



# City of Bloomington Common Council

## Legislative Packet

Regular Session

04 August 2010

Office of the Common Council  
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## Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

- **Council Sidewalk Committee** on Friday, August 6<sup>th</sup> at 10:00 a.m. in the Council Library

## Reports from Council Committees

- **Rules Committee Report**
  - Proposed Rules for Public Comment Entitled “Reports from the Public: Making Comment on Non-Agenda Items” (*with additional amendments proposed by staff in highlight.*); BMC 2.04.380 – Order of Business (*with draft revisions highlighted*); Comparator Table of Practices and Experience of Other Cities Around the Country; Rules Committee Recommendations from 2008 (2008 Rules)

## Legislation for Final Action:

- **Res 10-13** To Approve an Interlocal Cooperation Agreement Between the City of Bloomington and Monroe County, Indiana in Regard to 2010 Edward Byrne Memorial Justice Assistance Grant (JAG) (To Purchase Two Vans for the Critical Incident Response Team)  
*Contact: Patty Mulvihill at 349-3426 or [mulvihill@bloomington.in.gov](mailto:mulvihill@bloomington.in.gov)*  
*Please see the [28 July 2010 Council Legislative Packet](#) for the Legislation, Material and Summary for Res 10-13*

- **Ord 10-08** To Amend the Bloomington Zoning Maps from Quarry (QY) to Residential Medium-Density (RM) - Re: 3020 and 3040 S. Rockport Road (Rockport Road Trust LLC, Petitioner)

Contact: Jim Roach at 349-3527 or [roachja@bloomington.in.gov](mailto:roachja@bloomington.in.gov)

Please see the [14 July 2010 Council Legislative Packet](#) for the Legislation, Material and Summary for Ord 10-08

### **Legislation and Background Material for First Reading:**

*None*

### **Minutes from Regular Session:**

- March 3, 2010
- July 14, 2010

### **Memo**

**Council Sidewalk Committee – Friday, August 6<sup>th</sup> at 10:00 a.m. in the McCloskey Room**

**A Report and Two Pieces of Legislation are Ready for Final Action and No Items will be Introduced at the Regular Session on Wednesday, August 4<sup>th</sup>**

There is a Report from the Rules Committee and two pieces of legislation ready for final action at next Wednesday's Regular Session. The information and material regarding the legislation can be found online at the links provided with the list of legislation on the first page of this memo. The Report and related materials can be found in this packet. The Council will be entering its August Recess after next week's meeting and, for that reason, there is no legislation to be introduced that evening.

### **Report from the Rules Committee**

Council President Piedmont-Smith asked the Rules Committee (Committee) to convene this spring with the primary purpose of discussing rules for public comment on non-agenda items at Regular Sessions. Councilmember Mayer served as Chair and was joined by Councilmembers Satterfield, Volan and Wisler. The Committee met three times from late March to mid-May and, in the course of those meetings:

- Reviewed the practices and experience of this Council and other cities in regard to public comment on non-agenda items;
- Reviewed what the Council may and may not do in regard to such comment;
- Requested staff to prepare an advice sheet for presiding officers on dealing with disruptive speakers (*draft available in the Council Office*); and
- Recommended the Council:
  - adopt a set of rules to be made available to the public online and at Regular Sessions (*Reports from the Public: Making Comment on Non-Agenda Items*) (*attached; also attached find an alternate version with additional revisions proposed by staff*);
  - amend BMC 2.04.380 entitled “Order of Business” at Regular Sessions (*preliminary draft attached*); and
  - Requests the Council adopt the enclosed Report (*attached*).

### Report

Please see the six-page Report for a summary of the Committee’s deliberations which dealt with their goals, legal parameters, and a few of the alternatives. Perhaps the best statement of the goal of the Committee was to recommend rules that “balance the Council’s interest in conducting efficient, orderly and dignified meetings with the rights of those who wish to speak before the Council.”

### Proposed Rules

After discussing the matter over three meetings, the Committee agreed that it is important for the Council to retain its long-standing commitment to robust community participation. However, the Committee agreed that a few changes would make Council meetings more efficient and help foster greater civility in the forum. Therefore, the Committee is proposing some simple public comment guidelines, attached as *Reports From the Public: Making Comment on Non-Agenda Items*. The document is intended to be an at-a-glance guide for members of the public. Such a guide would be distributed at meeting and posted on the Council’s website. The guide outlines the following:

- One Opportunity for Comment – The Committee decided to invite participants to speak at either the front or back-end comment opportunities, but not both.
- Time Limit – After examining the practice of similarly-situated college towns wherein three minutes for public comment is the norm, the Committee agreed

to keep the current five minute allowance. The proposed guidelines make it clear that the Chair may delimit this time if there are many people who wish to speak.

- Decorum – The draft guidelines also make it clear that speakers should refrain from disruptive behavior that impedes the orderly conduct of meetings.
- Clarity in Naming Convention – The Committee pointed out that public comment at the beginning of the meeting is titled, “Reports from the Public” while comment period at the end is called “Privilege of the Floor.” This is unnecessarily confusing. In the interest of clarity, the Committee proposes renaming the second comment period, “Additional Reports from the Public.” Note that since these are codified parts of the Agenda (BMC §2.04.380), a name change would require a change to the BMC.
- Manner – Makes other usual expectations clear, such as stating name for record, speaking into microphone, not approaching the dais unless given permission to do so.
- Consequences for Rule Violation – The guide points out that a person violating the rules will be declared out-of-order and may be removed from the meeting.

Please note that in the course of further researching the constraints on the public comment period as a “limited public forum,” Council staff are proposing a few additional changes to the Committee’s draft rules. Staff changes are included in the document watermarked “Suggested Changes from Staff.” Most of the changes are minor, but some intended to make more specific the types of speech to be discouraged. Staff changes are as follows:

- Public Comment on Issues of “Community Concern”

Staff suggest adding the words, “of community concern” to the opening sentence of the guidelines to make clear that the forum is one wherein speakers may address the Council on non-agenda items that are of concern to the community, not a forum to air personal communications.

Suggested language (**addition underlined**):

*The Bloomington Common Council greatly values the voices of its citizens and welcomes public comment on non-agenda items **of community concern** at two points on its Regular Session agenda.*

- Reports as Statements, Not an Opportunity to Engage

Staff suggest putting an additional rule into the guidelines to reflect the Council's current practice of not engaging in question-and-answer during "Reports from the Public."

Suggested language:

**Reports are intended to be statements from speakers; speakers may not engage the Council in a question-and-answer exchange during the Reports from the Public periods.**

- Disruptive Speech

The Committee agreed to include language to deter disruptive speech by including the following rule:

*The City Council encourages civility in public discourse and requests that speakers refrain from profanity, threatening language, disruption, defamation, undue repetition, and personal attacks against private individuals unrelated to the operation of the City.*

Upon review, staff suggest that this be tightened up to read (**additions underlined**):

*The City Council encourages civility in public discourse and requests that speakers refrain from "**fighting words**" (**language which would incite an immediate breach of the peace**), undue repetition, **extended discussion of irrelevancies** and personal attacks against private individuals unrelated to the operation of the City.*

The reasons for such suggestions are as follows:

► Profanity

Staff suggest deleting the prohibition against profanity. Expletives coupled with political speech constitute protected speech. While the Council hopes that speakers are able to communicate their concerns without the use of profanity, the Council cannot prohibit such use. What the Council can do is ask people

not to cuss – Council might point out that kids may be watching the broadcast and/or the speaker’s message might be even more compelling absent the cursing. However, the Council cannot prohibit profanity when rendered in the context of political speech. Offensiveness and the specter of potential disruption is not a sufficient ground for silencing speech designed to affect public policy and society.

► Threatening Language

Mere threats are still protected speech. However, fighting words are not. Fighting words must contain the element of immediacy. Staff suggests eliminating the reference to “threatening language” and replacing it with “ ‘fighting words’ (language which would incite an immediate breach of the peace).”

► Disruption & Irrelevancies

The original proposal contains a prohibition against “disruption.” As the term is not defined and as the list of behaviors in this rule illustrate disruptive speech, staff recommends deleting this word. Note too that staff recommends adding to this list “extended discussion of irrelevancies.” In addition to an actual statutory breach of the peace or fighting words, courts have held that “undue repetition,” “extended discussion of irrelevancies” and “speaking too long” may also constitute disruption of a meeting. For that reason, staff recommend the “extended irrelevancies” phrase.

► Defamation

Staff recommends deleting this prohibition for two reasons.

1) Staff understands the Committee’s goal here is deter speakers from using the podium to air grievances against private individuals wholly unrelated to City business. That is largely taken care of via the rule against “personal attacks against private individuals unrelated to City business.”

2) Even though defamation is not considered protected speech, federal courts have held that public bodies may not implement policies that prohibit defamatory statements, especially against public officials. This means that if a person is going to say something defamatory during public comment, the public body cannot restrict the person from making the comments. It would be the responsibility of the defamed person(s) to later file their own lawsuit. Furthermore, Council should not be put in the position of determining what is or is not “defamatory.”

