

City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 13 September 2023

Regular Session at 6:30pm



CITY OF BLOOMINGTON COMMON COUNCIL

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

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

<https://bloomington.zoom.us/j/87485313929?pwd=QWV6L1Y2c3B2VnhCNW84WkZrWE9iUT09>

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES:

A. December 07,2022 – Regular Session

IV. REPORTS *(A maximum of twenty minutes is set aside for each part of this section.)*

- A. Councilmembers
- B. The Mayor and City Offices
- C. Council Committees
- D. Public*

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READINGS AND RESOLUTIONS

- A. Ordinance 23-21 – To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic,” Re: Amending Section 15.32.150 to Remove the Four Hour Limit on All Accessible Spaces
- B. Ordinance 23-20 – To Amend Title 12 of the Bloomington Municipal Code Entitled “Streets, Sidewalks, and Storm Sewers,” Re: Establishing a New Section 12.04.130, Entitled “Obstructing the right-of-way”

VII. LEGISLATION FOR FIRST READINGS

None

(over)

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

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

Posted: 08 September 2023

VIII. ADDITIONAL PUBLIC COMMENT *

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

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

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

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Posted: 08 September 2023



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

Minutes for Approval

07 December 2022

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, December 07, 2022 at 6:30pm, Council President Susan Sandberg presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
December 07, 2022

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan (arrived at 6:35pm)
Councilmembers present via Zoom: none
Councilmembers absent: none

ROLL CALL [6:32pm]

Council President Susan Sandberg summarized the agenda.

AGENDA SUMMATION [6:33pm]

Rollo moved and it was seconded to amend the night's agenda by removing Ordinance 22-35 as an item for consideration under Legislation for Second Readings and Resolutions. There was brief council discussion. The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to amend agenda [6:38pm]

There were no minutes for approval.

APPROVAL OF MINUTES [6:38pm]

Piedmont-Smith noted her upcoming and last constituent meeting of 2022.

REPORTS

- COUNCIL MEMBERS [6:38pm]

Rosenbarger also noted her upcoming constituent meeting.

Flaherty mentioned his upcoming constituent meeting. He said that council should consider a rules committee for council processes and administrative issues. He noted five areas including legislative process, diversity, equity, and inclusion (DEI), board and commission reform, Title 2 update, and public engagement.

Rollo announced his and Sandberg's upcoming constituent meeting.

Volan noted the recent passing of Janiece Jaffe.

Sandberg also noted the loss of Janiece Jaffe and her upcoming celebration of life. She also noted the passing of Larry Jacobs who was the liaison for the Chamber of Commerce.

Michael Shermis, Special Project Coordinator in the Community and Family Resources department (CFRD), reported on the American with Disabilities Act (ADA) Transition Plan. He discussed ADA compliance requirements, data on efforts in the city to improve accessibility, and suggestions from other entities to improve the plan. He noted that Bloomington, Framingham, MA, and Oak Brook, IL had presented their transition plans as model transition plans.

- The MAYOR AND CITY OFFICES [6:50pm]

Deborah Myerson, Chair of the Council for Community Accessibility (CCA), presented the Accessible Transportation and Mobility Principles. She discussed advancing transportation equity and inaccessible sidewalks in the city. The purpose of the CCA was to guide the city on implementing accessible transportation, mobility consideration, improvements, and development of public spaces. She also discussed workshops, grants, principles including inclusive processes, equitable outcomes, planning, the prioritization of safe access, impacts, and next steps.

Volan asked for clarification on prioritizing safe access areas.

Myerson showed examples including a construction zone with a sign on the sidewalk and other obstructions.

Piedmont-Smith asked how scooters fit into the discussion.

Myerson said that scooters were one of many things that blocked sidewalks; it came down to safety and who was being prioritized.

Piedmont-Smith asked if CCA had investigated the placement of trash bins.

Myerson responded that CCA had looked at the bigger picture in order to get the right people in the conversation.

Rollo asked about allowing bicycles on sidewalks resulting in some collisions with pedestrians.

Myerson said that council was asking good questions but they were best handled in the policy-making process rather than at the start of CCA. She explained that the goal was to have people that were most affected participate so that when questions were raised, policymakers were able to hear directly from them.

Smith asked if there was a prioritized list of sidewalks that needed repair, et cetera.

Shermis explained that high priority paths of travel that were in disrepair, like sidewalks, where people with disabilities traveled, were reported to staff for repair. He spoke about concerns with implementing new policies, and staffing.

Sims wondered if areas without sidewalks were considered.

Shermis said that there were areas that were identified where it would be ideal to have sidewalks.

Sims said that areas that had no sidewalks should be prioritized, and asked if there had been discussions on cost in bringing the city up to date.

