

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, March 23, 2022 at 6:30pm, Council President Susan Sandberg presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
March 23, 2022

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan (arrived at 6:38pm)
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Susan Sandberg summarized the agenda.

AGENDA SUMMATION [6:32pm]

Rollo moved and it was seconded to approve the minutes of February 02 and February 24 of 2022. The motion was approved by a voice vote.

APPROVAL OF MINUTES [6:35pm]

Rollo commented that people needed to remain aware of the war Ukraine and to contact their congressional representatives to urge for a negotiated settlement. He also commented on trees that were to be placed in the Gentry Crest neighborhood.

REPORTS

- COUNCIL MEMBERS [6:35pm]

Sims reported that it was his and Doris Sims' 43rd wedding anniversary.

Sgambelluri mentioned her upcoming constituent meeting.

Sandberg commented on Council Presidents' efforts during the pandemic including Volan and Sims. She explained that the commemorative gavel had not been formally passed on to them due to the pandemic. She presented Sims with a gavel representing his leadership during 2021.

Sims said that Volan was the first Council President to deal with the pandemic. Sims presented Volan with a gavel representing his leadership during 2020.

Matt Caldie presented the Environmental Commission's (EC) Annual Report. He spoke about difficulties and successes of the EC during the pandemic. He discussed EC's distributing one hundred white oak saplings, which contributed to local ecosystem health and canopy goals. He also discussed EC's history, advising to city departments, projects conducted by the EC, and future plans and proposals.

- The MAYOR AND CITY OFFICES [6:41pm]

Sgambelluri asked about the theme for the Ecoheroes.

Council questions:

Caldie explained that the theme was Fighting Fragmentation and was an effort to further the habitat connectivity plan that assists animals in traveling through habitats which strengthens the ecosystem.

Rollo asked if residents were going to be asked to participate in the wildlife corridors and to what extent.

Caldie confirmed that residents would be asked to participate and that there would be presentations providing more details. He said residents would be encouraged to plant more native species and could request more information.

Rollo asked if deer collision data would be included to inform the city of where to place warning signs.

Caldie said that had not been discussed but that a lot of Geographic Information System (GIS) work could be used.

Piedmont-Smith asked if selling invasive species in Indiana was prohibited.

Caldie stated that there was a list of banned species, but the Callery Pear tree was not included in that list. He said that list was enforced by the Indiana Department of Natural Resources (DNR). He also said that the EC's focus was less on enforcement and more on educational material to encourage the planting of native species.

Piedmont-Smith highlighted the EC website's guidelines for natural landscaping and native species and encouraged the public to look there.

Flaherty mentioned the upcoming meeting for the Climate Action Resilience (CAR) committee.

Greg Alexander spoke about a bicycle and pedestrian connection from North Walnut to Bloomington High School North. He commented that the Parks and Recreation department received money but did not comply with the proposed connection and instead built at Lake Griffy. He did not wish to disparage city staff but felt it was a misuse of funds and provided additional details.

Terry Amsler commented on the Novak Report and the assessment on boards and commissions. He urged the city to be cautious with the recommendations in the report and to not sacrifice civic engagement for efficiency.

Daryl Ruble discussed garbage by a homeless encampment near Cascades Park that was feeding into the creek. He commented on his interaction with the city and the DNR to clean up the area. He spoke further on his concerns about dangers involving individuals experiencing homelessness.

Heather Lacy, Deputy Attorney/Administrator, read a comment submitted via Zoom chat by Sam Dove about road closures due to work on pipes.

There were no appointments to boards and commissions.

Rollo moved and it was seconded that Ordinance 22-05 be read by title and synopsis only. The motion was approved by a voice vote. Clerk Nicole Bolden read the legislation by title and synopsis.

Sandberg referred Ordinance 22-05 to the Committee of the Whole to meet on March 30th beginning at 6:30 pm.

Rollo moved and it was seconded that Ordinance 22-06 be read by title and synopsis only. The motion was approved by a voice vote. Bolden read the legislation by title and synopsis.

Sandberg referred Ordinance 22-06 to the Committee of the Whole to meet on March 30th beginning at 6:30 pm. She commented that council had the option to consider Ordinance 22-06 later in the meeting, and if it did so, the legislation would not be referred to the Committee of the Whole.

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

- COUNCIL COMMITTEES [6:51pm]

- PUBLIC [6:52pm]

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:05pm]

LEGISLATION FOR FIRST READINGS [7:06pm]

Ordinance 22-05 - To Vacate Public Parcels - Re: Two 16.5-Foot Wide Alley Segments Located Between West 1st Street, West 2nd Street, South Rogers Street, and South Morton Street (City of Bloomington Redevelopment Commission, Petitioner) [7:06pm]

Ordinance 22-06 - To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District - Re: The Johnson's Creamery Historic District [7:07pm]

LEGISLATION FOR SECOND
READING AND RESOLUTIONS
[7:09pm]

Rollo moved and it was seconded that Resolution 22-08 be introduced and read by title and synopsis only. The motion was approved by a voice vote. Bolden read the legislation by title and synopsis.

