the precincts were not divided and members had to weigh things out to make the districts appropriate. He provided examples like precincts Perry 12 and 13, types of neighborhoods, and more. He also believed that there had been sufficient time though scheduling had been tricky.

Sandberg asked about prep work in between meetings.

Semchuk responded that there were three commissioners that had created their own maps for research purposes. That analysis was done in between CRAC meetings.

Sandberg asked if any maps had been submitted by the public.

Semchuk said yes and that all maps were considered, except those that had a high population deviation or continuity issues. He reiterated that every map was looked at.

Rosenbarger asked for clarification on what CRAC looked at regarding communities, such as not splitting up Elm Heights.

Semchuk stated that current districting had Elm Heights in three separate districts. CRAC intended to keep communities as undivided as possible.

Rollo asked if it was correct that CRAC had had enough time and if the proposed map was unanimously drafted or if there was dissent.

Semchuk explained he felt that there had been sufficient time. He said that the final map was voted on, and referenced the minutes. He said all the drafted maps had pros and cons.

Volan stated that he had intended to propose an amendment but due to procedural issues, an amendment was not in order, but recommended a third reading. He also recommended sending the map back to CRAC with written instructions and to consider the map Volan had drafted. He explained his intent with drafting the redistricting ordinance, and noted the impact from annexation. This was the first time Bloomington had a redistricting commission. Volan drafted the legislation based on guidance from the League of Women Voters (LWV). He noted the difficulties in obtaining membership on CRAC through no fault of the commissioners, but through the strict restrictions. He thanked the commissioners for their work. He believed the proposed map had issues. The interpretation of the hierarchy of the criteria had not had sufficient time and resulted in concerns. Volan stated that

since he had a vested interest in the new districts, he opted to not attend or voice concerns at CRAC meetings. He was concerned with having 3rd Street as a boundary and that it was impossible to not have a district cross it. He presented an alternative that still used 3rd Street as a boundary but only one district crossed it and was more compact. He provided additional concerns, as well as, considerations for CRAC should it be asked to redraft a map. He discussed compactness of precincts, and the county's revision of precinct maps, which had not changed in decades, the student population, and residence halls. He said that the residence halls, sororities, and fraternities were a neighborhood, like Elm Heights. Volan commented on the need to have students participate in local government. He spoke about several other precincts that included large areas with no housing like Dunn Meadow. He also discussed housing in general, students, and the consideration of building maps with districts focused on including students and giving them a voice in governmental affairs. He provided extensive information on three maps he was proposing for consideration of which he recommended Map 18.

Lucas explained population deviation and that council needed to consider the deviation between the districts with the highest, and lowest, populations.

Volan added that it was important to keep like communities together within a district.

Flaherty asked for clarification on population deviation.

Lucas explained how to correctly use population deviation, in compliance with the requirements.

Volan concluded that the redistricting process allowed for back and forth between council and CRAC.

There was brief council discussion on how to proceed that evening.

Semchuk stated that having one group of people be the ultimate community was a dangerous assumption. Having most students in one district was foolish and very difficult to do. He provided additional reasons against oversimplifying. He explained how the calculations were done by CRAC to draft the proposed map.

Volan disagreed that it was not feasible or ideal to attempt to design a district map that placed students together. He said that he would look into his maps in order to verify the compactness of the districts, and the population deviation.

Sgambelluri said she was troubled by the notion that students could not be well-represented by a non-student, and asked Volan for clarification.

Volan clarified his experience with students being dismissed and not counting in local government. Students were not affirmatively encouraged to take part in local government. There was no better way to do that than to have a district where only a student could be elected. Student participation on council would be beneficial to the city.

Rollo said that the proposed CRAC map had a district that was around 85-90% students.

Volan did not deny that there were mostly students in District 6 but there was an opportunity to do more. Residence halls were regularly divided up into different districts. He urged that the districts not favor compactness over a community of interest.

Ordinance 22-24 (cont'd)

Rollo asked if what Volan wanted was a district with 99-100% students.

Volan said yes, and asked why not that do.

Sims explained the harm in grouping certain community members together and made the comparison of grouping together all the Black people in the city. He said that if a Black community member wanted to run for council, they were encouraged to run At-Large so that the entire city had the opportunity to vote for them. He asked what Volan thought of that.

Volan explained that the Voting Rights Act of 1965 considered packing, which put everyone into one district, and cracking, which spread like-communities up so that they could not win a district. He said some students lived in a communal areas like residence halls and were a community of interest. Those neighborhoods would not ever house non-students.

