

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, March 29, 2023 at 6:30pm, Council President Sue Sgambelluri presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
March 29, 2023

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan (arrived 6:31pm)
Councilmembers present via Zoom: none
Councilmembers absent: none

ROLL CALL [6:30pm]

Council President Sue Sgambelluri gave a land and labor acknowledgement and summarized the agenda.

AGENDA SUMMATION
[6:30pm]

There were no minutes for approval.

APPROVAL OF
MINUTES [6:32pm]

Smith noted that March was National Disability Awareness month.

REPORTS [6:33pm]
• COUNCIL MEMBERS

Sims asked citizens to vote and mentioned candidate forums. He commented on yet another school mass shooting and said that prayers gave people hope but was not enough.

Piedmont-Smith provided information on voting, ballots, and encouraged voting. She reaffirmed the human rights of Lesbian, Gay, Bisexual, Transgender, and Queer+ (LGBTQ+) individuals and trans people. The Indiana General Assembly (GA) was attempting to take away their rights and Hoosiers needed to support the LGBTQ+ and trans communities. She asked the community contact the governor and urge him to veto Senate Bill 480.

Sandberg spoke against school shootings, and the recent shooting in Nashville, Tennessee. Having an enacted red-flag law would have prevented the shooting. It was time to acknowledge the nation's gun problem and inactions.

Volan clarified the deadline to register to vote. He discussed the Community Revitalization Enhancement District (CRED) funds totaling \$10 million. The administration was going to request \$3 million for the Trades Center tech building but a better plan was to upgrade the courthouse district's aging electrical and utility structure, or create a Bloomington Transit downtown circulator. He planned to propose \$5 million for the circulator which would connect the district. He commented on meter rates, parking demands on city blocks, and the investment of taxes back into the district they were collected from.

Sgambelluri noted her upcoming constituent meeting.

Mayor John Hamilton provided an update on the City of Bloomington Capital Improvements, Inc. (CBCI) and council questions. CBCI would revise the bylaws to allow the appointing entity to make a new appointment when there was a vacancy. He thanked council for the appointment of Doris Sims to CBCI.

• The MAYOR AND
CITY OFFICES
[6:47pm]

Rollo asked how CBCI would derive funds, about property transfers, and council's role.

Council discussion:

Hamilton said there were still some things to be determined. Funding would primarily be from the Redevelopment Commission (RDC), the transfer of contractor expenses from the city budget, or be requested in the 2024 budget as well as revenue generated from the venues. Property transfers were possible and council's role would not change. Council's involvement would be greater since council would have a representative on the CBCI board.

Sims agreed that council had appointed a wonderful board member, Doris Sims. He asked about allowing council to appoint two members to CBCI.

Hamilton had provided a memo to council eleven months ago highlighting the need for a nonprofit entity to help alleviate staff's workload with the management of city-owned properties like Hopewell. CBCI was a direct, operational board and future mayors would have the authority to manage it. He gave additional information on other boards' roles in city administration.

Sims asked if the administration felt it would have less authority if council appointed two seats, as opposed to one. Sims said the community's perception of collaboration would be increased if council had two appointments.

Hamilton said marginally, yes, and provided reasons.

Sandberg believed it was better to have two council appointments. There were several venues that CBCI would manage and two were related to the arts. It was ideal to include someone that was involved with the arts. Having three council appointments, and four mayoral appointments was best.

Volan said the bylaws were drafted before council made their appointment. He asked if there were any provisions for supermajority votes. Volan believed that the bylaws issue was moot because of the composition of the board, with four out of five being mayoral appointments.

Hamilton believed the only provision in the bylaws was in regards to the Open Door Law, and had to be approved by the mayor and council. He reiterated that the bylaws could be adjusted as needed.

Volan asked if the one council appointment was meaningful, given that four of the five seats were mayoral appointments, and thus a supermajority.

Hamilton responded that amendments to the bylaws required a majority vote. He reminded Volan that the bylaws had been shared with council in January. Hamilton and CBCI welcomed suggestions. He clarified that council had more access with the CBCI, in regards to affecting city-owned properties. Previously, all the work of the CBCI was done by the administration only.