## Proposed Amendment to the Local Code

As noted above, the Committee also recommended that the staff prepare an amendment to the Bloomington Municipal Code to reflect the proposed rules. This amendment would be in the form of an ordinance and could come forward as early as the first legislative cycle in September. The pertinent part of the code is BMC 2.04.380, which is entitled “Order of Business” and sets forth the agenda for the Council’s Regular Sessions.

In order to give the Council a preliminary look at what the changes might entail, a draft version is included in this packet. It would, in part:

- Clarify that the time set aside for Reports from Council members, Mayor and Public be for no more than 20 minutes for each section;
- Change the section entitled “Privilege of the Floor” to “Additional Reports from Public” to help speakers understand that this section is a continuation of the earlier public comment period; and
- Clarify that during these sections of the agenda speakers may only speak once, for no more than five minutes on matters not on the agenda (Note that it also acknowledges that the Presiding Officer may shorten the time for each speaker in order to accommodate an excess of speakers).

The draft version also proposes two other changes which are not part of the proposals from the Rules Committee. These changes would:

- allow the Council, by majority vote, change the time limits along with amending the order of the agenda. This would give the Council room to change the time limits to deal with special circumstances (like a roomful of people wanting to address the Council on non-agenda items);
- add a section to the agenda entitled “Motions Regarding the Council Schedule” in order to obviate the need to suspend the rules to change or cancel a meeting.







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

To: Council Members  
From: Council Office  
Re: Calendar for the Week of August 2-7, 2010

**Monday, August 2, 2010**

5:00 pm Redevelopment Commission, McCloskey  
5:30 pm Bicycle and Pedestrian Safety Commission Work Session, Hooker Room

**Tuesday, August 3, 2010**

4:00 pm Bloomington Community Farmers' Market, Madison St; between 6<sup>th</sup> & 7<sup>th</sup> St  
5:00 pm Utilities Service Board, Board Room, 600 E Miller Dr  
5:30 pm Bloomington Public Transportation Corporation, Public Transportation Center, 130 W Grimes Lane  
5:30 pm Board of Public Works, Council Chambers  
7:30 pm Telecommunications Council, Council Chambers

**Wednesday, August 4, 2010**

12:00 noon Bloomington Urban Enterprise Association, McCloskey  
4:00 pm Inclusive Recreation Advisory Council, Hooker Room  
5:00 pm Commission on Hispanic and Latino Affairs, McCloskey  
7:30 pm Common Council Regular Session, Council Chambers

**Thursday, August 5, 2010**

4:00 pm Bloomington Digital Underground Advisory Council, McCloskey  
5:30 pm Commission on the Status of Women, McCloskey

**Friday, August 6, 2010**

10:00 am Common Council Sidewalk Committee, Council Library  
12:00 noon Redevelopment Commission, McCloskey

**Saturday, August 7, 2010**

8:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton

*Posted and Distributed: Friday, July 30, 2010*



City of Bloomington  
Office of the Common Council

# MEETING NOTICE

## Common Council Sidewalk Committee Meeting

The Common Council Sidewalk Committee will meet at 10:00 a.m., Friday, August 6, 2010 in the McCloskey Room of City Hall (401 N. Morton Street, Room 135).

Because a quorum of the Common Council may be present, this meeting may constitute a meeting of the Council as well as of this committee under Indiana Open Door Law. Therefore, this provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.

Posted: Friday, July 30, 2010

## Rules Committee Report – August 4, 2010

### Members of the Committee

Tim Mayer, Councilmember-at-Large, Chair  
Mike Satterfield, District 3  
Steve Volan, District 6  
Brad Wisler, District 2

Regina Moore, City Clerk, Secretary

### Staff

Dan Sherman, Council Administrator/Attorney  
Stacy Jane Rhoads, Council Deputy Administrator/Researcher

### Inception and Purpose

Council President Piedmont-Smith called for the Council Rules Committee to convene with the aforementioned members and with Councilmember Mayer serving as Chair. Its primary task was to explore ways the Council might regulate public comment during Regular Session on non-agenda items.

### Relevant Documents

- Proposed Rules for Public Comment Entitled “Reports from the Public: Making Comment on Non-Agenda Items” (*attached – with amendments proposed by staff in highlights*);
- BMC 2.04.380 – Order of Business (at Regular Sessions) (*attached - with draft revisions highlighted.*)
- Rules Committee Recommendations from 2008 (2008 Rules) (*attached*);
- Compilation of Council Ordinances Regulating Public Conduct During Meetings (*Available in the Council Office*);
- Table of Practices and Experience of Other Cities Around the Country (*attached*);
- Memorandum Regarding Constraints on Public Comment on Non-Agenda Items (*A Deliberative Document*);
- Draft Advice for the Chair – In the Event of Disruption (*Available in the Council Office*); and
- Memoranda of Meetings (*Available in the Council Office*)

## Meetings

The Committee met on three occasions in the Council Library:

March 30, 2010 from 12:00 p.m. to 1:05 p.m.

Present: Councilmembers: Mayer, Satterfield and Volan;  
City Clerk, Regina Moore;  
Staff: Dan Sherman and Stacy Jane Rhoads  
Public: Mike Malik, H-T

April 20, 2010 from 12:00 p.m. to 1:10 p.m.

Present: Councilmembers: Mayer, Satterfield and Volan;  
City Clerk, Regina Moore;  
Staff: Dan Sherman and Stacy Jane Rhoads

May 5, 2010 – *Cancelled due to a lack of a quorum.*

May 11, 2010 from 12:00 p.m. to 1:05 p.m.

Present: Councilmembers: Mayer, Satterfield and Wisler;  
Staff: Dan Sherman and Stacy Jane Rhoads  
Public: Mike Malik, H-T

## Summary of Deliberations

### **Current Rules and Practice in Regard to Public Comment on Non-Agenda Items:**

Currently the City Council provides two opportunities during its Regular Sessions where members of the public may speak for no more than five minutes on items that are not on the agenda. BMC 2.04.380, which outlines the order of business at Regular Sessions, provides for such public comment early in the agenda under Reports from the Public and late in the agenda under Privilege of the Floor (where a maximum of 25 minutes is set aside for those comments). According to the ordinance that last amended that provision (Ord 92-04) and Rules Committee Recommendations adopted by the Council on August 6, 2008 (2008 Rules), the Presiding Office is charged with keeping speakers within a 20-minute time period set aside for Reports from the Public. The above code provision also allows the Council to amend the agenda by a majority vote.

With the help of memory from Councilmember Mayer, who served on the Council in the mid-1980s, and Council records (see the Compilation available in the Council Office), the Committee learned that, since 1979, the Council has provided for public comment on non-agenda items at two points on its Regular Session meetings, except for the years 1985 – 1992, when it was only permitted late on the agenda. That exception was driven by a period where the early public comment (mostly in regard to PCBs) took hours to hear and delayed the consideration of previously scheduled legislative items.

**Possible Goals of Regulation:** Members of the Committee suggested what regulation of public comment on non-agenda items might accomplish:

- Make public comment more meaningful for the public by providing a positive direction for matters of concern to the community;
- Balance the Council’s interest in conducting efficient, orderly and dignified meetings with the rights of those who wish to speak before the Council; and
- Prevent disruptions.

**Legal Limits on Regulation of Speech During This Portion of the Regular Session Agenda:**

Calling upon a Memo prepared by Stacy Jane Rhoads and approved by the Council Attorney, the Committee learned that it may not be able to achieve all of its goals, given the limits on the regulation of speech at these occasions on our agenda. In brief, it learned the following:

- The Council has created an opportunity for the public to address the Council on non-agenda items when it had no statutory or constitutional obligation to do so. By providing this opportunity to speak, Council created a limited public forum where it may limit the subject matter and class of speakers who may address the Council as long as those parameters are view-point neutral and reasonable in light of the purpose of the forum. The requirement of viewpoint neutrality prevents the Council from suppressing speech that should otherwise be sorted out by the public through the “market place” ideas. The requirement that the parameters be reasonable in light of the forum ties our decision on the scope of the forum to the purpose for which it was created – which is to provide members of the public with an opportunity to communicate with their elected officials (and the public) about matters of community concern. Any limits on public comment must strike a balance among the right of the Council to maintain order, the rights of the speaker and the rights of others participating in this forum.

With that in mind the Committee heard about measures limiting public comment on non-agenda items that the Council may and may not take:

Measures the Council May Not Take – The Council may not:

- Narrow the scope of the forum to exclude speaker and/or subject matter view points (by, for example, only allowing one side of an issue to be expressed);
- Narrow the speakers to only those “sponsored” or “endorsed” by Council members; and
- Bar the playing of musical instruments or other forms of symbolic expression.

