

The Board of Public Works meeting was held Tuesday, October 10, 2023 at 5:30 pm in the Council Chambers of City Hall at 401 N. Morton St., Bloomington, Indiana and virtually through Zoom with Kyla Cox Deckard presiding.

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

Present: Kyla Cox Deckard  
Elizabeth Karon  
Jane Kupersmith

**ROLL CALL**

City Staff: April Rosenberger – Public Works  
Adam Wason – Public Works  
Beth Cate – Legal  
Heather Lacy – Legal  
Aleksandrina Pratt – Legal  
Christopher Wheeler – Legal  
Rob Council – HAND  
Rebecca Davis – HAND  
Maria McCormick – Engineering

Elizabeth Karon stated that there are a number of tragic things happening in the world and asked that participants retain some perspective during the meeting’s discussions.

**MESSAGES FROM BOARD  
MEMBERS**

Kyla Cox Deckard extended a welcome to Board member Jane Kupersmith and thanked her for her service.

City Legal deferred to the appellant. After waiting several minutes, Cox Deckard asked the appellant to begin their report.

**APPEALS**  
**Appeal Notice of Violation  
62038-08-1314; 530 S.  
Washington St.**

Adam Wason, Public Works, made a general statement about the appeal. Wason said that, in consultation with Corporation Counsel, City staff would be willing to meet with Mr. Davis on site to review the materials on his property, and that offer has been accepted by Mr. Davis. Wason said that City officials do intend to meet with Mr. Davis at his property, and added that the appeal should still proceed at this meeting.

Joe Davis, 530 S. Washington St., presented his appeal. Davis asked that Title 6 be displayed on the monitor, and added that his case depends on the parsing of Title 6. Wason stated that they did not currently have the ability to display Title 6, but the members of the Board were all furnished with copies. Davis asked that the appeal be delayed until Title 6 could be displayed for the benefit of the public to see and parse the language. Cox Deckard asked that the report continue and added that the Board did have hard copies of Title 6 in hand. Davis again asked that the report be delayed two weeks until the next meeting when the technology would allow the display of his materials. Wason stated that they would be able to display Title 6 at this meeting, and added that normally this kind of request should be made in advance but they would accommodate this instance, and to please proceed with the report. Davis again asked that the appeal be postponed until all of his documentation could be sent to the Board for review. Wason responded that every email sent by Mr. Davis had been submitted to the Board for review. Davis said that he also sent along 17 images, and asked if they had been included in the packet. Wason responded that the packet is not updated like that, and asked Davis to proceed with his appeal. Davis again asked that the appeal be postponed for two weeks until the next Board meeting so that his materials can be available to both the Board and the public at large. Davis added that he is being persecuted and singled-out. Cox Deckard acknowledged Davis’s request, and added that the appeal process is merely an opportunity for the appellant to present their case, and there is no guarantee of technology or other accommodations. Cox Deckard continued that this is the