Sims stated that students were not monolithic.

Sgambelluri asked if there were other groups that merited affirmative encouragement.

Volan responded that federally there were requirements, like not discriminating against communities of color. He said that the principle of considering students as a community was similar and especially so because Bloomington was a college town. Students were numerous and lived in close proximity to each other.

Dave Askins, B Square Bulletin, thanked the Metrics, Geographic, Geometry, and Gerrymandering group at Tufts University for the Bloomington edition of their software, free of charge.

Public comment:

William Coulter spoke about undergraduate and graduate students. He said that undergraduate students were not adults and were adolescents.

David Wolfe Bender was disappointed in some opinions that were unfavorable towards students. He discussed CRAC's map, logistical hurdles, other college towns, voting, and how Bloomington existed for both students and full time residents.

Rollo commented that he had trepidation in council interfering with the process. He said CRAC's map satisfied the requirements.

Council comments:

Rosenbarger supported moving Ordinance 22-24 to a third reading.

Sims believed that CRAC did what it was tasked with doing. He commented on districting, populations, building relationships, voting, and some concerns with voting.

Smith said that he would support the map drafted by CRAC because it achieved its purpose.

Piedmont-Smith said that the information presented by Volan was interesting and she urged council to move Ordinance 22-24 to a third reading.

There was brief council discussion on scheduling.

Lucas noted the timeline by law, as well as the consideration of scheduling CRAC meetings.

Flaherty stated that Volan had made an important point in weighing and balancing different criteria. Precinct boundaries

caused districts to have odd shapes. He commented on hearing from the student community as well as the possibility of allowing for more time to consider the map.

Ordinance 22-24 (cont'd)

Sgambelluri thought that the greatest emphasis should be on the integrity of the process in selecting the districts. She was hesitant to involve council in that process, and acknowledged some of the concerns brought up that evening. She would support sending Ordinance 22-24 to a third reading.

Volan said that Coulter's comments, which called students children, proved Volan's point. There was bias against students who as eighteen year olds had a federal right to vote. He commented on the census process, peoples' length of time living in the city, and population growth. The maps he drafted would end his career with District 6. He commented on the timeline for drafting the map, the bias against students, and urged council to study the maps he would propose. He was only asking CRAC commissioners and council to reconsider their assumptions.

Rollo believed that Volan's maps would involve council in the districting process which was not ideal. He thought it was best to see if the map drafted by CRAC had fulfilled the requirements.

Sandberg said council had the ability to make recommendations to CRAC, and ask to have alternative maps drafted by the commission. It was not council's purview to draft districts.

Volan commented that in drafting the legislation for a redistricting commission, he had intended to follow the LWV's recommendation and to include a mechanism for a court to be able to override the council, but that was not allowed. The council was the ultimate jurisdiction over the maps, since a court could not intervene. He provided additional details on students.

Lucas explained options council had that evening, including adopting the recommendation from CRAC by passing Ordinance 22-24, postponing it, or not passing it which would then reject the drafted map. At that point, CRAC would have additional options in returning a new map, or the same one. He provided more details.

Sandberg asked if a third reading was necessary to make new recommendations to CRAC.

Lucas confirmed that more time would be needed to draft the recommendations.

Piedmont-Smith moved and it was seconded to postpone further consideration of Ordinance 22-24 to Thursday, October 06, 2022.

There was brief council discussion concerning scheduling.

Piedmont-Smith amended her motion.

Piedmont-Smith moved and it was seconded to postpone further consideration of Ordinance 22-24 at a Special Session on Thursday, October 06, 2022 to convene at 5:00pm and end no later than 6:00pm.

The motion to postpone consideration received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to postpone consideration of Ordinance 22-24 [10:54pm]

There was no legislation for first reading.

LEGISLATION FOR FIRST READING [10:54pm]

Bradley Rushton asked council to consider other aspects of transportation types, like lithium batteries, which stored energy while internal combustion engines created energy. Electric drive was the future but the technology was not caught up yet.

ADDITIONAL PUBLIC COMMENT
[10:55pm]

Semchuk noted the addition of the bus line to Ivy Tech was very helpful and thanked council for its support of that.

Volan moved and it was seconded to cancel the Committee of the Whole on October 06, 2022. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

COUNCIL SCHEDULE [11:00pm]

Lucas reviewed council’s upcoming schedule.

Volan moved and it was seconded to adjourn. Sandberg adjourned the meeting.