Shermis said that the transition plan would have minimal costs, but implementation of improvements would have greater costs.

Rosenbarger asked how the city could establish an equitable process regarding accessibility.

Myerson responded that it would be ideal to have the principles in a resolution and then when considering legislation, for example, council could consider how it affected people with disabilities.

Piedmont-Smith commented on the accessibility principles and examples of measuring how well the city was doing, and even referring back to the Comprehensive Plan.

Joseph Wynia, Co-Chair of the Commission on Sustainability (COS), presented COS's 2021 and 2022 annual reports. He noted current and recent commissioners, staff liaison Lauren Clemmons, activities and achievements, objectives, and the working group's efforts.

Piedmont-Smith asked for more detail on the United Nation's Sustainable Development Goals (UNSDG).

Wynia explained the goals and provided examples.

Piedmont-Smith said that it was like a guiding document.

Wynia confirmed that was correct and that it was broader.

Flaherty noted the Climate Action & Resilience (CAR) committee was working on advancing a suite of policies and programs to reduce the citywide off-road and lawn equipment annual emissions to below thirty-five thousand metric tons, a strategy from the Climate Action Plan (CAP). He provided examples.

Greg Alexander commented on the success of Vision Zero in Jersey City, New Jersey, as well as the deaths in Bloomington.

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

- COUNCIL COMMITTEES [7:28pm]

- PUBLIC [7:31pm]

Jim Shelton spoke about upcoming training for Court Appointed Special Advocates (CASA).

- PUBLIC (cont'd)

Jennifer Pearl, Bloomington Economic Development Corporation (BEDC), provided an update on quality improvement efforts and assisting workers who were laid off from Catalent. She also gave an update on the economic vitality project.

Nicole Franklin talked about her difficulty with obtaining custody of her grandchildren through the Monroe County courts.

Melvin Franklin also discussed some of the difficulties he and his wife had experienced with custody concerns regarding their grandchildren.

Piedmont-Smith moved and it was seconded to appoint Jon Eldon to seat C-5 on the Commission on Sustainability. The motion was approved by a voice vote.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:47pm]

LEGISLATION FOR SECOND READING AND RESOLUTIONS [7:47pm]

Rollo moved and it was seconded that Resolution 22-19 be introduced and read by title and synopsis only. The motion was approved by a voice vote. Clerk Nicole Bolden read the legislation by title and synopsis. There was no do-pass recommendation.

Resolution 22-19 – To Approve an Update to the City of Bloomington’s Americans with Disability Act Transition Plan [7:47pm]

Rollo moved and it was seconded that Resolution 22-19 be adopted.

Shermis stated that he did not have more to add from his earlier presentation on Resolution 22-19 and the corresponding reports.

Lesley Davis, Chair of CCA, spoke about the importance of following the recommendations in the ADA transition plan in compliance with federal law. CCA was formed to help community members, and council, make things inclusive for people with disabilities. She spoke about the vast differences involving disabilities. Davis noted that the UNSDG overlapped with accessibility goals.

Piedmont-Smith noted that there were some bus stops that were inaccessible and asked what was to be done.

Council questions:

Shermis stated that CCA had a great relationship with Bloomington Transit (BT) and that at least one or two board members attended CCA meetings. BT had asked for people with disabilities to assist with surveying bus stops. He noted that it was an ongoing issue and that funding was an issue.

Sgambelluri asked for clarification on federal funding that was being sought or received.

Shermis stated that Andrew Cibor, the City Engineer, would know that information.

Volan asked Shermis if CCA members considered participating with the Metropolitan Planning Organization (MPO).

Shermis stated that they did participate and had dialogue with MPO and provided examples. That was part of the next steps as well.

Piedmont-Smith asked about document accessibility pertaining to images in the plan.

Shermis said that it had been fixed immediately. Accessibility training and education for the city was ongoing.

Resolution 22-19 (cont'd)

Peter Dorfman asked about consequences for noncompliance.

Public comment:

Rollo asked what the consequences were for noncompliance.

Council comments:

Shermis stated that individuals could pursue legal means.

Davis said that individuals could also contact the Department of Justice.

Volan thanked staff and CCA members for their work and commented on his experience with the CCA and ADA. He was pleased to see CCA asserting its presence in the city. He reiterated the need for CCA to participate in the MPO Planning Committee because they approved spending of federal funds. Volan noted other, older countries around the world without ADA equivalences.

Rollo appreciated staff and CCA members for the presentation and spoke about sidewalk accessibility and the issues with scooters parking on sidewalks. He also commented on specific areas around the city that caused difficulty for people with disabilities. He noted the importance of not creating infrastructure, costing millions of dollars that did not consider accessibility issues like on 7th Street.

Sandberg acknowledged staff's and CCA's kudos on the Transition Plan. She noted problems with scooters, and more, in the city for those with disabilities. She also noted that disabilities varied greatly.