opportunity to make the appeal, and that the Board is able to consider the appeal regardless of whether or not the appellant makes a report. Davis again asked for a two week delay for his appeal so that the public can review his materials. Cox Deckard asked Davis if he was declining to make his appeal at this time. Davis responded that he would like the appeal postponed. Cox Deckard acknowledged the request and asked that the City Legal Department begin their report. Wason asked Davis to vacate the podium and allow City staff to address the Board. Davis asked why City staff are going to make a presentation when he has requested that the appeal be delayed to the next Board meeting. Wason asked the Board if he could make a comment. Wason stated it had been a lengthy engagement between the City and Mr. Davis, lasting nearly 18 months, and there have been multiple postponements in recent week, at the City's request. Davis interrupted that he would like to request a postponement until the next Board meeting. Wason continued that this had been worked on in conjunction with Davis for many months, including information sharing, and that all materials have been shared with the Board members, and that the time for the appeal was at hand, and if Davis refused to make his appeal, then City staff would continue with the appeal process. Davis responded that it would be inappropriate for City staff to make a presentation if he was not able to make his full stated case, and that he was unable to make his case due to the technology not working and his materials not being entered into the Board packet. Wason stated that it is not the practice to allow Davis to dictate what is included in the Board packet, and added that there were other late requests that were not included in the packet because that is not how the process works. Wason again asked Davis if he would make his presentation or vacate the podium to allow the City Legal Department to make their presentation. Davis again stated it was not proper for City Legal to make a presentation if he was not allowed to make his full defense. Cox Deckard asked that City Legal make their presentation. Davis asked what will happen after City Legal taints the waters. Cox Deckard responded that the Board will make a decision on the appeal. Davis repeatedly asked that the appeal be delayed and that he was not being allowed to make his full case. Corporation Counsel Beth Cate asked to speak and Wason asked Davis to vacate the podium. Davis asked if he would still have the opportunity to present and Cox Deckard said they would afford him that opportunity. Davis stated that just prior to the meeting he was presented with images from City Legal Department member Chris Wheeler and that he did not have the opportunity to prepare a response. Cate made a statement that the City did indeed offer to have a multi-department meeting at Davis's property to review his materials, but she also made it clear that the relevant proceedings, both his appeal to the Board of Public Works at this meeting, and the Board of Zoning Appeals proceeding later in the month were on-going. Davis said that the meeting offer was made prior to the Board meeting, for a date in the future, and it would be inappropriate to deliver his appeal prior to the meeting taking place. Cate responded that the initial meeting offer message was sent to Davis unintentionally, which he accepted, and that the offer still stands. Cate again stated that she made it clear to Davis that the offer of a future meeting did not inhibit the relevant proceedings from going forward. Davis stated that he wanted the email exchange with Cate to be displayed at the meeting, and that he had not been receiving responses from City staff in relation to his case. Davis related a series of events he believed violated his right to due process, including that Christopher Wheeler had told City staff to not engage with him. Davis stated the images and descriptions of the items on his property were delivered to him only two business days before his appeal despite Board member Elizabeth Karon requesting them 8-10 months ago. Davis disagreed with the timeline and events described by Cate. Wason asked to make a statement and an offer to Davis: that the abatement of Davis's property would not happen until the meeting with City departments has taken place as described by Cate, but that the proceedings tonight must continue. Jane Kupersmith asked to make a comment, and stated that as a new member to the Board she felt she would be a good proxy for the public and would need to ask questions that would allow Davis to offer answers. City Legal asked to make a clarification on Wason's statements regarding Davis's court case but Davis would not yield the podium. Cox Deckard and Wason repeatedly asked Davis to vacate the podium so Legal could make their presentation. Davis repeatedly asked for a postponement of the appeal.

Cox Deckard called a recess at 6:10pm.

Christopher Wheeler, Legal, presented Appeal Notice of Violation 62038-08-1314; 530 S. Washington St. Rob Council, HAND, answered questions from Wheeler. The Board, Council, and Davis all reviewed a series of photos. Wheeler asked Council if the photos were taken by him and John Hewett of HAND. Council responded yes. Wheeler asked Council when the photos were taken. Council responded that they were taken the morning of September 26, 2023. Wheeler asked Council if he was on Davis's property when he took the photos. Council responded no. Wheeler asked Council if he was on the neighbor's property. Council said yes, and added that he had permission from both neighbors. Wheeler asked Council if he viewed the property on August 17, 2023, the day he issued the Notice of Violation. Council responded yes. Wheeler asked Council if the condition of the property on August 17 was reflected in the photos. Council responded yes. Wheeler asked Council if the exhibit list descriptions included with the photos, to help the Board understand the nature of the violations, was written by Council. Council responded yes. Wheeler asked Council if HAND believes that there are items of garbage or rubbish on the property. Council responded yes, and that they are violations of Title 6.

**Board Comments:** Kupersmith asked if the photos under review were different than what was circulated in the Board packet. Wheeler responded no.