ADJOURNMENT [11:01pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2023.

APPROVE:

ATTEST:

Sue Sgambelluri, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

For Approval



MEMO FROM COUNCIL OFFICE ON:

Resolution 23-16 - Calling for an Increase to the Salary of the City Clerk in the 2024 City Budget

Synopsis

This resolution is sponsored by Councilmember Flaherty. It expresses the Common Council's intent to increase the salary for the City Clerk. In that regard, the resolution requests that the Mayor pursue any necessary and appropriate action to effectuate the increase as part of the 2024 city budget.

Relevant Materials

- [Resolution 23-16](#)

Summary

[Resolution 23-16](#) would express the Council's intent to increase the salary for the City Clerk for 2024 and would request that the Mayor and Controller take appropriate action to reflect the increase in their preparations of the 2024 city budget. During the departmental budget hearings on the 2024 city budget, the City Clerk requested that the compensation for the office of City Clerk be increased to a level commensurate with the salaries for city department heads. This resolution would express the Council's intent to increase the salary to \$104,089.

[Indiana Code 36-4-7-2](#) provides that "[t]he city legislative body shall, by ordinance, fix the annual compensation of all elected city officers." It also provides that "[t]he compensation of an elected city officer may not be changed in the year for which it is fixed nor may it be reduced below the amount fixed for the previous year."

[Ordinance 22-27](#), adopted by the Council on October 12, 2022, set the annual salaries for all elected city officials for the year 2023. That ordinance fixed the annual salary of the City Clerk at \$64,733 for 2023.

A similar ordinance setting 2024 salaries for elected officials is scheduled for Council consideration on September 27, 2023 (with a planned first reading and discussion of the ordinance at that meeting) and on October 11, 2023 (with a planned second reading and potential final action at that meeting). Because the 2024 salary ordinance for elected officials will be considered at the same time as the 2024 civil city budget appropriation ordinance, the ability to contemporaneously reflect any changes made to the salary ordinance within the budget appropriation ordinance will be constrained.



According to the Human Resources Department, during a 2016-2017 salary study, consultants compared the Bloomington City Clerk's job duties with those in other Indiana cities to come up with the peer cities listed below. This was because the responsibilities of Clerks vary widely (some with comparable responsibilities to a Mayor or Controller). This study was conducted at a point in time and the usefulness of these comparisons decreases if job responsibilities, complexity, or other aspects of the job (in Bloomington or the other cities) have changed significantly since 2017.

The 2022 salaries for the City Clerk in each city are listed and were obtained from the [Indiana Gateway](#) employee compensation portal. A 10% increase was included to reflect a 5% cost of living increase in 2023 and a projected 5% cost of living increase for 2024.

City	2022	10% Increase
Anderson	\$57,520	\$63,272
Terre Haute	\$57,937	\$63,731
Mishawaka	\$64,164	\$70,580
Noblesville	\$64,336	\$70,770
Fishers	\$67,498	\$74,248
Evansville	\$67,866	\$74,653
Elkhart	\$70,000	\$77,000
Greenwood	\$70,029	\$77,032
Gary	\$74,727	\$82,200
Lawrence	\$78,856	\$86,742
Fort Wayne	\$90,352	\$99,387
AVERAGE		\$76,329
MEDIAN		\$74,653

The sponsor notes that this resolution alone would not have a fiscal impact. However, the resolution calls for increases to a salary that, if carried out, would have a fiscal impact, which should be calculated and provided alongside any future legislation to effectuate that increase.

Contact

Cm. Matt Flaherty, 812-349-3409, matt.flaherty@bloomington.in.gov

RESOLUTION 23-16

**CALLING FOR AN INCREASE TO THE SALARY OF THE CITY CLERK IN THE
2024 CITY BUDGET**

WHEREAS, Indiana Code § 36-4-7-2 provides that the city legislative body shall, by ordinance, fix the annual compensation of elected city officers; and

WHEREAS, the City Clerk has requested that the compensation for the office of City Clerk be increased to a level commensurate with the salaries for city department heads; and

WHEREAS, the City Clerk's role as an elected official is a unique position within the city, with duties imposed by state and local code and with a supervisory role parallel to that of numerous peer department heads and staff members overseeing the Legal Department, Human Resources Department, and Council Office; and

WHEREAS, the City Clerk's compensation is not commensurate with that of other department heads within the city and is not commensurate with the salaries for other city clerks in second class cities across the state; and