Volan asked if it was correct that CBCI would have monetary authority. He said it was a missed opportunity to involve council in the development of Hopewell, for example. He said council's role was limited to a veto of funding. Having more council appointments would have been inclusive of council.

Hamilton hoped CBCI would have a budget but that council could veto that. There would be similar situations to the RDC's contract with The Mill board of directors; a nonprofit that had no mayoral or council appointments and managed the progress of the Trades District. The administration very publicly welcomed input from council and the public, including the early sharing of bylaws. There had been plenty of time for council to provide feedback on the creation of CBCI.

Sgambelluri asked what the mechanism was for changing the composition of CBCI members, and how that would be introduced.

Hamilton said that the bylaws could be amended by a majority vote. Any change to the number or appointment of directors had to be approved by the mayor, and council as well as the board. An amendment could be brought forth by the council, the board, or mayor.

Volan asked Hamilton if he would approve a change in the composition of the board.

Hamilton stated that he would not be in favor that evening, but was happy to continue the discussion on the matter.

Sgambelluri asked when Hamilton would be done discussing the composition of the CBCI.

Hamilton said it was an ongoing conversation, and that much like council, the end of consideration of an item would be a vote or when an agreement was reached.

- The MAYOR AND CITY OFFICES (cont'd)

Flaherty said that RDC would be transferring property or funds, and asked if CBCI would take over some of those responsibilities. He asked if RDC could acquire, sell, or transfer properties which did not require council approval.

- The MAYOR AND CITY OFFICES (cont'd)

Hamilton gave examples of RDC's role in other properties like The Mill and the development of the Trades District which had been primarily handled in the administration. The RDC had a minimal role. He said that RDC could transfer properties, though state statute dictated some RDC actions, like requiring council approval for purchases over \$5 million.

Flaherty noted that RDC had three mayoral appointments and two council appointments. CBCI would have executive functions, and with similar authority to RDC, he believed it was best to mirror RDC's composition. He asked if the appointment of Sarah Bauerle Danzman to both the RDC and CBCI was done intentionally.

Hamilton confirmed that it was and believed it was beneficial. There were some things that would still be determined. He reiterated that staff could not manage projects without significant changes. CBCI was created to alleviate staff's workload.

Volan asked why CBCI was not composed like RDC.

Hamilton again reiterated the reasoning behind the administration's decision on CBCI's board members.

Flaherty moved and it was seconded to extend the time limit on reports from the mayor and city offices until 8:00pm. The motion was approved by voice vote.

Vote to extend time limit [7:18pm]

Alex Crowley, Director of Economic and Sustainable Development (ESD) department, gave a background on shared-use, micro mobility deployments in the city, and recommendations for the future. The main concern was safety, parking, and accessibility in right of ways. There were community members against scooters, and others who frequently used the scooters. He highlighted the timeline of deployments and agreements with scooter companies, concerns with injuries and two fatalities, and accessibility issues.

Hank Duncan, Bicycle and Pedestrian Coordinator in Planning and Transportation (PT), presented in-depth recommendations. He discussed pre-ride educational quizzes, adjusted hours of operation, differences with standup and sit-down scooters, fees paid to the city, operator helmet certification, designated parking corrals, geofencing, incentivizing appropriate parking, and enforcing vehicle fleet caps, fines for improperly parked vehicles, and special protocols for major events like Indiana University (IU) football games. He briefly discussed long term solutions like leading pedestrian intervals, protected intersections, no-right-on-red intersections, scooter and bike racks, and universal charging stations. He noted next steps and a timeline.

Kirk White, Vice Provost for External Relations, IU, thanked everyone involved in analyzing data and drafting recommendations. It was devastating to have lost two students in the first month of the fall semester. Safety was the primary goal. He discussed IU's promotion of multimodal alternatives along with incentives for carpooling, use of bus service, and more. Reducing the hours of operation to times with high visibility and not allowing use of scooters after sunsets was ideal. He commented on geofencing, lowering speed limits, and safety education efforts.