Flaherty also thanked staff and CCA members for the report. He explained the importance of noting accessibility challenges and issues at a system-level view, and not to focus on offending units. It might be important to focus on scooters at the time, but also trash bins and more. But most importantly, it was necessary to consider everything holistically. Marginalized roadway users, like pedestrians and scooters, have also been harmed due to unprotected roadways. He said that bicyclists rode on sidewalks because roads could be unsafe and it was important to not marginalize those community members.

Piedmont-Smith thanked staff and CCA members as well and appreciated the people-focus approach. She spoke about the education and outreach components so that community members could better understand what it was like to live with a disability.

Volan had looked at transport accident statistics in the United States and in 2020 more than forty-four thousand people died in transport accidents. Of that, more than forty thousand and five hundred died by accidents in cars. He provided additional details. He noted that it might be best to address trash bins on sidewalks rather than scooter since they were more pervasive in the city. He looked forward to the discussion on where to better place trash cans.

The motion to adopt Resolution 22-19 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 22-19
[8:19pm]

Rollo moved and it was seconded that Appropriation Ordinance 22-05 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 giving the committee do-pass recommendation of Ayes: 6, Nays: 0, Abstain: 3.

Appropriation Ordinance 22-05 –
To Specifically Appropriate From
the General Fund, Public Safety
LIT Fund, ARPA Local Fiscal
Recovery Fund, Parks and
Recreation General Fund, CC Jack

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

Smith rose and reported from the Committee of the Whole (COW) meeting from the previous week.

Cheryl Gilliland, Director of Auditing and Financial Systems in the Controller department, presented the legislation which was the comprehensive 2022 year end appropriation. The request was for \$828,000 and covered eleven funds. She provided details on the requested additional appropriations and transfer of funds.

Jeff McMillian, Deputy Controller, provided additional details on the funds that would be transferred.

Volan asked when the rental inspection fund was set up.

McMillian said it was within the last four or five years.

Volan asked why not take the rental inspection program fund for the rental inspection program.

McMillian explained that the state required that process.

Volan asked about the land purchase for the Engineering department and if it was for the Meridian project.

McMillian said it was right-of-ways on 17th Street.

McMillian believed it was separate projects.

Sgambelluri said that some of the land acquisition was for the multiuse path on 17th Street.

Sgambelluri moved Amendment 01 to Appropriation Ordinance 22-05.

Amendment 01 Synopsis: This amendment is sponsored by Cm. [in need of sponsor] [sic] and would correct the name of the Economic and Sustainable Development Department within the ordinance.

There were no council questions.

There was no public comment.

There were no council comments.

The motion to adopt Amendment 01 to Appropriation Ordinance 22-05 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0. (Volan out of the room)

Peter Dorfman asked for a breakout of the appropriation for legal for outside counsel fees for annexation versus the Meridian deal.

Rollo asked if staff had details regarding legal fees.

Beth Cate, Corporation Counsel, said that there were two significant costs and said that staff would provide details which would also be made public.

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

Rollo moved and it was seconded that Ordinance 22-30 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, giving the committee do-pass recommendation of Ayes: 2, Nays: 2, Abstain: 5.

Hopkins Fund, the Rental Inspection Program Fund, Local Road and Street Fund, Parking Facilities Fund, Solid Waste Fund, Fleet Maintenance Fund, and Housing Development Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund, Public Safety LIT Fund, ARPA Local Fiscal Recovery Fund, Parks & Recreation General Fund, Local Road and Street Fund, Parking Facilities Fund, Solid Waste Fund, Fleet Maintenance Fund, and Appropriating Additional Funds from the CC Jack Hopkins Fund, Rental Inspection Program Fund, and the Housing Development Fund) [8:19pm]

Council questions:

Amendment 01 to Appropriation Ordinance 22-05

Council questions:

Public comment:

Council comments:

Vote to adopt Amendment 01 to Appropriation Ordinance 22-05 [8:37pm]

Public comments:

Council comments:

Vote to adopt Appropriation Ordinance 22-05 as amended [8:41pm]

Ordinance 22-30 – An Ordinance Authorizing the Issuance of the City of Bloomington, Indiana, General Revenue Annual Appropriation Bonds, Series 2022,

Rollo moved and it was seconded that Ordinance 22-30 be adopted.

Smith rose and reported on the discussion on Ordinance 22-30 at the COW the previous week.

Mayor John Hamilton summarized the revenue bonds, timeline, and appropriation of bond proceeds regarding the financing of capital improvements to public safety facilities including the proposed acquisition of the Showers Building, CFC Properties. He provided details on improvements to fire stations, and outlined needs for the Bloomington Fire Department (BFD) facilities and the Bloomington Police Department (BPD) the Economic Development Local Income Tax (EDLIT), the city's General Obligation debt limit, proposed projects, background, process, and next steps.