WHEREAS, a fair and equitable compensation structure for elected officials is essential for a thriving democracy; and

WHEREAS, the Common Council wishes to express its intent to fix the salary of the City Clerk at \$104,089 so that any needed measures to reflect the same in the 2024 city budget by the Mayor and Controller can be taken in a timely manner;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Section 1. The Common Council hereby expresses its intent to fix the salary of the City Clerk at \$104,089 and requests that the Mayor pursue any necessary and appropriate action to effectuate this increase as part of the 2024 budget proposal.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2023.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This resolution is sponsored by Councilmember Flaherty. It expresses the Common Council's intent to increase the salary for the City Clerk. In that regard, the resolution requests that the Mayor pursue any necessary and appropriate action to effectuate the increase as part of the 2024 city budget.



MEMO FROM COUNCIL OFFICE ON:

**Ordinance 23-20 - To Amend Title 12 of the Bloomington Municipal Code
Entitled “Streets, Sidewalks, and Storm Sewers”**

Re: Establishing a New Section 12.04.130, Entitled “Obstructing the right-of-way”

Synopsis

Ordinance 23-20 clarifies that placing obstructions within the public’s right-of-way or otherwise obstructing the public’s right-of-way is impermissible, and the ordinance defines the circumstances under which the right-of-way is considered to be obstructed.

Relevant Materials

- Ordinance 23-20
- Memo from Legal Department
- Board of Public Works Resolution 2023-56

Summary

Ordinance 23-20 would amend [Title 12](#) (“Streets, Sidewalks and Storm Sewers”) of the Bloomington Municipal Code (“BMC”) to add a new Section 12.04.130, entitled “Obstructing the right-of-way”. As the Legal Department’s memo notes, this proposed section is modeled off of an [Indianapolis regulation](#) addressing obstructions of the public right-of-way in that community.

The Board of Public Works considered the proposal at its [meeting](#) on August 15, 2023 and unanimously recommended the ordinance now coming to the Common Council.

The proposed regulation would prohibit obstructing pedestrian traffic, vehicular traffic, or public travel on any sidewalk, street, or other public right-of-way by camping in the public right-of-way, storing personal property in the public right-of-way, or otherwise blocking the public right-of-way. The regulation provides that a sidewalk, street, or other public right-of-way will be considered obstructed under any of the following four scenarios:

- half of the width of the sidewalk, street, or other public right-of-way is blocked at any point;
- the normal flow of pedestrians or vehicles is disrupted;
- pedestrians are compelled to step onto the street or otherwise expose themselves to danger in order to pass around the blockage; or
- the sidewalk, street, or other public right-of-way is rendered inaccessible to those protected by the Americans with Disabilities Act (ADA) or other local, state, and federal laws.



City of Bloomington Indiana

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In recognition of the various permits and licenses that the city issues for different, specific uses of the public right-of-way that might otherwise violate this prohibition, the ordinance states that there is no violation when an individual obstructs the right-of-way in a manner consistent with a permit or other authorization to utilize the right-of-way in a particular manner.

When an individual obstructs pedestrian traffic, vehicular traffic, or public travel on any sidewalk, street, or other public right-of-way, the ordinance provides that the city must give the individual at least one opportunity to remove the obstruction before taking further action. If the individual does not remove the obstruction, the city may at that point clear the right-of-way. The city will also consider the individual to be trespassing after failing to remove an obstruction once given an opportunity to do so.

The Legal Department has indicated that fines for violating this new section could be imposed under the general violations provision of the BMC ([01.01.130](#)), but that the imposition of fines is not the primary goal of the proposal. Rather, the city administration wishes to make explicit the city's ability to keep the public right-of-way open to all members of the community for its intended travel purposes.

An individual aggrieved by an enforcement action would have the ability to challenge the action through the Monroe County Circuit Court. The Legal Department has indicated that there is no expected fiscal impact to the city as a result of adopting this ordinance.