Wheeler made a statement that the Notice of Violation was for a deposit of garbage on the property, and that Davis's characterization of the garbage as a random scattering is not what the City believed. Wheeler cited Municipal Code 6.06.020 and said that Davis's intentions for the garbage were not relevant, and that the continued deposit of garbage on his property resulted in the Notice of Violation. Wheeler said that the HAND department believed that Davis's appeal should be denied and the Notice of Violation should be upheld. Wheeler stated that if the Board believed the items in the photos are not garbage, then they should uphold Davis's appeal. The issue of storage of building materials would be discussed at the October 19, 2023 Board of Zoning Appeals, if the Board believed the items in the photos to be building materials, said Wheeler. Wheeler commented on Davis's Administrative Review Request of the Board's findings related to Notice of Violations and Abatements in the past, and stated that the court found Davis's complaint deficient, and dismissed the case. Wheeler added that Davis had appealed that decision.

**Board Comments:** Kupersmith asked if the August 17, 2023 Notice of Violation is the item being decided today. Wheeler responded yes, that was the only item under consideration for this appeal. Kupersmith asked about the amount of the fine. Wheeler responded that it would be \$50 total, and that a second fine within a 12 month period would be \$100, and a third and any subsequent fines within a 12 month period would be \$150. Kupersmith asked what an agreement between the City parties and Davis would look like and if Davis was amenable to such an agreement. Davis responded that he was amenable to the accepted offer of the verbal agreement, but not amenable to the follow-up email which revoked the offer. Wheeler said that he was not involved in the negotiations, it was Beth Cate. Wheeler added that when City staff visited Davis's property to help him identify items that were in violation, those staff were abused by Davis, who refused to allow them to do their job. Wheeler continued that the City is still open to an amicable resolution.

Karon asked if Cate was available to comment on the emails with Davis and the revoking of the agreement. Cate stated that the offer was not revoked, and it was made clear to Davis that the appeal process should still continue. Kupersmith asked about the paper trail of the proposed meeting at Davis's property. Wason explained to Cate about the deal to ensure the abatement of Davis's property would not happen until the interdepartmental meeting at his property. Kupersmith asked about what kind of contract or documents would be needed or helpful to articulate the deal, and Cate responded that the present documented Board

meeting would be adequate. Cate said that the City's enforcement of the City code is not dependent on the acquiescence of the party in violation of the code.

Cox Deckard stated that Davis would be given three minutes for any additional statements before the Board would render a decision. Davis objected to the proceedings and again asked for a postponement.

Cox Deckard called for recess at 6:45pm.

Cox Deckard made a motion to move two items to the end of the New Business agenda: 1) Appeal Notice of Violation 62038-08-1314; 530 S. Washington St., and 2) Request for Abatement at 530 S. Washington St. Karon seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

Mark Haggarty stated his concerns for the local government and alleged that rights are being violated. Haggarty reported an event where his wife was arrested for opposing the elimination of a greenspace near his home and lamented that a mayoral candidate was removed from the ballot.

**PETITIONS&  
REMONSTRANCES**

Denice Valkyrie commented that she would like to see all three properties for the new county jail site be considered equally before a final decision is made.

Joe Davis commented that during a previous abatement experience, HAND workers removed materials from his truck and trailer. Davis said the abatement crew put the items back because they did not feel the items were garbage.

Jamie Shaw asked about the definition of garbage and recyclables through the lens of those who reuse and repurpose items. Shaw asked that local government play a role in defining what is considered waste and what is considered aesthetically pleasing.

Rebecca Davis, HAND, presented Request for Abatement at 1600 W. 3rd St. See meeting packet for details. Davis stated that she had been issuing citations from June through September, 2023.

**TITLE VI ABATEMENT  
REQUESTS**  
**Request for Abatement at 1600  
W. 3<sup>rd</sup> St.**

**Board Comments:** Karon asked if Davis had any communications with the property owners, as they resided out of state. Davis stated that the initial citation was paid, indicating that it was received, but a later citation was returned through the mail. Davis said they tried sending to a new address but are uncertain if it was delivered. Karon asked if the Notice of Violations were issued for excessive growth or garbage. Davis responded the initial notice was for both, and the subsequent were for garbage.