Buzz Crohn, Crohn and Associates, provided details on the likely increase in interest rates, bond indexes over time, and the general consensus in the bond community regarding rates. The Showers building offered the most economic option. He explained other implications and expectations, and commented on the timeliness of the bonds, and locking in interest rates.

Brad Bingham, Bond Counsel, Barnes & Thornberg, summarized the bond ordinance, timeline, maximum interest rate, a construction fund that could only be used on the proposed projects, payment for the bonds including the EDLIT, and public hearings. He provided additional details on the timeline.

Volan asked if it mattered to the bond market how long it took the city spend the monies and decide what it was going to build.

Bingham said that the bonds were issued on a tax exempt basis and had to comply with federal income tax regulations. The city had to have a reasonable expectation on what the proceeds would be spent on, and have a timeline, on the date of issuance. He provided additional financial details pertaining to bonds. He advised that the city should not wait too long to make a decision and explained why.

Volan said that something needed to be built, even though the exact building was not yet known, and that was why it was ideal to vote for Ordinance 22-30.

Bingham explained what happened with rate increases, earmarking funds, debt service, and borrowing capacity.

Volan asked about the division of the site to be purchased, or for clarification on what was being divided.

Stephen Lucas, Council Attorney, said the removal of the appropriation language was due to the timing of the public notice. Legislation would be drafted that would also approve of the Redevelopment Commission's (RDC) purchase of the Showers building.

Volan asked what happened if council supported the bonds for public safety infrastructure but not the recommendation of the site.

Hamilton said that council's support for the bonds was important and if council disagreed with the purchase of the Showers building, then alternatives would be further explored. He described substantial investments for BFD. Hamilton said that not purchasing Showers building would require substantial rehabilitation of the current BPD location.

Piedmont-Smith asked about the cost comparisons regarding the purchase and renovation of the Showers building versus expansion of the current BPD station. She asked for clarification on the fees.

to Provide Funds to Finance the Costs of Certain Capital Improvements for Public Safety Facilities, Including Costs Incurred in Connection with and on Account of the Issuance of the Bonds, and Appropriating the Proceeds Derived from the Sale of Such Bonds, and Addressing Other Matters Connected Therewith [8:41pm]

Council questions:

Ordinance 22-30 (cont'd)

Deb Koontz, Advisor, stated that the percentage of fees depended on size of the project. The larger the project, the larger the fee percentage. The fees covered the requirement of having a licensed architect or engineer verify that the project was up to code.

Piedmont-Smith said that the project of the Showers building was larger than the existing BPD station.

Koontz said that it included the total construction value and that she would double check the math. It did not include the purchase cost of the property.

Piedmont-Smith asked what "owners rep" meant.

Koontz said it could be someone like an external advisor.

Piedmont-Smith asked for clarification on "owner's contingency."

Koontz said that the assumption was a 10% owner's contingency which was an industry standard. It was a function of the size of the construction value. The owner's construction contingency was included because in the early stage of the project, there were many unknowns and that contingency was used to accommodate for fluctuations in the construction process and unforeseen conditions.

Volan noted the police union's response on the proposal and their concerns regarding parking, access to police cars, and entering and exiting the property.

Koontz said that an analysis was done on the existing police station and the proposed Showers building. At Showers, there was a clear route north, towards 11th Street, and a route south via 8th Street to Rogers Street. The perceived challenge was that it felt tighter than the current police station but also there was less foot traffic than is on the B-Line. She provided additional information on other routes onto 10th Street and in an emergency, possibly using the sidewalk.

Scott Oldham, Deputy Chief of Police, said it was concerning, but that officers were very cognizant of their actions. There would be a challenge at any location and the police would adjust accordingly.

Volan said that 3rd Street was a major thoroughfare and asked about the entrance.

Oldham said that the front entrance was on 3rd Street, but that Lincoln and Washington Streets were used for calls.

Smith asked about the cost estimates and comparisons for the projects. He said it was difficult to know which project would be the best cost for the best value and function.

Koontz responded that despite being early in the project, there could still be good cost estimates that led to a good decision. She explained that the original study done by Springpoint Architect, was now a different scope of work. She provided examples like ballistic glass, which was not necessary.

Hamilton added along with a \$2 million difference, collocating fire and police could only be done at the Showers building. He explained concerns with renovating the current police station, and noted that council was not being asked to vote on which location was ideal that evening.

Smith struggled with retrofitting a historic building rather than building new to modern standards.

Koontz said that the Showers building was a solid building. There were no restrictions on the renovation of the inside of a historic building and there were city processes in place for modifications needed on the outside of the building. There would be signage, a generator with a fence around it, and other items that would be minimal. There were tradeoffs for both new construction versus renovating a building. She provided examples.