Contact

Mike Rouker, City Attorney, 812-349-3426, roukerm@bloomington.in.gov

Adam Wason, Director, Public Works Department, 812-349-3410,

wasona@bloomington.in.gov

ORDINANCE 23-20

**TO AMEND TITLE 12 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “STREETS, SIDEWALKS, AND STORM SEWERS”**

Re: Establishing a New Section 12.04.130, Entitled “Obstructing the right-of-way”

- WHEREAS, pursuant to Indiana Code §§ 36-9-2-5, 36-9-6-15, 36-9-2-7, 36-9-2-6 and other legal authorities, the City of Bloomington (“City”) has the power and responsibility to act as a conscientious and diligent steward of the public’s right-of-way; and
- WHEREAS, the public’s right-of-way, which includes but is not limited to streets and sidewalks, is a common good intended for the free and open travel of the public at large and should not be appropriated for the use of singular individuals or entities to the exclusion of other members of the Bloomington community; and
- WHEREAS, individuals and entities frustrate, impede, and/or exclude the general public from using the right-of-way when they camp upon, store personal property upon, or place obstructions within the public’s right-of-way; and
- WHEREAS, among its other duties, the City has a responsibility to ensure that the public’s right-of-way is accessible and available to all members of the Bloomington community, including persons with disabilities and persons with limited mobility who are particularly vulnerable to right-of-way obstructions; and
- WHEREAS, the City should take steps to prevent individuals and entities from impermissibly obstructing the public’s right-of-way;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. A new Section 12.04.130 of the Bloomington Municipal Code entitled “Obstructing the right-of-way” shall be added to Chapter 12.04, which shall be listed as such in the Table of Contents for the chapter and shall read as follows:

Section 12.04.130 - Obstructing the right-of-way.

- (a) It is unlawful to camp in the right-of-way, store personal property in the right-of-way, or otherwise block the right-of-way in a manner that obstructs pedestrian traffic, vehicular traffic, or public travel on any sidewalk, street, or other public right-of-way. A sidewalk, street, or other public right-of-way is considered obstructed if:
- (1) more than half of its width is blocked at any point;
 - (2) the normal flow of pedestrians or vehicles is disrupted;
 - (3) pedestrians are compelled to step onto the street or otherwise expose themselves to danger in order to pass around the blockage; or
 - (4) it is rendered inaccessible to those protected by the Americans with Disabilities Act (ADA) or other local, state, and federal laws.
- (b) Individuals obstructing pedestrian traffic, vehicular traffic, or public travel on any sidewalk, street, or other public right-of-way shall be afforded at least one opportunity to remove the obstruction. Should an individual fail or refuse to comply, the City may immediately clear the right-of-way. Individuals who fail or refuse to remove an obstruction in the right-of-way after being required to do so are considered to be trespassing.
- (c) It is not a violation of this section for an individual lawfully permitted or authorized to utilize the right-of-way to obstruct the right-of-way in a manner consistent with said permit or authorization.

SECTION 2. If any section, sentence or provision of this ordinance, or application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in effect after its passage by the Common Council and approval of the Mayor, any required publication, and, as necessary, other promulgation in accordance with the law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2023.

NICOLE BOLDEN, Clerk

SIGNED AND APPROVED by me this _____ day of _____, 2023.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

Ordinance 23-20 clarifies that placing obstructions within the public's right-of-way or otherwise obstructing the public's right-of-way is impermissible, and the ordinance defines the circumstances under which the right-of-way is considered to be obstructed.

MEMORANDUM

CITY OF BLOOMINGTON LEGAL DEPARTMENT

TO: Common Council
FROM: City of Bloomington Legal Department
RE: Ordinance 23-20
DATE: September 6, 2023

Ordinance 23-20 proposes adding a new Section 12.04.130 to the Bloomington Municipal Code, entitled “Obstructing the right-of-way.” Ordinance 23-20 is modeled on Indianapolis’ ordinance governing right-of-way obstructions and comes to the Common Council from staff and from the Board of Public Works.¹

In legal terms, a “right-of-way” establishes the right to pass through property owned by another. Public right-of-way provides a right of passage to all persons. Conceptually, public right-of-way exists to let all members of a community travel from one place to another. For local governments including Bloomington, properly establishing and then responsibly stewarding the public’s right-of-way to serve this core purpose is a universal and core mission.

Because enabling travel for all is the primary purpose for public right-of-way, any other use is secondary. Accordingly, the Code carefully regulates when and how a private actor may use the public’s right-of-way for their own purposes and interfere with the right of way’s principal purpose of public travel. The Code outlines in detail the relevant permitting and licensing processes for:

- Seating encroachments
- Merchandise encroachments
- Right-of-way excavation permits
- Shared-use motorized scooters
- Pushcarts
- Mobile food vendors
- Velocabs
- Special events
- Taxicabs
- Physical encroachment agreements

¹On August 15, 2023, the City of Bloomington Board of Public Works amended and then unanimously recommended that the City Council adopt Ordinance 23-20. Pursuant to Indiana Code § 36-9-6-2, the Board of Public Works is the body charged with supervising and managing the public’s right-of-way.