Measures the Council May Take – The Council may:

- Eliminate it entirely;
- Limit its subject matter (The Council already does this, for example, by prohibiting comment on agenda items);
- Limit the class of speakers (for example, to City residents or tax payers);
- Limit the frequency of public comment (to, for example, once a month or some other interval);
- Limit the overall time set aside for it;
- Move it to the end of the agenda;
- Limit the time given to each speaker and the frequency the speaker may speak;

- Require registration of speakers
- Limit number of speakers
- Limit speakers by lottery
- Prohibit disruptive speech – including speech that went beyond the time limit or was unduly repetitious,;
- Prohibit the use of fighting words;
- Prohibit obscenity;
- Prohibit personal attacks on private individuals unrelated to city business (City officials and staff must tolerate criticism about their roles in City government and the conduct of City business.)

### **Summary of Discussion on Measures to Limit Public Comment on Non-Agenda Items**

The Committee discussed some of these possible measures in light of the law and in light of practices of other communities (See Table of Practices and Experience of Other Cities Around the Country). Following is a summary of the significant aspects of those deliberations:

- **Limiting Subject Matter of Comment Period (No Change)** Speakers, in general, have used these two occasions for comment on non-agenda items to announce events and awards for non-profits, accomplishments of members of the community, raise issues about City policies and neighborhoods, and talk about State and federal policies that affect this community. In recent years, some speakers have become regulars who address a larger audience via cable services and the internet on matters that, at times, are entirely personal and non-governmental in nature. The Committee learned that other communities have agenda items for “communications,” “petitions,” and “public comment” that serve a similar purpose. They also limit this comment period to matters of “municipal,” “governmental,” or “community” concern. While renaming “Reports from the Public” and “Privilege from the Floor” might help focus comments, that action alone would probably not change the range of comments the Council presently receives. The Committee discussed narrowing the public comment to matters of City governance, but did not adopt such language out of concern that it might discourage comment the Council would have benefitted from hearing. Therefore, the Committee left the purpose of these occasions as they are: opportunities for the public to communicate with their elected officials (and the public) about matters of *community concern*.
- **Moving this Comment Period to the End of the Agenda (No Change)** Speakers typically address the Council early rather than later on the agenda. The Committee discussed, but declined to recommend, returning to the practice during 1985-1992, when public comment occurred at the end of the meeting. One reason it did not pursue this option, was that the opportunity to speak early in the agenda is more convenient and predictable (usually occurring within a half-hour of the start of the meeting) than at the end of the meeting, and that pushing it back might deter comment that the Council would otherwise hear. Some of that problem could be alleviated by having Council members provide this information during Reports from Council Members (which occurs early in agenda).

- **Limiting the Overall Time Set Aside for this Comment Period (No Change)**  
 At present, a maximum of 45 minutes is set aside for comment on non-agenda items: 20 minutes under Reports from the Public and 25 minutes under Privilege of the Floor. The Committee discussed, but declined to recommend, shortening these periods or shifting some time from the early to the later part of the agenda. A couple of reasons underpinned their decision. First, the 20-minute period at the front of the meeting seemed a reasonable period of time to hear this kind of comment without overly delaying action on other items previously placed on the agenda. Second, although the 45-minute allotment for this form of public comment exceeded the individual 20-minute allotments for Reports from the Council, Mayor and Committees (See 2008 Rules – attached), there was some sentiment that it would appear unfair to give speakers less time than the others at the beginning of the meeting.
- **Limiting the Period of Time Given to Each Speaker (No Change) and the Number of Times the Speaker May Speak (Change)** Currently speakers may speak for five minutes at each of the two comment periods. The Committee decided to keep the five-minute limitation on a comment, but recommended that speakers be given a choice of speaking at one or the other opportunity for public comment, but not both. Despite the fact that many communities limited comments to three minutes, the Committee kept the five-minute allotment for each speaker because that time frame was adequate for speakers to deliver their message and that any reduction would not result in significant shortening of the comment period. (See below for discussion on handling a multitude of speakers.) In that regard, the Committee acknowledged that the 2008 Rules discouraged the use of series of speaker to make a longer than five-minute presentation. The Committee also was disinclined to allow one speaker to cede their time to another. In regard to the other recommendation, the Committee favored the reduction in the number of times a speaker may speak in order to avoid repetition and shorten the meetings. Please note that other communities have limited such comment to once a month and once every three months.
- **Requiring Registration of Speakers – Limiting Number of Speakers – Providing for Lottery to Select Speakers – Not Recommended (No Change)** Except on rare occasions, when a multitude of speakers are expected, the Council does not require speakers to sign-in before speaking. The Committee learned that, in some other communities, the Council requires speakers to sign-up in advance of the meeting in order to speak. The Committee discussed, but declined to recommend, this procedure for a number of reasons. First, the Clerk suggested that it would create an unnecessary obstacle for speakers as well as an additional burden for staff. She assured the Committee that she is currently able to obtain the names of speakers without using a list. Second, the sign-up system was often used in conjunction with a rule that limited the number of speakers and selected speakers on a first-come, first-serve basis or, in one instance, by lottery. Unlike those communities, the Committee concluded that this Council rarely sees more speakers than would use up the 20- or 25- minute comment period. And, when that appears likely, the President has handled the situation by asking for a show of hands and parceling out the time per speaker so that the Council does not go over the time limit.



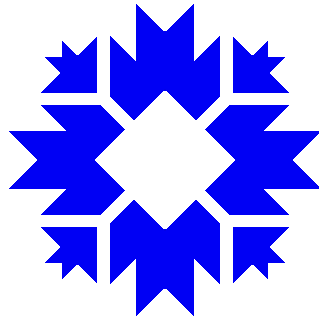
- **Prohibiting Disruptive Speech, Fighting Words, Obnoxious Language (When Not in Context of Political Speech), and Personal Attacks Against Private Individuals Unrelated to City Business (Change)** – Occasionally speakers are repetitious, go over their time allotments, try to enter into an exchange with the Council (which isn't permitted per 2008 Rules), use obnoxious language not in the context of political speech, or engage in personal attacks on matters unrelated to City business. All of this conduct can be prohibited by the Council in the interest of running orderly and efficient meetings. The Committee recommended that staff prepare a "Reports from the Public: Making Comment on Non-Agenda Items" to be circulated among Committee members and Council and eventually adopted by the Council. This public comment sheet would provide rules of conduct that comport with the First Amendment and be made available to the public online and at meetings.

**Council Approach to Disruptive Speakers** The Committee also briefly discussed how the Council should address disruptive speakers and asked staff to prepare a sheet offering advice to presiding officers when dealing with unruly ones. The Committee learned about how our code and Roberts Rules of Order address removal of speakers. BMC 2.04.030 gives the Sergeant of Arms (who is the Chief of Police or his designee) the duty to remove persons from the Chambers under direction of the Presiding Officer. Roberts Rules of Order provides for removal of persons after warnings and as a last resort, where the Chair "should take necessary measures to see that order is enforced, but should be guided by a judicious appraisal of the situation." Roberts' also cautions about the use of force and the prospect of litigation even if the removal was justified and suggests arranging in advance for the police to be present. Staff provided a draft "Notes on Removal of Persons from Council Chambers" (Available in the Council Office) which provided a preface, sample script and a comment that stressed the importance of getting the speaker's attention, pointing out the violation, and trying to guide the speaker into compliance.

### **Recommendations of the Committee:**

**The Committee Recommends that:**

- 1) **The Council Adopt Rules for Public Comment that Comport with the First Amendment and Set Forth What the Speakers May and May Not Do Entitled "Reports from the Public: Making Comment on Non-Agenda Items")** (*attached – with additional changes proposed by staff.*)
- 2) **The Council Amend BMC 2.04.380 - Order of Business (at Regular Sessions) to Reflect the Changes Proposed in the Regular Session Agenda (To be done in September – Early draft attached)**
- 3) **Staff prepare a sheet to advise Presiding Officers on the Removal of Persons from Council Chambers (Draft available in the Council Office)**
- 4) **The Council Adopt the Report**



## REPORTS FROM THE PUBLIC: MAKING COMMENT ON NON-AGENDA ITEMS

The Bloomington Common Council greatly values the voices of its citizens and welcomes public comment on non-agenda items **of community concern**<sup>1</sup> at two points on its *Regular Session* agenda. Citizens may make general comments at either the beginning of the meeting under *Reports from the Public* (limited to a total cumulative time of 20 minutes) or at the end under *Additional Reports from the Public* (limited to a total of 25 minutes).

In order to conduct meetings in the most effective manner possible, the following rules apply:

- 1) At each meeting, citizens may speak at only *one* of the two opportunities for public comment, but not both.
- 2) Citizens are limited to one report, not to exceed five (5) minutes. If there are many people who wish to speak during one of the public comment periods, the Chair may reduce the time allowed for each individual.
- 3) When giving your report, please state your name for the record and speak directly into the microphone.
- 4) All reports must be made from the podium; speakers may not approach the Council dais without permission of the Chair.
- 5) **Reports are intended to be statements from speakers; speakers may not engage the Council in a question-and-answer exchange during the Reports from the Public periods.**<sup>2</sup>
- 6) The City Council encourages civility in public discourse and requests that speakers refrain from **profanity**,<sup>3</sup> **threatening language** **“fighting words” (language which would incite an immediate breach of the peace)**,<sup>4</sup> **disruption**<sup>5</sup>, undue repetition, **extended discussion of irrelevancies**, **defamation**<sup>6</sup>, and personal attacks against private individuals unrelated to the operation of the City.