Resolution 22-08 - Resolution to Opt Back in to Opioids Settlement Pursuant to Indiana Code § 4-6-15-2 [7:09pm]

Rollo moved and it was seconded that Resolution 22-08 be adopted.

Beth Cate, Corporation Counsel, congratulated Sims on his anniversary. She introduced Jonathan Knoll, outside legal counsel, Cohen & Malad, LLP., and presented Resolution 22-08. She summarized the process to date as well as updates made by Indiana. Previously the city was barred from participating in other settlements but the state legislature had changed that and solved other problems with the legislation. She provided additional details including how funding could be used, the development of best practices for opioid addiction treatment, and the flexibility and inclusiveness of the usage of the funds. To date the funding for Bloomington was \$2,130,022.86 with the reduced attorney fee of 8.7%. She recommended that the city opt back in because it was a very good deal.

Volan asked if Knoll counseled any cities other than Bloomington and if so, if there were similar negotiations regarding the fee.

Council questions:

Knoll said it was the same agreement.

Cate said that part of the negotiated settlement included a reduction in attorney fees and the state would set up a backup fund.

Sgambelluri asked about the timeline of the distribution of payments.

Knoll said the first payment was scheduled in April or May followed up with another one in July.

Cate added that it was a multi-year payout.

Sgambelluri asked if there was a deadline to spend the funds.

Knoll explained that there were annual reports required and more information on the requirements would be forthcoming.

Piedmont-Smith said that 70% of the funding needed to go to the purposes outlined in the agreement and asked what the reference to 85% was.

Cate responded that the statute and the agreement were different and provided different recommendations and requirements. She explained the requirements in the settlement agreement and said that the list of uses was lengthy and broad.

Knoll confirmed that was correct and said that they would work with council on the guidelines.

Piedmont-Smith asked if there would be a special fund that would be appropriated by council.

Cate stated that at the time she was not sure, but that due to the special requirements, it was possible that a separate fund would be needed. Further guidance from the Attorney General was forthcoming.

Knoll said he would defer to Cate.

Cate said there would be an expectation that the city spend the funds under the agreement and statute.

Smith commented on a recent news article about additional funding by Purdue Pharma for the settlement and asked if there would be subsequent funding.

Resolution 22-08 (cont'd)

Cate responded that it was possible for the city to participate in future settlements.

Knoll confirmed that was correct and provided information on potential additional settlements.

Sims thanked Cate and Knoll for their presentation. He asked if additional council action would be necessary for the city to participate in potential additional settlements.

Cate believed that by opting in at the time would allow the city's participation in future settlements.

Sims asked about the discussions regarding an abatement strategy standpoint.

Cate stated that she was not the appropriate person to answer that and that it was early in the planning process, partly because the city was waiting on further guidance.

Rollo asked if Stephen Lucas, Council Attorney/Administrator, had any information about council's participation.

Lucas confirmed that it was early in the planning process and council's participation would be determined by additional guidance.

Volan asked when the administration planned to use the funds.

Cate reiterated that it was too early in the process to definitively know but that council would be kept up to date with plans. She reminded council that the money would be paid out over several years.

Volan asked if there was a sense of what budget categories would be involved; personnel, supplies, service, or capital.

Cate said that she had not participated in any conversations regarding budget categories. She anticipated that guidelines of what was allowable would guide the spending of the funds.

Volan asked if it was known, at least, what department(s) would be involved.

Cate reiterated again that it was too early in the planning process and more information and guidance would be forthcoming so that the city could plan accordingly.

Piedmont-Smith asked if Monroe County was opting in to the settlement agreement and if so, how much they would receive.

Cate stated that she understood that the county supported opting in to the settlement, but that she did not know the dollar figure.

Knoll confirmed that the county opted back in to the agreement.

Sims asked how the frequency of payouts would be determined.

Cate said that the payout schedule was still being developed.

Knoll said that the payout schedule was based on the agreements but that it was too early to definitively know.

Cate said that one agreement was over eighteen years and the other was for eleven years.

Sgambelluri asked if whatever strategy was selected would be expected to be managed by the city.

Cate understood that it would not need to be managed by the city but would need to satisfy the criteria in the schedule.

Knoll reiterated that the city had to abide by the settlement agreement and statute but that the city could potentially partner with the county or other municipalities, for example.

Dave Askins noted that Monroe County’s settlement amount was \$2,900,000 minus the 8.7% attorney fee. He did not know why Monroe County would receive more than Bloomington.

Public comment:

Rollo was curious about why Monroe County’s settlement amount was greater.

Council comments:

Cate stated that the amounts were dictated by the settlement agreements.

Knoll summarized the impact metrics and amounts.

Piedmont-Smith said she supported Resolution 22-08 and hoped there would be additional settlements from Purdue Pharmica. She expected a lot of deliberation on how to best spend the funds since the distributions would be over many years. She urged the city to work with the county to pool funds together to maximize effectiveness.

Volan appreciated the discussion and hoped that Cate would take council’s questions back to the administration. He also hoped that the administration would take council’s concerns into account when drafting the appropriation ordinances for the funding. He provided suggestions for spending the funding on capital.