Rollo moved and it was seconded to extend the time limit on Reports from the Mayor and City Offices until 8:30pm. The motion received a roll call vote of Ayes: 6, Nays: 3 (Flaherty, Sims, Volan), Abstain: 0.

Vote to extend time limit [7:55pm]

Smith asked what the cost to the city was, and about the revenue from scooter companies.

Council discussion:

Crowley stated that there would be staff who would monitor violations in the city and implement fines. He discussed projected revenue from fees.

- The MAYOR AND CITY OFFICES (cont'd)

Rollo had understood that infractions would result in fines or impoundment but those things had not occurred. He asked what the duration was of an average ride. He thought scooters were supplanting walking and was alarmed at the disposability of scooters. He asked where the lithium battery was disposed.

Duncan said the average ride was around seven minutes. He noted the sustainability benefit of using scooters. About 40% of riders would have used a car or something like an Uber if scooters had not been available. He would find out about the lithium batteries.

Volan commented on visibility and daylight hours, given Daylight Savings Time, and asked if the hours of operation could be adjusted accordingly.

Crowley said yes, and an appropriate hour would be determined.

Sandberg said the safety concerns were primarily for riders, and asked about pedestrian access to sidewalks. She asked if the Council on Community Accessibility (CCA) been involved in the process, impounding scooters, and imposing fines.

Crowley explained that the safety concerns focused on pedestrians. Creating parking corrals, and imposing fines, helped clear the sidewalks. He said that imposing fines for violations was more cost effective than impounding. Members of the CCA had not participated but could in future discussions.

Piedmont-Smith thanked Crowley, Duncan, and White for their collaborative efforts. She believed that the mayor had opted to not enforce law that was passed by council, and referenced the ordinance allowing scooters in the city, including a penalty of \$20 for users and a possible fine of up to \$2500 for scooter companies, and nonrenewal of contracts, as a consequence of violations. She noted public outreach events, helmets, appropriate parking, and more. She asked if there had been any fines to date.

Crowley responded that after the ordinance was passed, there were two pandemic years with minimal use of scooters. There had not been fines to date, and the city favored imposing fines over impounding. He said it was the appropriate time to implement adjustments and enforcement.

Sims spoke about the lack of imposing fines and asked for clarification. He asked if there was push back on hours of operation being from dusk to dawn.

Crowley said that staff, and BPW, was aware of the ability to impose fines. The goal was to determine the best process for changing bad behavior, including rider education and more. The violations were nearly entirely caused by riders and not the company. Having an ever-changing time was not ideal and was technologically difficult to implement. It was best to choose a period of time where the scooters would not function.

Sims did not understand why it was difficult to have a varying time based on daylight. He asked about areas with high use of scooters. He asked what type of education was planned.

Crowley discussed costs with deploying staff. It was ideal to focus on dense areas of usage. The pilot program had been implemented in the downtown area but future action did not have to be limited there. He said that at some point, riders needed to be accountable. The city could not force every rider to use a helmet, but education would help. He believed that over time, scooters would be seen as a needed mode of transportation, and that riders would take safety more seriously.

Rosenbarger thanked everyone for the presentation. She asked if other cities offered incentives for proof of wearing a helmet, like a photo. She wondered if riders preferred standup or sit down scooters, and if the cost was the same.

Duncan said that had not been discussed with the companies, but there were options for taking a selfie photo showing the helmet. Staff had made recommendations based on feedback from the scooter companies and had compromised on the percentage of standup scooters and e-bikes. The cost was the same.

- The MAYOR AND CITY OFFICES (cont'd)

Rosenbarger asked how geofencing worked when a rider rode to where there were no parking corrals, and had to potentially walk through an unsafe area. She asked for clarification on the study on alternatives to scooters that riders said they would have used.

Duncan said that incentivized, appropriate parking could be done. He said that analyzing more data would inform decisions. Data from Bloomington showed that 40-45% of riders would have driven or used something like Uber.

