

The Board of Public Works meeting was held on Tuesday, October 16, 2018, at 5:30 pm in the Council Chambers of City Hall at Showers, 401 N. Morton Street, Bloomington, Indiana, with Kyla Cox Deckard presiding.

**REGULAR MEETING
OF THE BOARD OF
PUBLIC WORKS**

Present: Kyla Cox Deckard
Beth Hollingsworth
Dana Palazzo

City Staff: Dee Wills – Housing & Neighborhood Development
Neil Kopper – Planning & Transportation
Liz Carter – Planning & Transportation
Nate Nickel – Public Works
Christina Smith – Public Works
J.D. Boruff – Public Works
Michael Large – Public Works
Jackie Moore – City Legal
Chris Wheeler – City Legal
Jacob Hunter – Police

None

**MESSAGES FROM
BOARD MEMBERS**

None

**PETITIONS &
REMONSTRANCES**

**HEARING ON NOISE
APPEAL**

Chris Wheeler, City Legal, presented the Appeal of Noise Citation #37832 at 407 S. Lincoln Street. See meeting packet for details.

**Appeal of Noise Citation
#37832 at 407 S. Lincoln
Street**

Nicolas Stark, resident of 407 S. Lincoln Street, appears before the board to appeal Noise Citation #37832. Stark states he is appealing the citation because the address on the citation is listed as 407 S. Walnut Street, which is not his address. Stark stated that his name is not spelled with an “H” as is written on the citation. In addition the driver’s license number on the citation is not his driver’s license number. Stark asserts that due to these errors there is no way to identify him as the person responsible for the citation.

Cox Deckard asked if Stark had received a citation on the night in question. Stark admitted that he received the citation on the night in question and exhibited it to the board. Cox Deckard confirmed that he was the one who received the citation he had in his possession.

Stark confirmed. Cox Deckard asked what the error was with the license number that was listed on the citation. Stark stated that it isn't his license number. Cox Deckard asked Stark if the Board could see his ID to confirm that the number on the citation was incorrect. Stark agreed and showed the Board his driver's license. Cox Deckard again confirmed with Stark that he was the one who received the citation on the night in question. Cox Deckard asked if he had had a conversation with the officer about the citation. Stark confirmed.

Hollingsworth asked if Stark lived at 407 S. Lincoln Street. Stark confirmed he lives at that address. Stark again stated that the address on the citation is 407 S. Walnut Street, which is not his address.

Cox Deckard asked Stark if 407 S. Lincoln Street was the location he had a conversation with the officer about and the citation. Stark confirmed.

Wheeler, City Legal, stated that Scrivener's error does not invalidate the enforceability of a ticket. Wheeler went on to state what is more important is that Nicolas Stark admits he was present and received the citation that is made out to Nicolas Stark. Wheeler stated that 407 S. Lincoln Street was the address of the complaint that was filed. Wheeler went on to say that 407 S. Lincoln Street is the address of the appellant, it is the address to which detective Hunter responded and it is the address to where the noise was emanating. Wheeler stated that when detective Hunter arrived he could hear the noise emanating from the residence at 407 S. Lincoln Street. Wheeler asks that the board uphold the fine of \$50.00, as this is Mr. Stark's first noise violation offense.

Detective Jake Hunter BPD responded to a call of loud music on September 7, 2018 at 11:15pm. Noise could be heard emanating from 407 S. Lincoln Street. Booze and Marijuana could be smelled from the street. Hunter encountered Stark on the sidewalk. Hunter asked Stark to go in and get his ID in addition to anyone else who resided at the residence. Hunter acknowledges that he inadvertently misspelled Stark's first name in addition to writing the wrong first digit of his driver's license number on the citation. Hunter also acknowledges he wrote the wrong address on the citation.

Hollingsworth clarified it was after 11pm, to which Hunter confirmed.

Hollingsworth asked Hunter if the appellant asked about why he was receiving the ticket. Hunter confirmed that Stark had asked why he was receiving the ticket. Hunter stated that he explained to Stark it was because he was the first resident of the property he encountered and Stark had provided his ID to him.

Hollingsworth asked Hunter if the party had ended before he left. Hunter confirmed that everyone had left the residence and the party was shut down before he left the scene.

Hollingsworth asked for clarification from Wheeler about the ability of Scrivener's error to vacate the ticket. Wheeler confirmed that Scrivener's error does not invalidate the ability to enforce the ticket.

Palazzo made a motion to deny motion of appeal. Hollingsworth seconded the motion. Motion is passed. Motion to appeal noise citation is denied.

Dee Wills, Housing & Neighborhood Development, presented request for Permission to Abate Property at 1253 E. Miller Drive. See meeting packet for details.

Board Comments:

Hollingsworth asked if both owners are deceased, who ultimately pays for the mowing services. Wheeler explained that liens can be placed against the property so that when it is sold the debts will be collected at that time. If an estate were to be opened to claim property of the decedents then the City could file a claim for payment. If it is abandoned then the City could force a sale of the property. Wheeler stated that he was unsure how long ago the owners had passed away. Wheeler suggested to HAND that a seal order be sought to mitigate issues in the future.

Cox Deckard confirmed that the issue now is the abatement due to overgrowth which Wills confirmed

Hollingsworth made a motion to approve continued abatement at 1253 E. Miller Drive. Palazzo seconded the motion. Motion is passed. Permission to abate property at 1253 E. Miller Drive is approved.