Sims stated he would support Resolution 22-08 and commented on collaborating with the county. He said that individuals with opioid addiction may also have alcohol addiction and wondered how that would be addressed. Sims referenced entities like the Monroe County Public Library (MCPL) and urged their participation too.

The motion to adopt Resolution 22-08 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 22-08 [7:47pm]

Rollo moved and it was seconded that Ordinance 22-06 be introduced and read by title and synopsis only. The motion was approved by a voice vote.

Ordinance 22-06 – To Amend Title 8 of the Bloomington Municipal Code, Entitled “Historic Preservation and Protection” to Establish a Historic District – Re: The Johnson’s Creamery Historic District [7:48pm]

Lucas interjected that since Ordinance 22-06 had already been introduced and read at the meeting, council had the option to move to consider to adopt it at the same meeting. He said that it would require unanimous consent.

Sandberg asked Lucas if the motion on the table needed to be stricken.

Lucas confirmed that was correct.

Rollo moved and it was seconded that the Council introduce and consider Ordinance 22-06 for adoption at the same meeting and on the same night it was introduced.

Flaherty asked to hear from staff and stated that he would be voting against considering Ordinance 22-06 for adoption because there was new information. It was imprudent to consider the new information before final action that evening.

Council questions:

Volan agreed with Flaherty. The new information needed to be considered so Volan would not support the motion.

John Zody, Director of Housing and Neighborhood Development (HAND) department, stated that he and Gloria Colom-Braña, Historic Preservation Program Manager; Mike Arnold,

Neighborhood Compliance Officer; and Daniel Dixon, Assistant City Attorney, were available to answer questions.

Ordinance 22-06 (cont'd)

Sandberg asked if a presentation of Ordinance 22-06 was required.

Council questions:

Lucas explained that council could consider anything that would address the motion on the table.

Zody reviewed the safety issue regarding the smokestack, and iterated that there was a sense of urgency. The new information included a revised map as well as a question about the alley vacation, which the Planning and Transportation department did not have a record of. He discussed the section of the B-Line that had been closed due to the poor condition of the smokestack and said that it would not prohibit the opening of the Farmer's Market. Zody explained that staff believed, along with the Historic Preservation Commission (HPC), the Johnson Creamery property should be considered a worthy structure for historic designation.

Sims stated that he had intended to support Ordinance 22-06. He suggested that since two councilmembers had indicated that they would not support the motion to consider the legislation for adoption at the meeting, that there be a vote and if it failed that there would be a full report at the upcoming Committee of the Whole.

Rollo asked Zody to describe the urgency he referenced.

Zody explained the structural issues with the smoke stack, the unsafe order, the discussions between the building owner and the city, and things that would cause the smoke stack to fall. He said that it was critical to balance the necessary process to protect the structure and smoke stack with public law and safety.

Flaherty asked Zody if the smoke stack could have already been demolished had the HPC and city not pursued a historic designation.

Zody responded that the Johnson Creamery had been a notable structure for a number of years and was on the Sites and Structures list in the city. That put it under the scrutiny of the HPC and the owners would need to go before the HPC requesting demolition permits.

Daniel Dixon, Assistant City Attorney, said that if the legislation to designate the structure as historic failed, then demolition could occur without any oversight.

Piedmont-Smith asked Lucas if it was possible to call a Special Session to follow the Committee of the Whole the next week instead of waiting two weeks.

Lucas confirmed that was correct.

Volan, in reference to the potential events that could cause the smoke stack to fall, stated that there had not been F2 tornadoes in Bloomington. He was in Eigenmann Hall when there was a seismic event in 1987 where the building swayed but did not fall. He understood a sense of urgency but did not feel that it was necessary to call a Special Session, and urged council to follow the normal process since the urgency was not severe.

Smith asked if the city had a position on removing the smoke stack from historic designation.

Zody stated that the city did not support the complete removal of the smoke stack. He explained that the HPC had a meeting the following day and a certificate of appropriateness would be

presented from the owner. He said the smoke stack needed to be lowered to a safe height as soon as possible and described the details and potential next steps.

Ordinance 22-06 (cont'd)

Sandberg asked for clarification on the motion.

Lucas clarified that a "Yes" vote would signify being in favor of considering Ordinance 22-06 for adoption that evening.

The motion received a roll call vote of Ayes: 3 (Rollo, Sandberg, Sims), Nays: 6, Abstain: 0. FAILED.

Vote to consider Ordinance 22-06 [8:08pm]

There was no additional public comment.

ADDITIONAL PUBLIC COMMENT [8:08pm]

Lucas reviewed upcoming legislation and schedule.

COUNCIL SCHEDULE [8:10pm]

Rollo moved and it was seconded to adjourn. The motion was approved by a voice vote.

ADJOURNMENT [8:12pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 25th day of January, 2023.

APPROVE:

ATTEST:

Sue Sgambelluri
Sue Sgambelluri, PRESIDENT
Bloomington Common Council

Nicole Bolden
Nicole Bolden, CLERK
City of Bloomington