Flaherty thanked everyone for their work. He was in favor of geofencing and recognized issues regarding safety. He discussed sustainability and recent studies that showed scooters had a lifespan of five years. He asked if there was information from the companies about current scooters.

Duncan said he was not sure and would reach out to scooter companies.

Crowley added that companies were opting to use batteries that could be swapped out instead of picking up scooters for charging.

Volan was greatly concerned that the administration had chosen to enforce some laws and not others.

Crowley reiterated that the fines were not mandated, but were allowed. It was not accurate to state that the administration chose to enforce only some laws. He encouraged council to send additional questions to staff.

There were no reports from council committees.

- COUNCIL COMMITTEES [8:32pm]

Sonya Murrall commented on her research regarding injury rates across vehicles, including scooters which had the highest rate. She discussed other studies, unsafe and uncertified helmets, wheels, rider positions, and other safety concerns.

- PUBLIC [8:32pm]

Marc Haggerty noted that it was Vietnam Veteran's Day. He asked how to give dental care to aging veterans. He hoped for laws banning assault weapons. He discussed deaths, and other conditions, at the jail.

Scott Feral spoke about his degenerative eye disease and his inability to drive. He commented on his injuries, and lack of safety, relating to scooters in right of ways and gave reasons against having scooters in the city.

Von Welch commented on the CBCI and the impact it would have on the arts. It was ideal to have another community member on the board, especially one with arts expertise. He was concerned about the CBCI, its purview, and the drafting of bylaws.

Christopher Emge, Greater Bloomington Chamber of Commerce, discussed the micro mobility recommendations, including benefits, costs, and safety. He noted upcoming events.

Natalia Galvan spoke about the removal of Traffic Commission (TC) member, Greg Alexander, who had engaged in negative interactions on social media with some members of the community.

City Clerk Nicole Bolden commented on the unprecedented bills at the Indiana statehouse attacking the LGBTQ+ and same-gender loving Hoosiers. She highlighted proposed bills including a "Don't say gay" bill, banning of essential medical care for trans youth, censorship of books, and the restriction on child

services, considering abusive home environments for trans youth. There was a rally at the Monroe County courthouse called End Hate: Elevate and Celebrate Trans Joy, on April 02, 2023 at 2pm. Bolden encouraged councilmembers to attend the rally in support.

• PUBLIC (cont'd)

Chuck Livingston thanked council for their serious consideration of scooters in the community. He challenged Greg Alexander's claim that half of the Sidewalk Committee's budget was spent in Rollo's district, and spoke of Elm Heights, where there had only been two projects in the last twenty years.

Eric Ost spoke about Greg Alexander's comments and said it was justified to remove him from the TC. He urged council to remove him.

Stephen Lucas read a statement from Sam Dove submitted via Zoom chat stating problems with scooters blocking sidewalks.

Smith moved and it was seconded to appoint Caleb Poer to seat C-1 on the Commission on the Status of Black Males, and to appoint Rob Council to seat C-3 on the Commission on Aging. The motion was approved by a voice vote.

APPOINTMENTS TO
BOARDS AND
COMMISSIONS
[9:09pm]

Volan moved and it was seconded to reappoint Mike Allen to seat C-1 on the Digital Underground Advisory Committee, to appoint Da'Ja'Nay Askew to seat C-3 on the Dr. MLK Birthday Celebration Commission, and to appoint Cole Moore to seat C-4 on the Traffic Commission. The motion was approved by voice vote.

Volan moved and it was seconded to remove Luke Swain from seat C-3 on the Environmental Commission due to non-attendance pursuant to Bloomington Municipal Code (BMC) 2.08.020, paragraph 4. He stated, in making this motion, I ask that before a formal decision to remove is reached, that the Council give Mr. Swain at least five (5) business days to provide any extenuating circumstances, in writing, in response to this particular motion.

Lucas recommended that motions to remove commissioners or board members, for any reason, be shared with the appointee and to allow five days for a written response.

Volan noted that Swain last attended a meeting in September, and had since missed six meetings.