These rules are intended to foster a fair, respectful and productive meeting. Any person who violates these rules will be declared out of order by the Chair. A person who persists in violating these rules may be removed from the meeting.

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<sup>1</sup> Intended to further clarify the scope of this limited forum.

<sup>2</sup> This addition just reduces to writing the Council’s current practice.

<sup>3</sup> While the Council hopes that speakers will refrain from profanity, it cannot prohibit expletives that are coupled to political speech. Should profanity ensue, the Chair could ask the speaker not to cuss (perhaps reminding the speaker that children might be watching the meeting at home), but can’t prohibit it.

<sup>4</sup> Must rise to the level of “fighting words” -- words likely to incite immediate combat; mere “threatening language” does not rise to that level.

<sup>5</sup> The word “disruption,” does not provide much guidance. Since the actions listed in rule 6) illuminate “disruptive,” action, the word was eliminated.

<sup>6</sup> This is unnecessary since the rules don’t allow “personal attacks against private individuals unrelated to the operation of the City.” Citizens can levy verbal attacks against elected officials and staff related to their work as City employees. Furthermore, defamation usually has to be determined by a court after the fact; Council should not be positioned with determining what is or what is not “defamation” at the front end.

**Excerpt of Bloomington Municipal Code 2.04-380  
Entitled “Order of Business” (at Regular Sessions)**

**2.04.380 Order of business.**

Deleted: ¶

(a) The council shall transact its business in the following order, but it may by majority vote amend the normal order of business or time limits set forth below:

- (1) Roll call;
- (2) Agenda summation;
- (3) Approval of minutes;
- (4) Reports (A maximum of twenty minutes is set aside for each part of this section.);

Deleted: from

- (A) Council members,
- (B) The mayor and city offices,
- (C) Council committees,
- (D) Public (Speakers may speak only once, for no more than five minutes, on matters not on the agenda during the two parts of the agenda where there are Reports from the Public. The Presiding Officer may reduce the individual time limits to accommodate an excess of speakers);

- (5) Legislation for second readings and resolutions;
- (6) First readings;

(7) Additional Reports from the Public (A maximum of twenty-five minutes is set aside for this section of the agenda.);

Deleted: . (7) Privilege of the floor (this section of the agenda will be limited to twenty-five minutes maximum, with each speaker limited to five minutes

(8) Motions Regarding the Council Schedule

(9) Adjournment.

Deleted: ¶

(b) Whenever possible, brief comments or questions concerning a statement made by a council member or any other person shall be made and addressed before further discussion proceeds, but more extensive discussion may occur later when the member raising the objection or question has been recognized to speak.  
(Ord. 92-4 § 1, 1992; Ord. 85-2 § 1, 1985).

## A Comparative Review of "Public Comment" on Non-Agenda Items at City Councils around the Country

	Time Limit/Speaker (minutes)	Total Comment Allowance	Where on Agenda	Registration Required	Other Limits	Televised	Frequency of Meetings	Website
<b>College-Driven Metros</b>								
Ann Arbor, MI	3	Max. 10 speakers (2 alternates)	Beginning and End	Yes (only for comment at beginning, not end). Regis. begins at 8a day of meeting.	Speakers are not permitted to sign up for other individuals or grant their time to an alternative speak	Yes	Twice/month	<a href="http://www.a2gov.org/government/citycouncil/Pages/Home.aspx">http://www.a2gov.org/government/citycouncil/Pages/Home.aspx</a>
Athens-Clarke County	3 (Only once/meeting)	No	End	No	Citizens may sign up in advance to speak for 10 minutes on Zoning issues only.	Yes	Twice/month	<a href="http://www.athensclarkecounty.com/commission/">http://www.athensclarkecounty.com/commission/</a>
Austin, TX	3	Max. 10 speakers	~Middle (Meeting runs 10a-7p; Public Comment @Noon.)	Yes (Must sign up a week in advance. Can be done in person or by calling or e-mailing clerk.) Name of speaker and subject matter listed on the Agenda.	Citizens may donate speaking time to another for a max. of 15 minutes	Yes	Every week	<a href="http://www.ci.austin.tx.us/cityclerk/edims/council_meeting_info_center.htm">http://www.ci.austin.tx.us/cityclerk/edims/council_meeting_info_center.htm</a>
Champaign, IL	5 (group presentation limited to 10 minutes)		End	No		Yes	Twice/month	<a href="http://ci.champaign.il.us/city-council/how-to-address-your-city-council/">http://ci.champaign.il.us/city-council/how-to-address-your-city-council/</a>
Urbana, IL	5		Beginning	Yes	Comment only at Committee of the Whole meetings.	Yes.	Every week	<a href="http://www.city.urbana.il.us/">http://www.city.urbana.il.us/</a>
College Station-Bryan, TX	3	At Mayor's discretion	Middle	Yes	Citizens may only comment during Regular Meetings, not during Workshop Meetings	Yes.	Twice/month	<a href="http://www.cstx.gov/index.aspx?page=34">http://www.cstx.gov/index.aspx?page=34</a>
Gainesville, FL	5(3 if more than 4-5 people)	No, but they try to limit total time to 30-45 min.	Middle & End	No, but there may be times when those wishing to address the Commission will be asked to fill out speaker's request cards		Yes	Twice/month	<a href="http://www.cityofgainesville.org/GOVERNMENT/MayorCityCommission/tabid/362/Default.aspx">http://www.cityofgainesville.org/GOVERNMENT/MayorCityCommission/tabid/362/Default.aspx</a>
Lafayette, IN	3	None	End	No		No - live on website	Meets once/month (for regular meeting and once for caucus)	<a href="http://www.lafayette.in.gov/council/">http://www.lafayette.in.gov/council/</a>
Lawrence, KS	Reasonable time limits for presentations and comments may be imposed	None	End	No		Yes	Every week	<a href="http://www.ci.lawrence.ks.us/commissioners">http://www.ci.lawrence.ks.us/commissioners</a>
Tallahassee, FL	3	None	End	Yes		Yes	Twice/month	<a href="http://www.talgov.com/commission/index.cfm">http://www.talgov.com/commission/index.cfm</a>
Iowa City, IA	5	None	Middle (and end if more time is needed)	No		Yes	Once/month	<a href="http://www.icgov.org/default?id=1114">http://www.icgov.org/default?id=1114</a>
State College, PA	3-5 depending on # of speakers	None	Beginning	Preferred, but not required.		Yes	3x/month	<a href="http://www.statecollegepa.us/index.aspx?NID=32">http://www.statecollegepa.us/index.aspx?NID=32</a>
Greenville, NC	3	30 minutes	End	Yes (just at some point before the meeting). If time remains after all registered speakers have commented, those who did not sign up may comment, until the allotted 30 minutes runs.	General public comment on non-agenda items provided at the meeting on the second Thursday of the month.	Yes	Every week	<a href="http://www.greenvillenc.gov/departments/mayor_city_council/information/default.aspx?id=6002">http://www.greenvillenc.gov/departments/mayor_city_council/information/default.aspx?id=6002</a>
Madison, WI	3	Max. 10 speakers	Beginning	Yes	Also requires registration on Agenda items	Yes	Twice/month.	<a href="http://www.cityofmadison.com/council/">http://www.cityofmadison.com/council/</a>
Muncie, IN	No time limit	None	End	No			Once/month	<a href="http://www.cityofmuncie.com/index/office/citycouncilmembers.asp">http://www.cityofmuncie.com/index/office/citycouncilmembers.asp</a>
Corvallis, OR		30 minutes	Beginning (and end if more time is needed)	No		Yes.	Twice/month at Noon and 7pm	<a href="http://www.ci.corvallis.or.us/index.php?option=com_content&amp;task=view&amp;id=92&amp;Itemid=54">http://www.ci.corvallis.or.us/index.php?option=com_content&amp;task=view&amp;id=92&amp;Itemid=54</a>