Karon made a motion to approve the Request for Abatement at 1600 W. 3rd St. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

**CONSENT AGENDA**

1. Resolution 2023-71; New Mobile Vendor, Planted Bloomington, LLC
2. Resolution 2023-69; Bloomington Krampus Block Party
3. Resolution 2023-70; Fall Pop-Up Market
4. Outdoor Lighting Service Agreement with Duke Energy for Wingfield Subdivision
5. Addendum to Request for Sidewalk and Lane Closures from Centerpoint on Kinser Pike
6. Addendum to Request for Lane Closures from Centerpoint on E. 13<sup>th</sup> between N. Dunn and N. Walnut Grove
7. Approval of Payroll

**Board Comments:** None

Karon made a motion to approve the Consent Agenda. Kupersmith seconded. Cox Deckard

took a roll call vote, all in favor, motion is passed.

Adam Wason, Public Works, asked that Professional Services Agreement with Griffin Realty to Assist with the Public Bidding Process for the Sale of the Police Building be removed from the agenda.

Karon made a motion to remove Professional Services Agreement with Griffin Realty to Assist with the Public Bidding Process for the Sale of the Police Building from the agenda. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

Adam Wason, Public Works, asked that item #3 from the agenda be moved to item #2.

Karon made a motion to move Lane and Sidewalk Closure Request from Reed and Sons for the Bloomington Gateway Project at Miller Showers Park (October 16, 2023 –January 12, 2024) to item #2 on the agenda. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

Adam Wason, Public Works, presented Lane and Sidewalk Closure Request from Reed and Sons for the Bloomington Gateway Project at Miller Showers Park (October 16, 2023 – January 12, 2024). See meeting packet for details. Wason explained there were two permits for lane closures under consideration: the first pertained to a number of public improvements in the Millers-Showers area, and the second pertained to the installation of a Gateway art piece that has been contracted through the Parks Department and has been approved by their Board.

**Public Comments:** Charlotte Zietlow spoke against the installation of the Gateway art piece. Zietlow said there did not seem to be adequate coverage of the approval process and that the piece was not aligned with Bloomington’s artistic sense and was not designed or built in Bloomington.

Susan Brackney asked the Board to approve permit #1 and table or deny permit #2. Brackney asked if the City is prepared for the variety of issues that would arrive along with the installation of the art piece, including damage to people and wildlife from the light pollution, and if there would be any corresponding changes to City code. Brackney said the Board is the last chance of pausing the installation of the art piece, even though that is not within the Board’s purview.

Betty Rose Nagle spoke against the installation of the Gateway art piece, and cited objections to the approval process and aesthetics. Nagle considered the art piece to be a mistake by Mayor Hamilton and asked the Board to save the city from his mistake. Nagle acknowledged that it is beyond the Board’s purview to deny the installation, but added they were the last opportunity to prevent the installation from proceeding.

Paula Hillary spoke against the installation of the Gateway art piece. Hillary said that she understood the Board should not be the ones to decide the fate of the project, but they were the last opportunity to stop it. Hillary cited problems with the art piece’s location, its representation of Bloomington, its impact on wildlife, and its use of funds that should be directed to other needs.

Joe Davis spoke against the installation of the Gateway art piece, and called it phallic and a waste of money.

David Ebbinghouse spoke against the installation of the Gateway art piece. Ebbinghouse acknowledged that it is beyond the Board’s purview to deny the installation, but added they were the failsafe to prevent the installation from proceeding. Ebbinghouse found it problematic that the improvements to the park were bundled together with the art

**NEW BUSINESS**  
**Professional Services Agreement with Griffin Realty to Assist with the Public Bidding Process for the Sale of the Police Building**

**Lane and Sidewalk Closure Request from Reed and Sons for the Bloomington Gateway Project at Miller Showers Park (October 16, 2023 –January 12, 2024)**

installation.