In each of these cases, the City carefully considers the impact on public access to the right of way and reviews and approves the proposed use before approving it through a license or permit. In this way, the City acts evenhandedly toward the public, protects the public's interest in the use of the right-of-way, and ensures that the City fulfills its legal obligation to keep the right-of-way open for travel.

In this regard, it is critical to note that under the Americans with Disabilities Act (ADA), the City has an affirmative responsibility to make sure the public's right-of-way is available for safe travel by community members and visitors experiencing mobility challenges. ADA considerations are top of mind when the City reviews a private request for a seating encroachment, special event closure, maintenance of traffic plan, or right-of-way excavation permit, and the City's increased scooter enforcement activities.

Ordinance 23-20 is designed to provide clear and more direct authority than current code language for addressing obstructions in the public right of way.² Ordinance 23-20 does this by defining the circumstances under which a sidewalk, street, or public right-of-way is considered obstructed. The Ordinance states that a sidewalk, street, or right-of-way is obstructed:

- (1) if more than half of its width is blocked at any point;
- (2) if the normal flow of pedestrians or vehicles is disrupted;
- (3) if pedestrians are compelled to step onto the street or otherwise expose themselves to danger in order to pass around the blockage; or
- (4) if it is rendered inaccessible to those protected by the Americans with Disabilities Act (ADA) or other local, state, and federal laws.

As noted above, Ordinance 23-20 largely mirrors the approach that Indianapolis, another progressive community, has taken to public right-of-way obstructions. Ordinance 23-20 directs that someone causing a right-of-way obstruction must be given an opportunity to eliminate the obstruction; staff's hope and expectation is that this will avoid the need for further enforcement activity.

Notably, Indianapolis' "Obstruction of public right-of-way prohibited" ordinance appears within an article of Indianapolis' Code titled "Protections for the Homeless." Indianapolis' Ordinance, and Bloomington's proposed Ordinance 23-20, serve dual purposes: (1) they provide an important tool for the City to make sure the right-of-way may be safely used by everyone, and particularly those residents who are most vulnerable to right-of-way obstructions; and (2) they provide clear guidance to our community on ways to lawfully use the right-of-way without

² Ordinance 23-20 is intended to address obstructions generally; staff plans to bring to Council proposed code changes with respect to micromobility travel methods (bikes, e-bikes, and seated and standing scooters) that will specifically address obstructions those items may cause in the right of way.

inhibiting the right-of-way's primary purpose: travel. Staff recommends that the Council adopt Ordinance 23-20.

**RESOLUTION 2023-56
OF THE
CITY OF BLOOMINGTON
BOARD OF PUBLIC WORKS**

RECOMMENDATION TO ADOPT RIGHT-OF-WAY OBSTRUCTION ORDINANCE

WHEREAS, the City of Bloomington has responsibility to ensure that the public's right-of-way is accessible and available to all members of the Bloomington community; and

WHEREAS, the City of Bloomington recommends taking steps to prevent individuals and entities from impermissibly obstructing the public's right-of-way; and

WHEREAS, the Board of Public Works is the body responsible for the public's right-of-way within the City of Bloomington; and

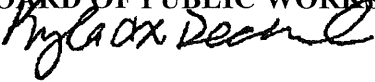
WHEREAS, staff have prepared a proposed city ordinance to change the Bloomington Municipal Code to address obstructions in the right-of-way, which is attached to this Resolution as Exhibit A;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF PUBLIC WORKS THAT:

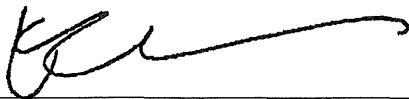
The Board hereby recommends that City Council adopt the proposed ordinance, attached to this Resolution attached as Exhibit A.

ADOPTED THIS 15th DAY OF AUGUST, 2023

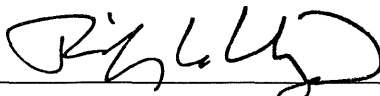
BOARD OF PUBLIC WORKS



Kyla Cox Deckard, President



Elizabeth Karon, Vice President



Jennifer Lloyd, Secretary

MEMO FROM COUNCIL OFFICE ON:

Ordinance 23-21 – To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic,” - Re: Amending Section 15.32.150 to Remove the Four Hour Time Limit on All Accessible Spaces

Synopsis

This ordinance approves changes to Bloomington Municipal Code Section 15.32.150 in order to include a time limit on accessible parking spaces only in parking lots or zones that impose time limits on non-accessible spaces, and to remove time limits on accessible parking spaces in parking lots or zones that do not otherwise impose time limits.