TITLE 6 VIOLATIONS

**Permission to Abate
Property at 1253 E.
Miller Drive**

1. Approval of Minutes – October 2, 2018
2. Resolution 2018-110: Approval of Pushcart Renewal to Operate in the Right – of – Way (The Sandwich Spot)
3. Approve Newsom's Carriage & Sleigh Rides to Operate in the Public Right – of – Way During the Annual Holiday Market Sponsored by City of Bloomington Parks & Recreation
4. Request for Noise Permit for Grand Opening of Lotus Education & Arts Foundation Office
5. Approval of Payroll

Palazzo made a motion to approve the consent agenda. Hollingsworth seconded the motion. Motion is passed. Consent agenda is approved.

CONSENT AGENDA

NEW BUSINESS

Neil Kopper, Planning & Transportation, presented the request to approve the Preliminary Engineering Contract with Bynum, Fanyo, & Associates Inc. for the Maxwell Street Sidewalk Project See meeting packet for details.

Hollingsworth made a motion to Approve Preliminary Engineering Contract with Bynum, Fanyo, & Associates Inc. for the Maxwell Street Sidewalk Project, not to exceed the amount of \$20,920. Palazzo seconded. Motion is passed. Contract is approved.

Liz Carter, Planning & Transportation, presented Memorandum of Understanding Request from Weddle Brothers Construction to Extend Use of Right of Way for the Graduate Hotel located at 210 E. Kirkwood Ave. See meeting packet for details.

Board Comments:

Palazzo asked about contact with adjacent properties. Carter explained that the church has written a letter of support for the project.

Liz Carter, Planning & Transportation, presented Request from Weddle Brothers Construction to Extend Use of Right of Way for the IU Fine Arts Project on E. 13th Street. See meeting packet for details.

Hollingsworth made a motion to Approve Request from Weddle Brothers Construction to Extend Use of Right of Way for the IU Fine Arts Project on E. 13th Street. Palazzo seconded. Motion passed. Request is approved.

JD Boruff, Public Works, presented Service Agreement with HFI Inc. for the Replacement of HVAC System at the Sanitation Garage See meeting packet for details.

Board Comments:

Hollingsworth asked for a timeline of completion. Boruff stated within a matter of weeks once equipment is ordered and delivered the installation will begin.

Palazzo made a motion to Approve Service Agreement with HFI Inc. for the Replacement of HVAC System at the Sanitation Garage. Hollingsworth seconded. Motion passed. Request is approved.

Approve Preliminary Engineering Contract with Bynum, Fanyo, & Associates Inc. for the Maxwell Street Sidewalk Project

Approve Memorandum of Understanding Request from Weddle Brothers Construction to Extend Use of Right of Way for the Graduate Hotel located at 210 E. Kirkwood Ave.

Approve Request from Weddle Brothers Construction to Extend Use of Right of Way for the IU Fine Arts Project on E. 13th Street

Approve Service Agreement with HFI Inc. for the Replacement of HVAC System at the Sanitation Garage

Nate Nickel, Public Works, presented the Service Agreement with Republic Services for Sanitation and Recycling Collection Services. See meeting packet for details.

Board Comments:

Hollingsworth asked for clarification of the 90 day evaluation.

Nickel explained that it is completed by an outside consultant. It takes the market prices associated with commodities prices in the Midwest and then applies any adjustments based on that average.

Palazzo asked for the justification for the yearly MSW increase. Nickel explained that operation cost are built into the annual cost and will not exceed the 3% of CPI. Palazzo wanted to clarify that Monroe County's recycling fluctuations will not affect the decrease. Nickel confirmed that the fluctuation of recycling in the City will not affect the amount charged for the service. Cox Deckard agreed that the information provided every 90 days is a great data set. Nickel explained that a dramatic shift in the commodities market can decrease but never increase what the City of Bloomington will pay for the services being provided by Republic. Cox Deckard asked if there is the ability to remove a certain commodity if it is deemed to be valuable. Cox Deckard suggested a mutual agreement with other communities could be sought out at that time. Nickel elaborated that no other companies submitted information to provide Municipal Solid Waste or Municipal Single Stream Recycling. Cox Deckard asked if this contract impacted any other preexisting contracts. Legal signaled that it does not.

Hollingsworth made a motion to approve Service Agreement with Republic Services for Sanitation and Recycling Collection Services. Palazzo seconded. Motion passed. Contract is approved.

None

Approve Service Agreement with Republic Services for Sanitation and Recycling Collection Services

STAFF REPORTS & OTHER BUSINESS

Hollingsworth made a motion to approve the Claims Register in the amount of \$2,329,939.92. Palazzo seconded the motion. Motion passed. Claims are approved.

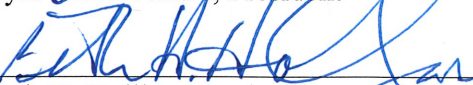
APPROVAL OF CLAIMS

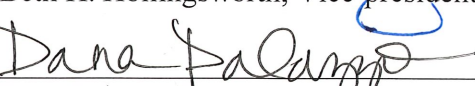
Cox Deckard adjourned the meeting at 6:03pm

ADJOURNMENT

Accepted by:


Kyla Cox Deckard, President


Beth H. Hollingsworth, Vice-president


Dana Palazzo, Secretary

Date: 10/30/19

Attest to:



Auxiliary aids for people with disabilities are available upon request with adequate notice.
Please call 812-349-3410 or email public.works@bloomington.in.gov.