Sgambelluri asked if the cost estimate for the Showers building was only for the building itself, and not for ingress or egress, and if it was needed later, that funding would have to be secured. Ordinance 22-30 (cont'd)

Koontz said that changes for ingress and egress was not needed.

Sgambelluri asked if it was correct that there were three steps; first, the bond issue; second, the appropriation; and third, the approval of the purchase of Showers building.

Bingham said that was correct and that the last two steps would be combined into one legislation.

Sgambelluri said that the appropriation ordinance would approve the purchase of Showers building for public safety infrastructure.

Bingham said that it allowed the RDC to purchase the building and there was already a signed agreement allowing that.

Sgambelluri asked at what point council would be locked in with the purchase of Showers building specifically for public safety.

Bingham said the final approval would be in the final ordinance.

Sgambelluri asked for further clarification on the timeline for council deciding on the final project.

Bingham recommended that the city make the decision as quickly as possible, within days.

Hamilton explained that council could approve the purchase of the Showers building, or not. If not, then there would be other designs drafted.

Sandberg asked about revising Ordinance 22-30 with amendments such as not supporting all of the projects listed. What would happen if the projects were broken out into separate legislation and council could bond for the improvements to fire stations only, for example.

Hamilton said the administration did not believe in separating fire and police improvements. He provided additional details on why it was not ideal to separate the projects in Ordinance 22-30.

Rollo said that he did not see why other options, like city-owned facilities, had not been explored. He had not seen analyses of the other options like building a new structure.

Hamilton said that there had been an analysis on building a new public safety headquarters and found that it was more expensive.

Rollo asked about the expectation of future interest rates and that they would likely decrease.

Crohn explained that it was important to note that the interest rate graphs in his presentation were over a span of time. He summarized the trends with rates and expected future rates and provided additional details.

Sims commented on a public safety campus, and asked if there were other options seriously considered.

Hamilton said that a public safety campus was being proposed with the purchase of the Showers building. He explained the benefits of having fire and police in the same location with other city departments. He provided information regarding the discussion and consideration of other options.

Piedmont-Smith was concerned about the safety aspects of the Showers building on the west side which had not been used for public safety before. She noted the recommendations for the conversion for using the space as a police station. She asked if all the recommendations had been included in the cost estimate.

Koontz said there would be no ballistic glass, and special ventilation was only for the evidence space. Fencing was most likely not in the cost estimate and could be covered by the owner's contingency monies.

Piedmont-Smith said that the public could still access the Trades parking garage.

Koontz said that they could section off an area for the police.

Piedmont-Smith asked why not use ballistic glass.

Koontz stated that it had been discussed and it was decided to exclude that. She added that a brand new building in Lafayette would have no ballistic glass.

Piedmont-Smith asked about the line item cost for security and for clarification on the current police station versus Showers. The security costs for the current police station should be lower.

Koontz said there would be modifications for the current police station and that the cost could change. It was possible that new systems might be needed for items like cameras.

Volan said he was in favor of the bonds, indifferent about the purchase of the Showers building, and against using the Community Revitalization Enhancement District (CRED) dollars. He asked when the administration would appropriate CRED funding.

Hamilton said that the CRED was used to make sure that the city could fund the project.

Jeff Underwood, Controller, said that the administration would look at CRED funds during the bidding process for the facilities to compare against the revenue stream. He provided additional details on the process.

Volan asked if he should presume that by approving the bond that evening, then he was by default approving the CRED funds.

Underwood explained that the funds would be used for projects accordingly as the funds were available.

Fire Chief Jason Moore said that the goal was to start with the bonds. The administration would do their due diligence to lower costs without sacrificing quality.

Volan said that the primary way the bond was being funded was by the Public Safety Local Income Tax (PSLIT).

Moore stated that it was primarily funded by the EDLIT because the PSLIT funds were committed for the ten-year capital plan. It would maintain equipment needs and not facility needs.

Volan asked when CRED dollars would be requested.

Moore said that CRED dollars would be the last option.

Underwood explained the process, bidding, costs, revenue streams, and that if CRED funding was needed, then the request would be made. He believed it would be in the second half of 2023.

Sandberg spoke about an email from the Fraternal Order of Police (FOP) membership with concerns about the loss of privacy due to the proximity to the B-Line, and having city employees around when they were meeting with informants who did not wish to be identified, and other things. She asked Oldham for his input.

Oldham stated there were things that happened in the police station that probably would not be appropriate in other facilities. He did not personally think it was a privacy issue. He felt he could not give an affirmative response.