Relevant Materials

- Ordinance 23-21
- Redline – Section 15.32.150 as Modified by Proposed Ordinance 23-21
- Staff Report from Audrey Brittingham, Assistant City Attorney

Summary

Ordinance 23-21 would amend Bloomington Municipal Code (BMC) Section [15.32.150](#) to regulate accessible parking spaces similar to non-accessible spaces with respect to overall time limits on those spaces. The administration is bringing these changes to align City parking regulations with the City policy prohibiting discrimination on the basis of disability (BMC [2.21.020](#)) and with the [Americans with Disabilities Act](#) (ADA).

As currently written, BMC 15.32.150 limits parking in all accessible spaces, including within two-hour parking zones, metered spaces, and city lots, to a total of four hours. As the staff memo notes, that time limit was in effect due to the majority of downtown parking being limited to two-hour zones before the installation of metered spots.

Now, because the majority of downtown on-street parking consists of metered spaces with no time limit, this amended section would remove the overall time limit for accessible spaces in metered zones. This would allow accessible spaces in metered zones to be treated the same as non-accessible spaces in metered zones that do not have an overall time limit.

A brief history of Title 15 to more fully explain why this change is needed:

The original repeal and replacement of Title 15, through [Ordinance 82-1](#), created BMC 15.32.150. The language in subsection (a) originally stated: “A number of parking spaces on public streets shall be reserved for use by physically handicapped persons. Parking time limits, fees and other regulations in this title generally in effect for spaces in adjacent areas shall apply as well to those spaces for parking by handicapped persons.” This original language treats accessible spaces similarly to non-accessible spaces for purposes of ADA compliance.

This language was not changed until [Ordinance 92-26](#) created the first version of the overall time limit on accessible spaces: “** All handicapped parking spaces within the 2 hour limit parking zones shall be limited to 4 hours.” Because all downtown on-street parking spaces back in 1992 had a two-hour limit, imposing a four-hour overall limit on accessible spaces did not treat accessible spaces any worse than non-accessible ones.

Once [metered parking spaces were installed](#) in the late summer of 2013, non-accessible metered spaces no longer had an overall time limit – but accessible spaces in metered zones still did. [Ordinance 15-08](#) sought to replace the schedule of accessible spaces and, at the very bottom, included an amended overall time limit for accessible spaces in not just two hour zones but also metered spaces and city lots: “All handicapped parking spaces within the two-hour limit parking zones, on-street metered areas, and City parking lots shall be limited to four hours.”

The most recent change to BMC 15.32.150 came in [Ordinance 18-26](#), which deleted and replaced it with its current form. The only difference between the two most recent ordinances with regard to the language affecting the overall time limit on parking in accessible spots is the word “handicapped.” The overall time limit that remains within code is a vestigial remnant of when downtown parking was all two-hour parking. Because it treats accessible spaces in metered zones worse than non-accessible spaces in the same zones, the City has not enforced the overall four-hour limit on accessible spaces. The administration now seeks to codify this practice.

The administration has stated it expects a very minimal fiscal impact, if any, as a result of this ordinance.

Contact

Audrey Brittingham, Assistant City Attorney, 812-349-3426,
audrey.brittingham@bloomington.in.gov

ORDINANCE 23-21

**TO AMEND TITLE 15 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
“VEHICLES AND TRAFFIC” - Re: Amending Section 15.32.150 to Remove the Four
Hour Time Limit on All Accessible Spaces**

WHEREAS, the City of Bloomington (“City”) adopted Ordinance 15-08 (“the Ordinance”) on April 9, 2015, which amended Bloomington Municipal Code (BMC) Section 15.32.150 to limit parking in accessible parking spaces located in two-hour zones, on-street metered areas, and city parking lots to four hours; and

WHEREAS, the majority of City parking spots located downtown are metered without a time limit, but the accessible parking spots retain the four-hour limit outlined in the Ordinance; and

WHEREAS, Title II of the Americans with Disabilities Act states that “no qualified individual with a disability shall by reason of such disability be excluded from participation in or denied benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such an entity” (42 U.S.C. § 12132); and

WHEREAS, it is the policy of the City that it does not discriminate on the basis of disability, as stated clearly in Bloomington Municipal Code 2.21.020; and