Mark Riggins spoke against the installation of the Gateway art piece. Riggins stated that he and the public were not adequately informed about the project.

Jamie Shaw spoke against the installation of the Gateway art piece. Shaw cited the height and materials used in the art piece, and said that it would be a hazard if Bloomington were to experience an earthquake.

Jane Goodman, via Zoom, asked that the art piece be installed at a different location than Millers-Showers park, as it would disturb the wildlife at that location.

Unknown participant, via Zoom, spoke against the installation of the Gateway art piece.

Pileated via Zoom spoke against the installation of the Gateway art piece, and cited problems with the art piece's location, its representation of Bloomington, its impact on wildlife, and its use of funds that should be directed to other needs.

Unknown participant, via Zoom, spoke against the installation of the Gateway art piece, and added that the Board should table or deny the permit and let the City Council address it.

Shannon, via Zoom, spoke against the installation of the Gateway art piece, and cited concerns for environmental impact and negative effects on wildlife.

Andrea Kaiser, via Zoom, spoke against the installation of the Gateway art piece, and added that she has not heard any support for it.

Marilyn Behrman via Zoom spoke against the installation of the Gateway art piece, and added that she follows local news outlets closely and did not hear anything about the project.

Denice Valkyrie, via Zoom, spoke against the installation of the Gateway art piece. Valkyrie said that the public input process is inadequate. Valkyrie said there is already a monolith in Bloomington on the IU campus, intentionally placed where they do not want to attract birds, and to place a similar art piece in Millers-Showers park would negatively impact the wildlife there.

Shannon, via Zoom, said the light pollution from the art piece would negatively affect migrating birds who depend on darkness to navigate.

Diane, via Zoom, spoke against the installation of the Gateway art piece, and said that limestone should be used for the project.

**Board Comments:** Cox Deckard stated that the Board is tasked with approving the lane closure required for the site improvements, and that all other considerations for the project were made by the Parks Department and the Parks Board. Cox Deckard acknowledged the hard work of many City staff on the project, and their assistance with the associated questions from the Board and public. Cox Deckard asked that the Board be involved in the review process sooner, even if they are not signatories on a contract, and cited the current situation as problematic. Cox Deckard said there should be increased coordination between the various departments and stakeholders.

Karon made a motion to approve Lane and Sidewalk Closure Request from Reed and Sons for the Bloomington Gateway Project at Miller Showers Park (October 16, 2023 –January 12, 2024). No second. Motion failed.

Maria McCormick, Engineering, presented Sidewalk Closure Request from Michaelis Corp. on S. Walnut St. and E. Smith Ave. (Approximately 4 months). See meeting packet for details.

**Sidewalk Closure Request from Michaelis Corp. on S. Walnut St. and E. Smith Ave. (Approximately 4 months)**

**Board Comments:** Cox Deckard stated The Project School is in fall break for the upcoming weeks and have asked that the project move as quickly as possible.

Karon made a motion to approve Sidewalk Closure Request from Michaelis Corp. on S. Walnut St. and E. Smith Ave. (Approximately 4 months). Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

Adam Wason, Public Works, presented Contract with Ann-Kriss, LLC for Kitchen Renovations at Fire Station #2. See meeting packet for details.

**Contract with Ann-Kriss, LLC for Kitchen Renovations at Fire Station #2**

Kupersmith made a motion to approve Contract with Ann-Kriss, LLC for Kitchen Renovations at Fire Station #2. Cox Deckard seconded. Cox Deckard took a roll call vote, Karon abstained, Cox Deckard yes, Kupersmith yes, motion is passed.

Adam Wason, Public Works, presented Contract with Ann-Kriss, LLC for Restorative Roof Coating at Fire Station #2. See meeting packet for details.