Hamilton said that while he had not seen the email, he welcomed discussion with police officers. He commented on swearing in ceremonies, and officer knowledge about the community. He believed that the metaphorical walls between public safety work and the community would become more permeable. It was integral to the function of the city. He said there would be protocols and protections with some police services. He believed that the proposal would advance progressive, effective, and integrated policing.

Sandberg asked if it was correct that the administration’s first proposal would be to bond and purchase the Showers building but that plan b would be to bond without purchasing it.

Ordinance 22-30 (cont’d)

Hamilton confirmed that was correct and the consideration before council to purchase Showers would be in two weeks. Plan b would be the administration’s alternative to council’s decision on not purchasing the Showers building.

Sandberg asked if two weeks was sufficient for council to make a decision on a \$30 million project.

Hamilton noted that the administration and council had been discussing the matter for many months and that it was ultimately council’s decision.

Piedmont-Smith asked what the lifespan of the Showers building was and why the letter from Doug Bruce, architect, said the lifespan was for three to five years.

Hamilton stated that the plan was for the Showers building to be the public safety campus for the foreseeable future.

Deputy Mayor Don Griffin asked Piedmont-Smith to read the letter. He noted that Bruce had been looking at systems and not the building itself.

Piedmont-Smith asked what the balance was in the CRED fund.

Underwood said it was \$10.7 million in the downtown CRED and in the Thompson CRED it was \$6.3 million. And the funding would be requested from the downtown CRED.

Flaherty moved and it was seconded to adopt Amendment 01 to Ordinance 22-30.

Amendment 01 to Ordinance 22-30

Amendment 01 Synopsis: This amendment removes provisions related to an additional appropriation from the ordinance. In order to comply with notice requirements for appropriations, the administration anticipates proposing a separate additional appropriation ordinance to appropriate the proceeds of the bonds issued as a result of Ordinance 22-30.

Bingham provided additional details on Amendment 01.

There were no public comments.

Public comment:

There were no council comments.

Council comments:

The motion to adopt Amendment 01 to Ordinance 22-30 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 01 to Ordinance 22-30 [10:08pm]

Piedmont-Smith read Bruce’s letter.

Council questions:

Griffin said he would have to follow up with council because it did not seem accurate.

Dave Askins asked about a future energy costs analysis, annual costs for maintenance, reconciling timelines with the RDC’s and prior approval by the legislative body, and process if the council approved the bonds, but not the Shower’s purchase.

Public comment:

Peter Dorfman commented on the needs for public safety infrastructure, the burden on tax payers involving bonds, and his concerns with police in the Showers building.

Paul Post, President of the FOP, spoke about fencing, clarification on the use of the Trades parking garage and security, and parking.

Ordinance 22-30 (cont'd)

Volan asked about parking, the use of Trades parking garage, and security. He asked how much parking the police thought they needed.

Koontz said that proposed parking counts were based on conversations with both the fire and police chiefs. It was designed with the purpose of future use, too. She explained the estimated parking that would be needed.

Rollo asked for clarification about prior approval for purchases over \$5 million pertaining to the RDC.

Council comments:

Lucas stated that council was not being asked to approve the purchase agreement. He clarified the statute regarding RDC's agreements to make payments for a property to be purchased. The coming ordinance would ask council to consider that.

Larry Allen, Assistant City Attorney, said that the agreement would not be valid if the council did not approve it.

Smith commented on factors he was weighing in consideration of the Showers building including congestion, safety issues for pedestrians and bicyclists, and cost comparisons. He thought that it was possible that the city was attempting to purchase more property than was necessary. He wanted to vote in favor of the best option for the fire and police departments. He would support the approval of the bonds, but was not in favor of voting for the Showers building.

Volan reiterated that the funding had already been levied and that taxpayers were not going to be taxed more for the project. What was being considered was how to spend the funds. He commented on the congestion from the viewpoint of patrol cars and concerns with the B-Line. He suggested using the term public safety headquarters as opposed to campus. Volan noted that having public safety headquarters at the Showers building would lead to more use of the Trades District garage. He expressed concern about the need for additional funds and should not be taken from the CRED. The CRED was not created for the purpose such as the proposal. The CRED funding should be used for improvements to alleys, burying cables, sidewalks, and more.

Sims spoke about the recent flooding that happened at the police department. He wished to discuss the Showers building more. It was important to have public safety in close proximity. He noted that there would be wrap-around services and referrals so ample space was necessary. He would support Ordinance 22-30 though more discussion was necessary. He briefly commented on costs regarding building new or renovating.

Rollo said that financing public safety facilities was necessary. The options were limited, and a greater exposition of possibilities would have been useful. He said that a comparison of the two options was also useful. He was leaning against the Showers building. He understood that a poll of police officers showed no support for the Showers building.