WHEREAS, to effectuate said policy, the City wishes to amend the municipal code to include a time limit on accessible parking spaces only in parking lots or zones that impose time limits on non-accessible spaces, and to remove time limits on accessible parking spaces in parking lots or zones that do not otherwise impose time limits; and

WHEREAS, the Parking Commission voted to approve this amendment at its meeting on August 24, 2023;

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA THAT:

SECTION 1: Section 15.32.150, entitled “Accessible parking for persons with physical disabilities”, shall be amended by deleting the sentence, “All accessible parking spaces within the two-hour limit parking zones, on-street metered areas, and city parking lots shall be limited to four hours.” and replacing it with the following:

All accessible parking spaces within a time-limited parking zone or lot shall be limited to two hours beyond the zone or lot’s stated time. All accessible parking spaces located within a metered parking zone or lot without time limits shall also be metered and without time limits.

SECTION 2: If any section, sentence or provision of this ordinance, or application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3: This ordinance shall be in effect after its passage by the Common Council and approval of the Mayor, any required publication, and, as necessary, other promulgation in accordance with the law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this ____ day of _____, 2023.

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this ____ day of _____, 2023.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this ____ day of _____, 2023.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance approves changes to Bloomington Municipal Code Section 15.32.150 in order to include a time limit on accessible parking spaces only in parking lots or zones that impose time limits on non-accessible spaces, and to remove time limits on accessible parking spaces in parking lots or zones that do not otherwise impose time limits.

REDLINE

SECTION 15.32.150 AS MODIFIED BY PROPOSED ORDINANCE 23-21

(proposed additions are shown in **bold**, proposed deletions are shown in ~~striketrough~~)

The transportation and traffic engineer or his or her designee shall designate accessible parking spaces for persons with physical disabilities on public streets and in municipal parking facilities. All such accessible parking shall be in compliance with regulations pursuant to the Americans with Disabilities Act, as amended, and with the Public Rights-of-Way Accessibility Guidelines, as amended. For metered or marked parking, the minimum requirement is one accessible parking space per twenty-five for every block face (all sides of a city block).

~~All accessible parking spaces within the two-hour limit parking zones, on street metered areas, and city parking lots shall be limited to four hours.~~ **All accessible parking spaces within a time-limited parking zone or lot shall be limited to two hours beyond the zone or lot's stated time. All accessible parking spaces located within a metered parking zone or lot without time limits shall also be metered and without time limits.**



**CITY OF BLOOMINGTON
STAFF REPORT**

Date: 8/24/2023
PC 23-03

TO: City Council
FROM: Audrey Brittingham, Legal Department
DATE: September 6, 2023
**SUBJECT: Proposed Ordinance Update to Section 15.32.150,
entitled, “Accessible parking for persons with physical disabilities.”**

Background

City of Bloomington Ordinance 15.32.150 limits parking in accessible parking spaces located in two-hour zones, on-street metered areas, and city parking lots to four hours. When this ordinance was enacted, the majority of City parking spots were two-hour parking spots. In 2013, most parking spots became metered and without a time limit. However, the accessible parking spaces became metered and still retained the four-hour limit outlined in the Ordinance. Citizens parking in these accessible parking spaces are treated differently from citizens parking in non-accessible parking spaces, an unintentional outcome of the shift from two-hour parking to metered parking.

Title II of the Americans with Disabilities Act states that “no qualified individual with a disability shall by reason of such disability be excluded from participation in or denied benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such an entity” (42 U.S.C. § 12132);

It is the policy of the City that it does not discriminate on the basis of disability, as stated clearly in City Ordinance 2.21.020. To effectuate the City’s policy of non-discrimination, the City wishes to amend the Ordinance to include a time limit on accessible parking spaces only in parking lots or zones that impose time limits on non-accessible spaces, and to remove time limits on accessible parking spaces in parking lots or zones that do not otherwise impose time limits.

Title 15 Change

Section 15.32.150, entitled “Accessible parking for persons with physical disabilities,”

shall be amended by deleting and adding the following:

Delete

All accessible parking spaces located within the two-hour limit parking zones, on-street metered areas, and city parking lots shall be limited to four hours.

Add

All accessible parking spaces located within a time-limited parking zone or lot shall allow up to an additional two hours beyond the zone or lot's stated time. All accessible parking spaces located within a metered parking zone or lot without time limits shall also be metered and without time limits.

RESPECTFULLY SUBMITTED,

Audrey R. Brittingham
Assistant City Attorney