Sandberg moved and it was seconded to appoint Alex Hakes to seat C-1 and Justin Vassel to seat C-2 on the Bloomington Commission on Sustainability, and appoint Michael Schnoll to seat C-2 on the Parking Commission. The motion was approved by voice vote.

Volan moved and it was seconded that the question of removal be postponed until the Council's Regular Session on April 12. The motion was approved by voice vote.

Rollo moved and it was seconded that Greg Alexander be removed from the Traffic Commission for cause under BMC 2.08.020, paragraph 4, for the following conduct that demonstrates Mr. Alexander's diminished ability and fitness to perform the duties of his appointment:

Statements at Issue: The following statements were made on the social media site Twitter on the following dates:

- On November 3, 2022, in response to a Twitter thread regarding allocation of City funds for sidewalks, user @GregAlexander8 replies: "with all due respect, taking things away from elm heights *IS* exactly how the rest of the city gets help."

APPOINTMENTS TO
BOARDS AND
COMMISSIONS (*cont'd*)

- On November 5, 2022, in response to a Twitter thread, in which user @clerkmoore used the words “punching through” to describe a planned infrastructure project within Elm Heights, user 3 @GregAlexander8 replies: “i would really like to know. It sounds like they are going to savagely penetrate your neighborhood and I want to know what they’re going to use to do that?”
- On November 16, 2022, user @GregAlexander8 tweeted the following: “haters gonna hate and bloomington democrats gonna lick the shit out from between elm heights’ neighbors ass cheeks”

The Traffic Commission’s duties are listed in Bloomington Municipal Code Section 2.12.070 Paragraph (1) and are as follows:

Purpose—Duties. It shall be the duty of the commission, and to this end it shall have the authority within the limits of the funds at its disposal, to coordinate traffic activities, to carry on educational activities in traffic matters, to supervise the preparation and publication of traffic reports, to receive complaints having to do with traffic matters, and to recommend to the common council and to appropriate city officials ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.

The statements diminish Mr. Alexander’s ability and fitness to perform these duties of appointment in one or more of the following ways:

- Bias. The statements on Twitter from November 3, 2022 demonstrate bias against one of Bloomington’s neighborhoods. The statement advocates for taking city resources away from this neighborhood. This impacts Mr. Alexander’s ability to impartially discharge the enumerated duties in BMC 2.12.070. The following duties are specifically impacted: (1) receiving complaints from residents of this neighborhood and (2) recommending ways and means for improving traffic conditions and the administration and enforcement of traffic regulations within this neighborhood.
- Chilling public engagement. Members of the public have come forward during public comment portions of Council meetings, including the Regular Sessions on January 25, 2023 and February 1, 2023 and the Special Committee on Council Processes meeting on February 20, 2023, to express concern that Mr. Alexander’s behavior has discouraged Bloomington residents from voicing traffic concerns and interacting with the Traffic Commission. The behavior in question includes Mr. Alexander’s statements on Twitter from November 5th and 16th, 2022 that use references to sexual acts and sexual violence to ridicule public concerns about public infrastructure projects. Members of the public have stated that they feel targeted, bullied, and intimidated by Mr. Alexander. This impacts Mr. Alexander’s ability to engage with the public as is required by several enumerated duties of the Traffic Commission, including: (1) carrying on educational activities and (2) receiving complaints regarding traffic matters.
- Bullying and harassment that would be subject to disciplinary procedures under the City of Bloomington employee personnel manual. Volunteers are subject to the City of Bloomington policy prohibiting harassment in the workplace, in Section 3.04 of the personnel manual. Commission service is a volunteer position with the City. The personnel manual defines several behaviors that constitute conduct for which employees may be discharged immediately, including “any action that, whether or not a violation of a regularly established rule, regulation, or policy, is so deleterious to efficient City operations or to the public interest that discipline or discharge could reasonably be expected to result.” Mr. Alexander’s behaviors, including statements on Twitter on November 5 and 16, 2022 that ridicule public concerns with references to metaphors of sexual violence and depict graphic sexual acts, have interfered with public engagement with the Traffic Commission and the City. Members of the public have come forward to

express feeling intimidated, harassed, and bullied. The chilling effect these statements have had on public engagement with the City and Traffic Commission is so deleterious to the public interest that discipline or discharge could reasonably be expected to result under the City of Bloomington's personnel manual.