Flaherty appreciated the feedback on the sites that were considered. He recognized the many needs, and supported financing them, and believed the conclusions reached by the administration to be reasonable. He also appreciated the feedback from police officers but acknowledged that it did not include additional criteria like costs. He believed that it was misleading to say that none of the police officers supported moving to the Showers building because

the questions put before them were not constrained and did not consider all of the factors. He looked forward to continued discussions.

Rosenbarger would support Ordinance 22-30. She recognized the need for a new police station. She believed the administration and the consultants used due diligence resulting in a good option. She noted that forty two properties were considered, and ruled out, due to location or accessibility problems. The Showers building was the most responsible use of the funding. Rosenbarger believed that housing police and fire next to city departments enabled more collaborations and wrap around services. She trusted Chief Moore to work to keep the project under budget and to be smart about the funding. She was concerned about the safety of the intersections around the Showers building and knew that Planning and Transportation and Engineering staff would do their best to make the areas as safe as possible.

Piedmont-Smith said that separate legislation would be considered the following week. It was clear that investment in public safety was needed, the current police station was crowded, and adding to the building was not a long term solution. The Showers building was an appropriate space in most regards. She knew that the fire stations needed to be upgraded, as well as the training facility. She would support Ordinance 22-30. She was concerned about the traffic and the proximity to the B-Line trail, pedestrian activity especially on Saturdays during the Farmer's Market, and ingress and egress. She was not convinced that the CRED funds should be used.

Sgambelluri favored investments in public safety. She liked the idea of a comprehensive city government center with collocated services. She was convinced that Showers was not the ideal option for public safety offices, but it was the optimal option, given the constraints and parameters. She looked forward to the discussion on how to make Showers even more optimal. She appreciated the administration's response to council questions and she supported Ordinance 22-30.

Sandberg did not support the Showers building for a public safety location. She recognized that there was a great need for investment into public safety. She resented having to approve a bond without having specific information about the location. She commented on feedback from BPD and the need to include them in the discussion. Police officers had compelling reasons to not move to the Showers building and preferred upgrading the current police station. She was not convinced that all options had been explored. Sandberg was hesitant to vote in favor of the bonds and then hope that in the next two weeks, an ideal plan would be brought before council. She considered the \$34 million investment too grand to move forward quickly for interest rate reasons, and that it was more important to get it right. She would not support Ordinance 22-30.

Rollo wondered about collocation and if it was helpful to have fire, police, and other vital city services in the same location during a disaster, like a tornado. He questioned if it was best to put all of public safety and the civil city together if, for example, the building were to catch fire.

Volan said that there were many municipalities with public safety units together. He referenced Tuscaloosa's quick response to a large tornado because they had an off-site 311 office. He encouraged that

type of redundancy for Bloomington, just in case. He noted that the current police station was not a great building. He mentioned the scathing reviews regarding the new Indiana University hospital which indicated that new buildings were not always ideal. Volan asked for those interested in other options to present alternatives. He commented on ample space, city growth, and said he would support Ordinance 22-30.

Ordinance 22-30 (cont'd)

The motion to adopt Ordinance 22-30 as amended received a roll call vote of Ayes: 8, Nays: 1 (Sandberg), Abstain: 0.

Vote to adopt Ordinance 22-30 as amended [11:00pm]

LEGISLATION FOR FIRST READING [11:00pm]

Rollo moved and it was seconded that Ordinance 22-36 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Ordinance 22-36 – To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Proposal to Amend Chapter 20.02 “Zoning Districts” and Related Sections to Establish an Overlay District and Related Development Standards for the Hopewell Neighborhood [11:00pm]

Sandberg referred the legislation to a Special Session to be held on December 14, 2022.

Rollo moved and it was seconded that Ordinance 22-37 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Ordinance 22-37 – To Amend the City of Bloomington Zoning Maps by Adding the Transform Redevelopment Overlay (TRO) to Certain Below-Described Property [11:02pm]

Sandberg referred the legislation to a Special Session to be held on December 14, 2022.

Dave Askins asked when the City Hall doors were locked because they had been locked during a public meeting the previous week.

ADDITIONAL PUBLIC COMMENT [11:04pm]

Lucas reviewed the upcoming council schedule and legislation for consideration.

COUNCIL SCHEDULE [11:06pm]

Lucas summarized the two proposed legislative schedules, Schedule A and Schedule B. Council would need to adopt one by the end of the year.

Flaherty presented Schedule B, which had three Regular Sessions per month. He provided reasons in support of it and highlighted some key dates.

Piedmont-Smith noted that Schedule A had forty-one meetings, including the Committee of the Whole, and Schedule B had thirty meetings. She discussed process, final actions, and options on timing for votes on legislation.

Flaherty said that three meetings per month was reasonable, and extra Special Sessions could be scheduled as needed.

Rosenbarger asked Bolden for her preference on the schedules.