	Time Limit/Speaker (minutes)	Total Comment Allowance	Where on Agenda	Registration Required	Other Limits	Televised	Frequency of Meetings	Website
Flagstaff, AZ	3		Beginning and End	Yes	May speak only three times during a meeting. At discretion of chair, if more than 10 people wish to speak to the same issue, they may appoint a representative who may speak no more than 15 minutes.	Yes	Every week	<a href="http://www.flagstaff.az.gov/index.aspx?NID=39">http://www.flagstaff.az.gov/index.aspx?NID=39</a>
Ithaca, NY	3	None	Beginning	Yes		Yes	Once/month	
Columbia, MO	3-5 depending on # of speakers	Max. 30 min.	Both	Yes	May only speak every other month.	Yes		<a href="http://www.gocolumbiamo.com/Council/index.php">http://www.gocolumbiamo.com/Council/index.php</a>
Ames, IA	5		Middle	No	Limited to issues of "city business" other than those items listed on the agenda.	Yes	Regular Sessions twice/month wherein public comment is provided	<a href="http://www.cityofames.org">www.cityofames.org</a>
Fort Collins-Loveland, CO	No general comment allowed. Comment only on an agenda item or an item addressed by formal Council action under "Other Business" that affects the rights and obligations of any member of the public. 5 minutes is provided. (Time may be reduced if more than 6 people wish to make comment.) Total public comment time is limited to 30 minutes. Registration required.					Yes	Regular Sessions twice/month wherein public comment is provided	<a href="http://www.fcgov.com/council/">http://www.fcgov.com/council/</a>
Boulder, CO	3	Max. 45 min.	Beginning	Yes	First come, first served. Citizens may not "pool" time. If there are more speakers than the 45 minute-max. provides for, the Mayor may decide to let people speak at the very end of the meeting.	Yes	Twice/month	<a href="http://ci.boulder.co.us/">http://ci.boulder.co.us/</a>

**Other Communities**

Berkeley, CA	2	Beginning: Max 10 minutes (5 speakers drawn via lottery) End: No max., but President may limit speech to 1 min depending on # wishing to speak	Beginning and End	Registration required only for those wishing to speak at the beginning of the meeting	For lottery, must submit name to clerk right before start of meeting.	Yes	2-3x/mo (else: committee)	<a href="http://www.cityofberkeley.info/ContentDisplay.aspx?id=21090">http://www.cityofberkeley.info/ContentDisplay.aspx?id=21090</a>
Portland, OR	3	~Max 15 minutes (5 speakers)	Beginning	If a large number of people are expected, yes (sign up starts 1/2 hour before meeting)		Yes	Every week	<a href="http://www.portlandonline.com/auditor/index.cfm?&amp;a=9113&amp;c=27481">http://www.portlandonline.com/auditor/index.cfm?&amp;a=9113&amp;c=27481</a>
Seattle, WA	No general comment allowed. Full Council allows only comment on agenda items. Follows committee structure. Topical general non-agenda comment (e.g., built environment, labor, energy, finance, etc.) provided therein. Comment at full council limited only to agenda items. At full council, the public must register in advance. Comment limit is 2 minutes. Total time allotted to comment on agenda items is 15 minutes.					Yes	Every week	<a href="http://www.seattle.gov/council/">http://www.seattle.gov/council/</a>
Cambridge, MA	No general comment is allowed. Comment is only allowed on agenda items. Comment is limited to 3 minutes/speaker. All public comment on agenda items is located at the beginning of the agenda. A maximum of 120 minutes is provided for all public comment on agenda items. The long comment time is to allow ample space for the public to speak to a contentious issue. The Cambridge City Clerk says that Council meetings used to run from 5:30p - Midnight. Once it implemented its 3 minute, agenda-item only rule and moved all this public comment to one part of the meeting (rather than allowing public to speak on agenda items as they arise) their meeting length has been cut substantially. As the Clerk put it, "We want people to be awake when they are making decisions."					Yes	Every week	<a href="http://www.cambridgema.gov/ccouncil2.cfm?article_id=10&amp;tnltext=About%20the%20Council">http://www.cambridgema.gov/ccouncil2.cfm?article_id=10&amp;tnltext=About%20the%20Council</a>
Olympia, WA	3	30	Beginning	Yes (sign up starts 1/2 hour before meeting)	Issues limited to those relating to city business. Cannot donate time.	Yes	Every week	<a href="http://www.ci.olympia.wa.us/city-government/city-council-and-mayor/city-council-contact-and-meet-us.aspx">http://www.ci.olympia.wa.us/city-government/city-council-and-mayor/city-council-contact-and-meet-us.aspx</a>

	Time Limit/Speaker (minutes)	Total Comment Allowance	Where on Agenda	Registration Required	Other Limits	Televised	Frequency of Meetings	Website
<b>Other Indiana Communities</b>								
Anderson, IN	10	None	Beginning (Letter required) and End	Must submit a letter explaining subject of comments before the meeting to speak at beginning		No (cable provider dropped service)	Once/month	<a href="http://www.cityofanderson.com/citycouncil/">http://www.cityofanderson.com/citycouncil/</a>
Carmel, IN	At Council's discretion	None	Beginning	Yes, must submit card by 6 p.m. (start of Council meetings)		Yes	Twice/month	<a href="http://www.ci.carmel.in.us/government/civiccalendar/councilschedule10.html">http://www.ci.carmel.in.us/government/civiccalendar/councilschedule10.html</a>
Evansville, IN	At Council's discretion	None	End	Yes, must fill out slip and turn it in before making comments		Yes	Every week	<a href="http://www.evansvillegov.org/Index.aspx?page=41">http://www.evansvillegov.org/Index.aspx?page=41</a>
Fort Wayne, IN	No time limit	None	End	None	Citizens may comment on non-agenda items only during Regular Sessions, held the 2nd and 4th Tuesdays of the month	Yes	First 4 Tues. of month	<a href="http://www.cityoffortwayne.org/city-council.html">http://www.cityoffortwayne.org/city-council.html</a>
Greenwood, IN	At Mayor's discretion	At Mayor's discretion	End	No		No	Twice/month	<a href="http://www.greenwood.in.gov/council/">http://www.greenwood.in.gov/council/</a>
Hammond, IN	3	None	End	Must sign in before meeting		No (cable provider dropped service)	Twice/month	<a href="http://www.gohammond.com/web/citycouncil.phtml">http://www.gohammond.com/web/citycouncil.phtml</a>
Indianapolis, IN	Council rarely allows comments on non-agenda items, and to do so, a citizen must get approval from Council Chair before a meeting. Comments on agenda items are limited to ~3 min.					Yes	1-2/month	
Kokomo, IN	At president's discretion	None	Beginning	No		Yes	Twice/month	<a href="http://www.cityofkokomo.org/main.asp?SectionID=7&amp;TM=20832.3">http://www.cityofkokomo.org/main.asp?SectionID=7&amp;TM=20832.3</a>
Richmond, IN	At president's discretion (Usually 5 minutes)	At president's discretion	Beginning or End (depending on content)	Must gain approval from Council President in advance (usually a week before meeting)		Yes	Twice/month	<a href="http://richmondindiana.gov/content/category/10/81/129/">http://richmondindiana.gov/content/category/10/81/129/</a>
South Bend, IN	3	None	End	No		No	Twice/month	<a href="http://www.southbendin.gov/city/common_council/rules_procedures.asp">http://www.southbendin.gov/city/common_council/rules_procedures.asp</a>
Terre Haute, IN	3	30	Beginning	No	Public comments on non-agenda items are allowed only at Regular Meetings (2nd Thursday)	No, but could be in future	Twice/month	<a href="http://www.terrehaute.in.gov/departments/city-council">http://www.terrehaute.in.gov/departments/city-council</a>
West Lafayette, IN	At Mayor's discretion	None	End	No	Public comments are allowed only during Council Meetings (not during the pre-Council Meetings)	No (cable provider dropped service)	Twice/month	<a href="http://www.city.west-lafayette.in.us/department/?fDD=12-0">http://www.city.west-lafayette.in.us/department/?fDD=12-0</a>



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

**To: Council Members**  
**From: Susan Sandberg, President**  
**Re: Recommendations from the Rules Committee**  
**Date: April 16, 2008**

The Council Rules Committee has met a number of times since the beginning of the year and has a few recommendations that Councilmember Sandberg may institute as President. These recommendations relate to the conduct of our meetings and, in some cases, are intended to bring the Council closer to the procedures set forth in Robert's Rules of Order (*RRO*) which, according to BMC 2.04.080, serve as the rules of procedure unless some other procedure is required by federal, state or local law. In other cases, the recommendations offer suggestions for moving the Reports section of the Regular Sessions along so that the Council gets to the items requiring action in a timely manner. Both categories might also be considered "best practices."

**1 Formality.** *RRO* is built upon a formality of communication intended to "maintain the chair's necessary position of impartiality and help preserve an objective and impartial approach, especially when serious divisions of opinion arise." *RRO, Newly Revised – 10<sup>th</sup> Edition, p. 21-22*

**a) Presiding Officer as Hub.** One key to this formality is the role of the presiding officer as hub for all communications between members and between members and staff and the audience. Please note that the presiding officer refers to the President of the Council during Regular and Special Sessions and the Chair during Committees of the Whole. According to *RRO*, members may only speak after being recognized by the presiding officer and then may only make a request of another person present through the presiding officer. *Id. p. 23*. This means that a request for further information from staff would begin with a phrase something like the following: "Madame /Mr. President/Chair, may I ask a question of Mr./Ms. \_\_\_\_\_?"