APPOINTMENTS TO
BOARDS AND
COMMISSIONS (cont'd)

Rollo made the following statement:

"To be clear, I do not make this motion because of Mr. Alexander's substantive criticisms of the city, the Council, or myself. Rather, I make this motion out of concern about Mr. Alexander's fitness to carry out the duties of his appointment to the Traffic Commission.

In making this motion, I ask that the Council make no formal decision tonight but instead give Mr. Alexander at least five (5) business days to provide any written comments he would like to offer the Council in response to this particular motion."

Volan questioned how many times a motion could be postponed. He noted the high praises for Greg Alexander from Sarah Ryterband, a TC member. He believed the motion was invalid and that a better process was to have the Special Committee on Council Processes (SCCP) create rules addressing the situation.

Flaherty explained that SCCP had not received legal guidance stating that the city employee personnel manual applied to board and commission members. SCCP had discussed having the manual apply in the future, through code, and asked for clarification. He asked if it was legally correct that commissioners were considered volunteers.

Lucas clarified that council staff had reviewed the manual which stated that volunteers were subject to the city's policy prohibiting harassment in the workplace. Board and commission members could be considered volunteers but council staff could continue to research that question.

Sandberg moved and it was seconded that the question of removal be postponed until the Council's Regular Session on April 12.

Rollo noted the timeline of the original and revised motions. He said that the motion was relevant.

Volan noted that he had suggested that the motion be referred to SCCP. He had hoped that the parliamentarian of council, Rollo, would not have made the motion for an ad hoc vote, but instead send it to committee to create a process.

Sims commented on the process of making council appointments. He said that council may not have appointed Greg Alexander to TC, when the initial recommendation was made to the full council, if there had been a discussion on the concerns regarding his appointment.

Rosenbarger said it was unfortunate that at least three councilmembers knew about the concerns but did not bring it to the attention of the full council.

Rollo said that other councilmembers were not aware of other interview committees' recommendations prior to a council meeting where the recommendation was made.

Volan pointed out that council had the ability to manage its process. He spoke about time limits, not having exceptions to established rules, and more.

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

Vote to postpone
[9:37pm]

There was no legislation for second reading, or resolutions.

LEGISLATION FOR
SECOND READING
AND RESOLUTIONS
[9:37pm]

LEGISLATION FOR
FIRST READING
[9:38pm]

Rollo moved and it was seconded that Appropriation Ordinance 23-01 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Nicole Bolden read the legislation by title and synopsis.

Appropriation Ordinance 23-01 – To Specially Appropriate the Current Balance of the Opioid Settlement Fund to Help Address the Impacts of the Opioid Crisis on City and County Residents
[9:38pm]

Sgambelluri referred Appropriation Ordinance 23-01 to the Regular Session to meet on April 04, 2023.

Rollo moved and it was seconded that Appropriation Ordinance 23-02 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Appropriation Ordinance 23-02 – To Specially Appropriate Funds from the General Fund for Construction of The Trades District Tech Center and Associated Construction Management Services
[9:39pm]

Sgambelluri referred Appropriation Ordinance 23-02 to the Regular Session to meet on April 04, 2023

Jamie Scholl noted comments on the NextDoor app pertaining to the discussion that evening regarding Greg Alexander. She commented on pay for councilmembers and how much time they spent in that role. She wondered if council was well compensated.

ADDITIONAL PUBLIC COMMENT [9:40pm]

Lucas reviewed the upcoming council schedule.

COUNCIL SCHEDULE [9:42pm]

Sgambelluri adjourned the meeting with no objections.

ADJOURNMENT [9:43pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 17 day of January, 2024.

APPROVE:

ATTEST:



Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council



Nicole Bolden, CLERK
City of Bloomington