**Contract with Ann-Kriss, LLC for Restorative Roof Coating at Fire Station #2**

**Board Comments:** None

Kupersmith made a motion to approve Contract with Ann-Kriss, LLC for Restorative Roof Coating at Fire Station #2. Cox Deckard seconded. Cox Deckard took a roll call vote, Karon abstained, Cox Deckard yes, Kupersmith yes, motion is passed.

Adam Wason, Public Works, presented Contract with Heflin, Industries, Inc. for Installation of Exhaust Hood at Fleet Maintenance Garage. See meeting packet for details.

**Contract with Heflin, Industries, Inc. for Installation of Exhaust Hood at Fleet Maintenance Garage**

**Board Comments:** None

Karon made a motion to approve Contract with Heflin, Industries, Inc. for Installation of Exhaust Hood at Fleet Maintenance Garage. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

Cox Deckard called for a recess at 7:55pm.

**Board Comments:** Cox Deckard indicated her intention to move this appeal to the October 24, 2023 agenda. Cox Deckard commented that the Board packets are set in advance, typically the Friday prior to the meeting, and that there would be no adjustments or additions to the packets unless they are requested by the Board. Wason added that the public comment period is the opportunity for the public to share their input, and that such comments or materials are not added to the Board packet. Additional information from the public will be provided to Board members, but it will not necessarily be added to the packet. Cox Deckard clarified that there is no public comment opportunity for appeals as there is for abatements. Cox Deckard continued that there is no expectation by the appellant for technology or other support during the appeal, that it is intended to be an oral presentation supplemented by the materials supplied to the packet in advance. Cox Deckard said that there are practical time considerations as well, and that items sent to the Board in the hour before the meeting would likely not be reviewed. Wason stated that City staff still intend to meet with Mr. Davis as proposed. Wason and Cox Deckard agreed to allocate 15 minutes to both the appellant and City staff for their appeal presentations. Karon requested that all materials be shared with the Board at least 24 hours in advance.

**APPEALS**  
**Appeal Notice of Violation 62038-08-1314; 530 S. Washington St.**

Cox Deckard made a motion to move Appeal Notice of Violation 62038-08-1314; 530 S.

Washington St. to the October 24, 2023 agenda. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

Cox Deckard made a motion to move Request for Abatement at 530 S. Washington St. to the October 24, 2023 agenda. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

**TITLE VI ABATEMENT REQUESTS**  
**Request for Abatement 530 S. Washington St.**

**Public Comments:** Joe Davis requested that there be a court reporter available at the abatement and that he be able to cross-examine any City presenters.

Christopher Wheeler asked for clarification on the abatement proceedings in light of the Board's request that all materials be submitted 24 hours in advance, and said that it is typical for the Board to ask about the condition of the property as it exists on the day of the abatement. The Board said it would issue guidance on that issue.

Jamie Shaw spoke in favor of Joe Davis and said he was an excellent teacher in the field of sustainable building practices. Shaw added that the materials in question on Davis's property could be considered building materials or garbage depending on perspective, and said that the City's stated goal of sustainability does not seem consistent with their persecution of the re-use of materials.

Cox Deckard commented that there will not be a court reporter present nor will there be the opportunity for cross-examination, as this is not a court of law.

Cox Deckard made a motion to move Request for Abatement at 530 S. Washington St. to the October 24, 2023 agenda. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

None

**STAFF REPORTS AND OTHER BUSINESS**

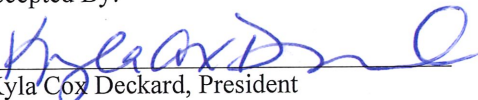
Karon made a motion to approve claims in the amount of \$1,921,311.25. Kupersmith seconded. Cox Deckard took a roll call vote, all in favor, motion is passed.

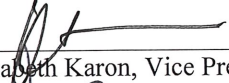
**APPROVAL OF CLAIMS**

Cox Deckard called for adjournment at 8:17 p.m.

**ADJOURNMENT**

Accepted By:

  
Kyla Cox Deckard, President

  
Elizabeth Karon, Vice President

  
James Roach, Secretary

Date: 2/13/24 Attest to: 