**b) Use of Title and Surname.** Another key to this formality is the manner in which members address each other as well as staff and members of the audience. In an effort to avoid unnecessary personal conflict, *RRO* prohibits members from addressing another member by their name and from attacking another member's motivations. As a matter of practice, we diverge from the former rule by allowing Council members to address each other, staff, and members of the public by name. However, in order to promote impartiality and avoid the appearance of favoritism, the Committee recommends that everyone be addressed by their title or last name. This would mean that any request of one Council member to another would begin with a phrase something like the following: "Madame / Mr. President, I wonder whether Councilmember X, has thought of the implications of his remarks." Although it will no doubt sound stilted at times, the Committee and President are asking members to keep this manner of speaking in mind when making remarks in future meetings.

**2. Designated "Secunder"** In order to improve the flow of the introduction of business, the Committee thought it would useful for the Vice President to act as the designated seconder of the routine motions to introduce and read the synopsis of agenda items. However, in the event the Vice

President was not willing to make the motions – as can happen with amendments and other controversial actions - then he or she would need to alert the President in advance.

**3. Council Member Questions – Guidelines on Serial Questions.** Council members are given an opportunity to ask questions of the petitioner and staff before the matter is open for comment from the public. The Committee recommended that the presiding officer recognize Council members who would then be limited to one question and a follow-up after which the presiding officer would be able to recognize another member who could do the same and so on, until all the questions were exhausted. This should help spread the questions around, encourage better preparation for meetings, and discourage comments (“quomments”) and “rhetorical” questions on matters well covered in the Council material.

**4. Reports – Time Limits** The Committee also looked at the “Reports” section of Regular Session agenda which is codified in BMC 2.04.380. This section was last changed in 1992 in order to allow public comment on non-agenda items to occur earlier in the meeting which, for the previous four years or so, had been limited to the end of the meeting. (See Ord 92-04) While not codified, much of the understanding about Reports was set forth in the Whereas clauses of that ordinance. Here are some of those understandings and proposals for how the Council may revive them now:

a) **20 Minutes Per Category** - The time taken in Reports, although important, should not cause undue delay for petitioners and public who come to speak about legislation ready for final action that evening. For that reason, each category – Council members, Mayor, Committees, and Public – were to last no more than 20 minutes, with speakers speaking no more than 5 minutes a piece and the President being responsible for enforcing these limits.

This assumed that the majority of Council members, for example, would not take the full 5 minutes (or else it would take the Council a full 45 minutes to work through that one category). The Committee suggested that members who wanted to address a matter for more than 5 minutes – to report on a conference, controversy, or other matter, for example – could contact the President who would consult with the Council Administrator/Attorney (CAA) regarding the whole agenda and decide whether there was time for one and then direct the CAA to insert it as a bullet-point or Special Report under Reports from Council members.

b) **Committee Reports** – This category has been used for a Council member who wanted to report on the work of a Board or Commission he or she belonged to and also for Boards and Commissions who wanted to present a Report – sometimes an annual report – when the Mayor did not wish to sponsor the presentation or to cede time for it. Occasionally, due to the breadth or complexity of the subject and because speakers continued beyond the time limit or arranged for a cohort to carry on the presentation after the initial 5 minutes was through, these presentations have taken more than the allotted time. Here the Committee suggests that presenters be urged to file something in writing and limit their comments to no more than 5 minutes and be discouraged from spreading their presentation over more than one speaker.

c) **Public Reports** – Sometimes there are one or two people from the public who want to speak for more than 5 minutes or there is a long line of people who want their turn at the microphone and don’t want to wait until the end of the meeting to have their say. In some instances - especially if they have A/V presentations – the speakers approach the Council Office in advance to try out their presentation and are told about our procedures and encouraged to follow them. In others, the Clerk or Council Admin/Attorney approach members of the audience to welcome them to the Chamber and explain how and when they may address the Council. On occasion, however, we hear from speakers who have to be informed by the President of the rules in regard to public comment.

Here, the Committee suggested that the Presiding Officer, Clerk and Council Office Staff encourage speakers to follow the 5-minute rule and that staff prepare a brochure for the public to read



at Council meetings which sets forth that and other rules. One of the recommended practices would be to instruct speakers from the public who have A/V presentations to notify the Clerk or Council Office in advance of the meeting in order to assure that time is not wasted setting up the equipment. Members of the public who have not done so would be asked to make their presentation at the end of the meeting when other members of the public have already conducted their business and would not be held up by the delay.

**5. Meetings - Starting On Time** The Committee also noted that meetings often start after 7:30 p.m. and recommended that all involved - Council members, Clerk and staff - be ready to start meetings at the scheduled time. In accordance with *RRO* and as a courtesy to the public in attendance and those viewing from their home, the presiding officer may start the meeting once the time of the meeting arrives and a quorum is present.

In the Council Chambers of the Showers City Hall on Wednesday, March 3, 2010 at 7:30 pm with Council President Isabel Piedmont-Smith presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
MARCH 3, 2010

Roll Call: Mayer, Piedmont-Smith, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler

ROLL CALL

Council President Piedmont-Smith gave the Agenda Summation

AGENDA SUMMATION

There were no minutes for approval at this meeting.

APPROVAL OF MINUTES

Councilmember Ruff reported on the Bloomington Economic Development Corporation annual meeting held earlier in the day and attended by several City Council members. He commented on the BEDC brochure which described Bloomington's high ranking as a business-friendly city. Ruff also said that Bloomington was ranked by Bicycling Magazine and the Leagues of American Bicyclists as one of the nation's best places to bike.

REPORTS:  
COUNCILMEMBERS

Ruff corrected information that had been presented at an earlier council meeting describing Indiana teacher salaries and the amount spent per pupil as the 5<sup>th</sup> or 6<sup>th</sup> highest in the country. He said that Indiana actually ranked 22<sup>nd</sup> to 29<sup>th</sup> depending on the category. He said the figures showed that Indiana was right in the middle and not at the top as had been alluded to at that earlier meeting.

Councilmember Mayer said his only comment was that he was looking forward to seeing a little sun.

Councilmember Sturbaum congratulated all who made it through the Midwestern winter and said to "hang in there" because spring was coming.

Councilmember Volan congratulated the students from the School of Journalism with whom he worked on a recent Census project to inform college students of the purpose, importance and their place of residence for the purpose of the Census. He also recognized John Keyes from the Census Bureau who was in the audience.

No Reports at this meeting.

MAYOR and CITY OFFICES

No Reports at this meeting.

COUNCIL COMMITTEES

John Keyes, US Census Bureau, reported on the recruitment of census workers in Monroe County. He thanked Councilmembers Ruff, Volan and Sturbaum for helping to spread the word about the need for census workers. He reminded the public that the Census count would affect funding for the next ten years.

PUBLIC INPUT

Bob Loviseck, President of the Bloomington Metropolitan Firefighters, was present to address the citizens and council for their past and present support of their charity work. He reported that his organization worked with a variety of charities, and emphasized the local charities they worked with such as CASA, Big Brothers/Big Sisters, Community Kitchen, Stepping Stones, and Boys and Girls Club, among others. He reported on a new charitable program, "Cell Phones for Soldiers," a national program that his organization was supporting. The purpose of the program was to recondition used cell phones that would then be donated to the military. Phones that could not be reconditioned would be disassembled and the parts used in reconditioned phones.

Buff Brown said the need for a long range travel plan for Bloomington was supported by city documents that emphasized the need for such a plan. He said the Growth Policies Plan contained a section called traffic mitigation that described a set of public policies focused on actively reducing the demand on automobile trip-making. The report of the Bloomington Peak Oil Task Force also contained similar suggestions such as dedicating a network of existing streets and lanes such

as bus lanes making bus service faster and more reliable. The report also said that the city and Bloomington Transit should investigate how to create several fast east-west and north-south routes in which buses have priority. The Bloomington Transit Development Program suggested that key corridor services could be enhanced in Bloomington with the provision of transit priority measures such as transit signal priority and dedicated lanes. However, he said the report stated that changes would not be acceptable without a comprehensive assessment of the complete traffic network. He said the city had documents that recommended the exploration of transit and dedicated lanes (bus traffic transit) and there was a plan to update the travel demand model which was scheduled to begin soon. Therefore he recommended that rather than work piecemeal on separate road and transit plans that favored car traffic, there needed to be one holistic approach to travel and transit plans.

There were no appointments to boards or commissions at this meeting.

It was moved and seconded that Ordinance 10-01 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the Committee Recommendation as Do Pass 5-1-2.

It was moved and seconded that Ordinance 10-01 be adopted.

Mike Trexler, City Controller, spoke to the ordinance and gave some examples of similar past projects which used these funds including the intersection at Country Club and Rogers, the Animal Shelter, painting the Garage Art stairwells, greenways designs, trucks.

Piedmont-Smith asked about the projected revenue for the CCD budget which Trexler confirmed as being \$966,000 but explained that what was budgeted was \$983,000, which he said was acceptable.

Justin Wykoff, manager of Engineering Services, responded to an earlier question from Satterfield regarding the numbers of accidents after the installation of traffic signals at the intersection of 3<sup>rd</sup> and Dunn. He said the change in the number of accidents indicated that the signals helped contribute to increased safety.