Bolden did not have a preference. She noted a conflict with one date and said that both proposals had alternatives for that date. Volan asked if code required that legislation have a second reading in the next meeting after a first reading.

Lucas did not believe so but that it had been common practice.

Volan asked if legislation could potentially be considered at a second reading, skipping a Regular Session.

Lucas confirmed that council could postpone to a future date.

Volan asked why December 20, 2023 was excluded.

Flaherty said it might have been an oversight.

Lucas summarized Schedule A and highlighted potential changes to that schedule. There was brief council discussion on the proposals.

Rosenbarger explained that code required that council recess after the second session in December, which was why December 20, 2023 was omitted.

Flaherty clarified that Special Sessions could be added.

Sgambelluri said it would be useful to have more time to consider the schedules.

Volan supported trying something new, and appreciated the upcoming Special Session. He commented on the flexibility with considering legislation.

Rollo appreciated having more time to consider the schedules. His concern was protecting the minority from action that could occur inadvertently.

Smith also appreciated having more time to consider the schedules. He wondered if it would be ideal to wait for the next council president to decide.

Sandberg stated that the annual schedule needed to be set ahead of the following year.

Bolden reminded councilmembers to sign their annual nepotism forms.

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

ADJOURNMENT [11:27pm]

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

APPROVE:

ATTEST:

Sue Sgambelluri, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington

MEMO FROM COUNCIL OFFICE ON:

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

Synopsis

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

Relevant Materials

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

Summary

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

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

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

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

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

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

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

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

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

Contact

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

ORDINANCE 23-21

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

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

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

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

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

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

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

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

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

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

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

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

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

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

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

NICOLE BOLDEN, Clerk
City of Bloomington

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

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

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

REDLINE

SECTION 15.32.150 AS MODIFIED BY PROPOSED ORDINANCE 23-21

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

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

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



**CITY OF BLOOMINGTON
STAFF REPORT**

Date: 8/24/2023
PC 23-03

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

Background

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

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

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

Title 15 Change

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

shall be amended by deleting and adding the following:

Delete

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

Add

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

RESPECTFULLY SUBMITTED,

Audrey R. Brittingham
Assistant City Attorney



MEMO FROM COUNCIL OFFICE ON:

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

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

Synopsis

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

Relevant Materials

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

Summary

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

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

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

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



City of Bloomington Indiana

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

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

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

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

Contact

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

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

wasona@bloomington.in.gov

ORDINANCE 23-20

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

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

WHEREAS, pursuant to Indiana Code §§ 36-9-2-5, 36-9-6-15, 36-9-2-7, 36-9-2-6 and other legal authorities, the City of Bloomington (“City”) has the power and responsibility to act as a conscientious and diligent steward of the public’s right-of-way; and

WHEREAS, the public’s right-of-way, which includes but is not limited to streets and sidewalks, is a common good intended for the free and open travel of the public at large and should not be appropriated for the use of singular individuals or entities to the exclusion of other members of the Bloomington community; and

WHEREAS, individuals and entities frustrate, impede, and/or exclude the general public from using the right-of-way when they camp upon, store personal property upon, or place obstructions within the public’s right-of-way; and

WHEREAS, among its other duties, the City has a responsibility to ensure that the public’s right-of-way is accessible and available to all members of the Bloomington community, including persons with disabilities and persons with limited mobility who are particularly vulnerable to right-of-way obstructions; and

WHEREAS, the City should take steps to prevent individuals and entities from impermissibly obstructing the public’s right-of-way;

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

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

Section 12.04.130 - Obstructing the right-of-way.

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

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

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

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

SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk

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

NICOLE BOLDEN, Clerk

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

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

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

MEMORANDUM

CITY OF BLOOMINGTON LEGAL DEPARTMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RECOMMENDATION TO ADOPT RIGHT-OF-WAY OBSTRUCTION ORDINANCE

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

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

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

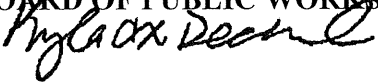
WHEREAS, staff have prepared a proposed city ordinance to change the Bloomington Municipal Code to address obstructions in the right-of-way, which is attached to this Resolution as Exhibit A;

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

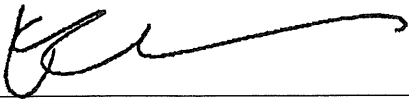
The Board hereby recommends that City Council adopt the proposed ordinance, attached to this Resolution attached as Exhibit A.

ADOPTED THIS 15th DAY OF AUGUST, 2023

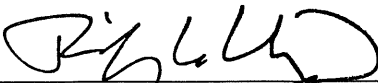
BOARD OF PUBLIC WORKS



Kyla Cox Deckard, President



Elizabeth Karon, Vice President



Jennifer Lloyd, Secretary