Wykoff also answered a question from Piedmont-Smith and Satterfield who asked about consequences in time and money of delaying approval to incorporate changes in the design. He said it would be about a 2 month delay for approval with a cost of \$6,000.00 to make the changes.

In response to Volan's question about average speed and turning counts on Atwater, Wykoff said the average speed on Atwater was 26 mph and the percentage of cars exceeding the speed limit of 25 mph was 55.15% coming around the curve, which was something he said he hoped would be improved with the changes. The left turn count from Atwater to Henderson was 639 cars during the study period with 10,021 going straight through the intersection.

He also responded to a question from Volan about sharrows –shared-lane markings indicating bicyclists and motorists share the same lane. Wykoff said this project promoted the use of sharrows according to national sharrow criteria. In response to Volan's question about the turn around area on Atwater, Wykoff explained the changes in design and in signage to create a better turn around space.

In response to another question, he said the cost to acquire another foot of right-of-way on Henderson south of Atwater would involve new appraisals, the cost of the right of way acquisition and reimbursement to property owners for temporary right-of way for a total \$49,800.00.

In response to Volan's request for the proposed design laid over the current intersection, Wykoff presented such an image.

## BOARD AND COMMISSION APPOINTMENTS

## LEGISLATION FOR SECOND READING

Appropriation Ordinance 10-01 To Specially Appropriate From The Cumulative Capital Development (CCD) Fund Expenditures Not Otherwise Appropriated (Appropriating Funds for the Local Match and Inspection Portions of the Atwater and Henderson Intersection Improvement Project)

This ordinance appropriates \$149,512.38 from the CCD Fund for the 10% local match and construction inspection portions of the Atwater & Henderson Intersection Improvement Project. Note: On March 3, 2010, this ordinance was amended to add Section II regarding installation of a sharrow on Henderson Street between Hunter Avenue and 10<sup>th</sup> Street.

Wykoff responded to a request from Rollo about the use of sharrows and said the city would like to use sharrows and appropriate signage on Henderson from Hunter to Tenth Street. He said the proposed sign would be informative, stating that bikes may use the full lane.

Appropriation Ordinance 10-01  
(cont'd)

In follow up questions from the council, Volan clarified that about 6% of cars were turning left from Atwater to Henderson. Volan asked about information on the speed of cars east of Henderson which Wykoff did not have with him. Volan also asked about making the turn around area a tow zone. Wykoff said he would have to defer to the Legal Department for that, but would have no problem supporting that.

Sturbaum asked about the location and length of Hunter. Wykoff pointed it out on the map.

Ruff asked about and Wykoff reviewed traffic counts at Jordan and Atwater and the left turn actions. Wykoff added that there was much higher pedestrian numbers at Atwater and Henderson than at Atwater and Jordan.

Volan asked for further explanation of the numbers on the map presented by Wykoff and to see the map of Jordan. It was explained that the numbers were through traffic and turn traffic.

Satterfield asked if there were any additional costs from federal sources in the estimation of cost increase. Wykoff reviewed the previous estimates for right-of-way acquisition and design changes.

Volan asked about the appropriateness of using sharrows on this street. Wykoff said the design and width of the lanes would allow sharrows on the outside lane. He also asked if new sharrow signage which says "May Use Full Lane" was currently in use. Wykoff said this was newly approved by the governing body which regulated this signage, and that it would be used by the city from now on.

Councilmember Rollo introduced Amendment # 01 to Appropriation Ordinance 10-01.

It was moved and seconded that Amendment # 01 be adopted.

1. The current "Section II" shall be renumbered "Section III."
2. A new "Section II" shall be added and shall read as follows:  
This appropriation is made with the understanding that the City shall pursue the installation of a sharrow accompanied with proper signage on Henderson from Hunter to Tenth Street.

Rollo said the sharrow was in compliance with the city's alternative transportation planning. He said it actually called for a bike lane from Smith to 17<sup>th</sup> St. along Henderson/Indiana, but after discussion with staff, he said it was clear that even though there was enough room to put a bike lane between Atwater and Third Streets, it would require changes that would remove planned tree plots and cause delay and additional expense. Rollo further said that it could become complex, because further north on Indiana there was not enough space for a bike lane. To accommodate the additional lane it would require easement acquisition and repositioning of curbs that would require additional expense and time. Therefore, he said the sharrow lane made sense for this street because it would give bikes a shared lane. Rollo showed a picture of a sharrow in another community that had a wide green stripe painted within the sharrow that he thought was quite illustrative of the way Bloomington could mark their lanes.

Ruff asked whether having lanes marked with sharrows may incorrectly give the impression that bikes cannot use other lanes.

Rollo responded that he didn't think it was a problem, but deferred to Wykoff. Wykoff said from an engineering standpoint, there had been much consideration

Amendment # 01 sponsored by Councilmember Rollo specifies that the City pursue the installation of a sharrow.

This amendment is sponsored by Councilmember Rollo and makes it clear that the Council makes this appropriation with the understanding that the City shall pursue the installation of a sharrow accompanied with proper signage on Henderson from Hunter to Tenth Street.

and thought put into it. The general national standards would indicate that there wouldn't be a problem.

Amendment # 01 to Appropriation Ordinance 10-01 (cont'd)

Volan asked if bikes were allowed to use the full width of other lanes to which Wykoff said yes.

In response to Volan's question about the cost of painting the colored stripe in the sharrow lane, Susie Johnson, Director of Public Works, said she did not have an estimate, but cautioned that any type of road colorization did not have much longevity, therefore it could be quite expensive.

Wisler asked for an illustration of the placement of the sharrow on the lane. Wykoff displayed one and acknowledged that it would be set a bit off center.

Sarah Clevenger said this amendment did not go far enough because bikes traveling south used the sidewalk and expected pedestrians to move.

Buff Brown said the sharrows were helpful, but that it was true as Ruff pointed out that it gave the impression that it was the only lane for a bike.

Satterfield thanked Rollo for proposing this and working with staff towards a solution that did not have a high cost of redesign.

Volan said this change was definitely better than the original, but said he wasn't thrilled that a bike lane could not be added to the part of the road south of Atwater, especially given the city's pride as a bicycle town. He said roads were complicated undertakings and wished that there wasn't always more consideration given to cars than to bikes. He asked for increased efforts for bicycle access.

Sturbaum said it made a good plan better.

Ruff said he was still concerned that the sharrows sign would create a misunderstanding about bikes' right to use other lanes and other roads. He said this was far from perfect, and would listen to the opinions of other members.

Rollo said in an ideal world it would be great to have a bike lane, but a bike lane wasn't possible here and a sharrow was. He said this was the best option because of the physical constraints of building bike lanes. He also agreed that the city needed an educational program to help the public understand bikes' rights to use the roads with or without a sharrow sign. Because this was a one-way north bound route, he hoped that in the future the City would expand this type of sharrow lane to Dunn Street, the south bound counterpart.

Wisler said his biggest concern was with the placement of the sharrow. He said he would support it.

Piedmont-Smith said the Bike and Pedestrian Transportation Plan actually called for bicycle lanes in this area, but the revised version was not used in this design. She acknowledged that to add a bike lane would cause undue cost and delay. She said the sharrow was better than having no markings for bicyclists.

Ruff said he learned that according to Indiana State law, under certain conditions, bicycles may pass cars on the right as long as they do not leave the roadway.

Volan said this was an important component to District 6 and had wanted to see this type of improvement for several years. He agreed that a southbound route needed to be completed as well, and also would request a discussion about where in the city sharrows needed to be added.

Amendment # 01 received a roll call vote of ayes: 9, nays: 0

Susie Johnson, Director of Public Works, made the appropriation request which she said was \$149,512.38 for expenses related to improvement at Atwater and

Appropriation Ordinance 10-01 as amended

Henderson. The total cost of the project was \$903,036.38. Of that, \$115,500.00 was for design, \$40,025.00 was to purchase the right of way, and the cost of construction inspection required by INDOT was \$83,062.38. She added that Indiana University donated their portion of the right-of-way which had a value in excess of \$250,000.00. She said the city was grateful for their generosity.

Johnson explained that this was a Hoosier Improvement Safety Program Project that funded projects designed to eliminate traffic hazards, which was the intent of this project. Due to the nature of this program, Johnson said that 90% of the construction and construction inspection was paid by federal government, with the city being responsible for the design and right-of-way.

Rollo asked about the removal of trees. Johnson said the city was planting 2 trees for each one removed. Wykoff said that the Tree Commission, which was consulted on removal of trees, requested removal of the Bradford Pear trees.

Brock Ridgeway, Eagle Ridge Civil Engineering working on the project said he was given a list of acceptable trees to plant by Lee Huss, Urban Forester. Rollo added that he hoped the newly planted trees would be native. Ridgeway responded to Rollo's question about the construction schedule and said they would be sensitive to the move-in dates for Indiana University students, and that the construction portion of the project would take four to six months.

In response to Volan's question about the bidding process and possible delays if the council waited to render a decision, the process to let the bid was described. Johnson said that any delay in action by the council would cause a delay in the bidding and construction process.

Buff Brown offered slides of diagrams of alternative designs for the intersection which would involve opposite-flow-traffic, single lane traffic that would include a bike lane, decreased curb radii, painted bike asphalt and improved pedestrian crossings. He said the city engineering department was car-focused, and that they would continue to be car-focused until the council decided to turn one down. He said the city needed a bicycle and pedestrian engineer who would understand how to make a city bike friendly. He said this was the council's chance to turn this down and ask for more progressive designs.

Sarah Clevenger said she supported bicycle lanes which ran in both directions on Henderson, a one way street, and added that most bicyclists would not go a block or more out of their way to get to the bike lane going the correct direction. She also asked for better pedestrian crossings. She said she thought a sharrow might be preferable to bike lanes.

Greg Alexander described a biking incident he once had and said he was riding his bike in the middle of the lane and obeyed the green left turn arrow, and a car going the opposite direction turned right on red because he wasn't seen. He hit the car and flew over it. He thought that by following the law, he would be protected, but even the responding police officer and car owner thought he was at fault, even though he was cut off. He suggested that a smaller turning radius that required a complete stop would cause drivers to be more attentive. He also questioned the construction of the wall for pedestrians saying it would create additional problems.

Ruff said that he appreciated all of the work devoted to this, especially in the last week by staff and council, especially Councilmember Rollo. He said that in the near future there would be far less automobile use, and therefore new infrastructure initiatives must be geared toward alternative use. He added that this ordinance was an improvement and moved the city forward, but it needed to be more dramatic, and the city needed to be bolder in its initiatives. Therefore, he said he probably wouldn't support it.

Piedmont-Smith reminded her colleagues that this ordinance was about the funding and not the design.

Sturbaum said this was a paradigm shift which naturally brought questions and reflection from the public and others. He said the movement towards change was a process which required questioning and he believed that was happening.

Appropriation Ordinance 10-01 as amended (*cont'd*)

Rollo said this was a massive improvement, and that a traffic light had been needed there for years. He acknowledged that some of the design may not be perfect and while he might like some other changes, the council needed to work with current expectations.

Wisler said the ideas raised were worthy of consideration. He thought the project was an improvement over what was currently there, and while he believed there could be additional improvements, it did not rise to the level of his opposing this measure. He liked the idea of a decreased turning radius, and hoped some of the suggested ideas would be considered in the future.

Sandberg agreed with Sarah Clevenger that this design was a retro-fit which made it more difficult to design and required more compromise, because consideration had to be given to cars and buses along with bicycles and pedestrians using a road that already existed, but yet needed improvements. She said she regretted the city designers were being maligned by some, and that there needed to be a balance when it came to transportation options, and that she would be supporting this.

Volan said he would prefer a retro-fit over the confusion of starting from scratch. He said that he objected to the idea that any discussion of bikes diminished consideration for cars. He said the issue was as complex as any problem and required study, research, discussion and deliberation. He said he agreed with most of the criticism of this project, especially the need for the left turn lane, which he wished had been addressed, however this project improved the intersection and was an effort toward becoming a complete street.

Piedmont-Smith said she believed the wall along the sidewalk would deter jaywalking. She agreed that the project was a big improvement over what was currently there. She said the signal was greatly needed and the ideas presented during this meeting were interesting and merited consideration in future projects.

Appropriation Ordinance 10-01 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 10-05 be introduced and read by title and synopsis only. Deputy Clerk Wanzer read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

ORDINANCE 10-05 To Amend Ordinance 09-14 Which Fixed The Salaries Of Appointed Officers, Non-Union And A.F.S.C.M.E. Employees For All The Departments Of The City Of Bloomington, Monroe County, Indiana, For The Year 2010 - Re: Positions in the Legal, Parks and Recreation, and Public Works (Administration, Fleet, Street, and Parking Enforcement) Departments and the Council Office

Ordinance 10-05

Greg Alexander talked about the number of pedestrians hit in crosswalks that he was able to find online in the Herald Times. He questioned the safety of crossing a street even in a crosswalk.

PUBLIC INPUT

The meeting was adjourned at 9:45 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Isabel Piedmont-Smith PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, July 14, 2010 at 7:30 pm with Council President Isabel Piedmont-Smith presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
July 14, 2010

Roll Call: Mayer, Piedmont-Smith, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler  
Absent: Rollo

ROLL CALL

Council President Piedmont-Smith gave the Agenda Summation

AGENDA SUMMATION

The minutes of June 16, 2010 were approved by a voice vote.

APPROVAL OF MINUTES

Susan Sandberg noted an announcement of the website for the Bloomington Entertainment and Arts District – [www.visitbead.com](http://www.visitbead.com).

REPORTS:

COUNCILMEMBERS

Steve Volan reported that he was asked to address the new IU freshman orientation program Campus Legends Tour at the Herman B Wells statue on campus. He said it was inspiring to meet the incoming freshman class.

Mike Satterfield noted that even though the city was doing street work on West Kirkwood; the businesses in that block were still open. He encouraged folks to support them and local merchants.

Isabel Piedmont-Smith excerpted comments:

*There will be two unusual items on your ballots this fall election. The first is a proposal to slightly raise property taxes to support our public schools.*

*Public school funding has declined with the switch from property tax to income and sales taxes which fluctuate more than property taxes. MCCSC has lost 5.8 million dollars in funding within the last year. 45 teachers have lost their jobs, classes will be larger in the fall. Funds for stipends for extra curricular activities, Aurora Alternative School and other programs have been decreased or eliminated.*

*It's essential we restore the lost funding for public schools by voting yes on the school funding referendum which will be an expenditure of 14 cents more per one hundred dollars of assessed property value. Quality education makes for a quality community -- important for recruiting new businesses for jobs in our community and ensuring these children have a productive future without the need for help from society through social services or through the prison system. A good education is essential for every child to be a contributing member of our society. It's time for us all to step up and save our public schools here in Monroe County. I encourage you all to vote yes on the school funding referendum.*

*The second item on the fall ballot will be a constitutional amendment that would put property tax caps making it impossible for the state legislature to increase property taxes regardless of the condition of our public services and the economic outlook. Property tax caps are already law. The general assembly cannot currently levy more than 3% tax on commercial property, 2% on rental property and 1% tax on owner occupied homes. A constitutional amendment is not necessary. It would only tie the hands of our leaders in the future to react to economic changes and fiscal shortfalls for municipal, local and state governments. The property tax caps have already had a detrimental impact on our public schools across the state, and putting them in the constitution would make it very, very difficult to change those decisions in the future. A constitution is a statement of principles and guidelines for governance; it is not there to set specific fiscal policy that is very unwise. I urge citizens to vote no on the property tax amendment.*



Craig Brenner, Special Projects Coordinator in the Community and Family Resources Department introduced Katie Herron, Chair of the Council for Community Accessibility, who reported on the council’s activities. She invited citizens to the Celebration of 20 years of the Americans with Disability Act called Boogie Woogie Blues and the Arts. She also read a proclamation from Mayor Kruzan on the 20<sup>th</sup> anniversary of the Americans with Disability Act.

MAYOR and CITY OFFICES

There was no report from any council committee at this meeting.

COUNCIL COMMITTEES

Piedmont-Smith noted the rules of participation for the public comment segment of the meeting.

PUBLIC INPUT

Greg Alexander said he didn’t drive a car, and read a short article from the newspaper regarding a bicyclist being hit by a car after not yielding at a crosswalk. He said the bicyclist was being a good citizen but the driver didn’t look both ways. Alexander showed frustration that South Walnut Street was not friendly to bicyclists in lane width, speed and accommodations for transportation other than cars.

Michael Summers said he would be voting no on both of the special questions on the fall ballot. He noted he had heard that the property caps would affect the MCCSC by about \$60,000 and noted the superintendent’s salary was \$109,000. He said administrative benefits and salaries were counter to getting teachers back into the classroom.

Mike Hanna read portions of a letter sent by some city officials to the governor of Arizona regarding SB 1070, making his own comments refuting the statements therein paragraph by paragraph. He noted the federal lawsuit regarding this law was about infringing on federal jurisdiction, not on racial profiling.

Gabe Rivera spoke of ending the war on drugs.

There were no appointments to boards or commissions at this meeting.

BOARD AND COMMISSION APPOINTMENTS

There was no legislation for second reading or final action at this meeting.

LEGISLATION FOR SECOND READING

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Ordinance 10-08 To Amend the Bloomington Zoning Maps from Quarry (QY) to Residential Medium-Density (RM) – Re: 3020 and 3040 S. Rockport Road (Rockport Road Trust LLC, Petitioner

Ordinance 10-08

Mike Hanna read about Ginkgo from the Audubon Field Guide to Trees.

PUBLIC INPUT

Gabe Rivera spoke of oil consumption and some personal issues.

The meeting was adjourned at 8:27 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Isabel Piedmont-Smith PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington