COMMON COUNCIL
SPECIAL SESSION
April 1, 2015

In the Council Chambers of the Showers City Hall on Wednesday, April 1, 2015 at 7:30 pm with Council President Dave Rollo presiding over a Special Session of the Common Council.

ROLL CALL

Roll Call: Rollo, Ruff, Sandberg, Volan, Granger, Sturbaum, Neher, Spechler, Mayer
Absent: None

AGENDA SUMMATION

Council President Rollo gave the Agenda Summation

REPORTS

There were no reports scheduled to be presented at this meeting.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Ordinance 15-06 – To Amend Title 20 of the Bloomington Municipal Code Entitled "Unified Development Ordinance" (Amending Sections 20.05.110 & 20.05.111 Regarding Temporary Use and Structures)

It was moved and seconded that Ordinance 15-06 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, noting that there was no committee recommendation on the item.
It was moved and seconded that Ordinance 15-06 be adopted.

Tom Micuda, Director of Planning and Transportation, said the ordinance was related to the food truck and push cart ordinance passed in the last week, and would make minor amendments to the Unified Development Ordinance to allow these vendors to operate on private property. He said current law required two permits, an itinerant license (Title 4) and a temporary use permit (Title 20) which required vendors to get two permits from two departments which the administration felt was onerous. He said this ordinance would transfer the review of temporary uses related to push carts and food vending to Title 4 only. He said the Planning and Transportation Department would still stay involved in the review of the site plan to look for blocked sidewalks, blocked fire lanes, handicapped parking or other disruptions as part of the process, but the actual process would be done by Economic and Sustainable Development. He said this proposal would also allow vendors to operate more than 15 consecutive days, and that provision would also be moved to Title 4.

Micuda explained the proposal would allow temporary use permits in two additional zoning districts and have those petitions reviewed by staff. They were currently either prohibited uses or uses which required a petition for a zoning variance.

Micuda also proposed a change in the sales period for farm products from 60 to 180 days, noting the old period was set in 1973.

Micuda said the current code allowed book buy-backs for 15 days once a year. He explained the proposal would allow this activity twice a year for seven consecutive days. He said this was reasonable and also would not require a petition for a zoning variance as in the past.

He concluded by stating that there were questions regarding food truck sales on private property after the previous food truck ordinance passed. He considered that portion of this proposal to be the most important part of the ordinance.

Spechler noted a small summertime farmer's market near the eastside Bloomingfoods and asked if that required a permit. Micuda said that it was, most likely, treated as an accessory use of the grocery store. He offered to check to see if a permit was on file. Spechler said he had no objection, but wondered if a food truck would be allowed. Micuda said it would be, and clarified that the permission of the property owner would be required.

Rollo asked if there had been requests for farm products to be sold for longer periods than 180 days. Micuda said he hadn't gotten any, but the issue might need to be revisited in the future. He said the 180 days per year would be a consecutive period, and something that would look

Ordinance 15-06 *(cont'd)*

more like a permanent use would be taken through the process for obtaining a variance.

There were no public comments on this ordinance.

Council comments:
Volan noted he was supportive of this ordinance.

Spechler said he was proud of the city's ordinances regarding food trucks and said it encouraged the activity. He noted the profitability of the trucks was now actually up to the food truck owners.

The motion to adopt Ordinance 15-06 received a roll call vote of Ayes: 9, Nays: 0.

Resolution 15-09 – To Endorse a Food Charter to Help Guide Community Decisions about Policies and Programs That Affect the Local Food System.

It was moved and seconded that Resolution 15-09 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, noting that there was no committee recommendation on the item.
It was moved and seconded that Resolution 15-09 be adopted.

President Rollo read the Food Charter Resolution in its entirety into the record. Michael Simmons, past chair of the Bloomington Food Policy Council Steering Committee, said it was their first major policy initiative and read the goals of the Food Charter which he said set a framework for strategy and creation of a food action plan. He said the plan needed to be collaborative. He asked for the council's endorsement of the document and said the Food Charter would help reform the food system and create a secure food system for all.

Spechler asked about the reform of the system, and asked about the less obvious problems to achieving objectives. Simmons said that locally we produced a small quantity, less than 2%, of the food we consume in Bloomington. He said that during WWII, communities produced about 44% in gardens. He said local production would make a community more resilient against interruptions in food supply. He noted that the Federal Emergency Management Agency (FEMA) had recommended that communities be able to go several days without help in emergencies. He said lack of local production, lack of food reserves, sustainably produced food, and access to affordable and nutritious food that was 'culturally appropriate' was essential. He pointed out that the Food Charter was based on human rights rather than needs.

Rollo asked Stephanie Solomon, Director of Education and Outreach for Mother Hubbard's Cupboard, if there were a lot of people who grew their own food and donated part of it to their organization. Solomon noted food insecurity was growing in the community and that there had been a 42% growth in their services in 2013-3015. She stated there had been an increased interest in food preservation as well.

Rollo asked Simmons to name the best community models for food security. Simmons said Canadian provinces had done the most work to increase local food production in urban regions. He said Hanoi grew 80% of the food consumed in that urban area. He said these measures were needed in the face of climate change, increasing population and other threats to food supply.

Public Comments:
Jamie Scholl noted the adoption of the 2006 Peak Oil Resolution, the creation of the Peak Oil Task Force, the amendment of the Unified Development Ordinance (UDO) to add an urban agricultural component, the 2009 adoption of the Peak Oil Task Force Report, and the

modification of allowances for urban chicken farming. She said these actions pointed to the fact that it was past time to adopt a Food Charter. She said the City of Bloomington needed to lead in this realm. She noted that California, producers of half of fruits, vegetables and nuts for the nation, was experiencing severe water shortages. She said that strides were being made in agriculture so that some of these products could be produced in our zone. She noted that during her time in California an earthquake affected the food security of everyone. She said our food supply in such an emergency would only last three days. She said the changes of climate -- extreme weather events, flooding, drought, and extended heat waves -- lowered agricultural productivity. She said the food action plan that would arise from the adoption of the Food Charter would help eliminate redundancy and prepare for the future.

Amy Roche, chair of the Bloomington Community Orchard Board, read a letter that had been submitted to the council urging the adoption of the resolution endorsing the Food Charter. She added that the passage of this resolution sent a message that the government cared about citizens and was an inviting feature of government.

Angela Babb, graduate student and intern with the IU Office of Sustainability's Food Working Group, read the group's letter of endorsement for the resolution.

Megan Hutchison, farmer and member of the Food Policy Council, said she was speaking from the Local Grower's Guild's position of strengthening the local food economy in the region. She said they supported this policy that used practices that would protect the earth. She said they were encouraged by the statement of protecting agricultural lands in peri-urban areas. She added that as a farmer she liked the collaborative and focused nature of the policy.

Ryan Conway, while associated with several groups already mentioned, personally advocated for the Food Charter endorsement. He said in order to move the community forward from generally recognizing food security, climate change, economic shocks and community resilience to motivated actions, an ability to coordinate and implement was required. He said this Food Charter, a shared frame of reference, was that model.

Isabel Piedmont-Smith thanked the Food Policy Council for their work on the Food Charter and getting so many community groups to agree on it. She said that a food policy was a strange concept to some, but today it was needed for local production of food to counter the effects mentioned above. She expressed a hope for this to be a beginning for the community to work together for local sustainability. She asked for education in this matter and coordinated action led by the city government.

Council Comments:
Spechler said that California would not run out of water this year. He said farmers used most of the state's water for agriculture, and that they grew crops that could be grown more effectively and efficiently elsewhere in the world. He said the cheap price of water in the west was not something we could address. He said he wanted to hear more about local issues, local produce in grocery stores, easing restrictions so that people could grow more of their own food in their yards, community gardens in parks, and educational opportunities. He said the best action for food insecurity was personal action.

Granger noted it was past time for this action and was glad it was brought up at this time. She thanked the Food Policy Council for their work.

Volan noted his mother grew up in Sparta and said her family survived the occupation by keeping chickens. He said in the same time period people in Athens raided supermarket shelves, then ate family pets and then began killing each other because of food shortages. He said while civil unrest was not as likely as an earthquake, the food policy resolution brought up real problems for the community to face.

Volan said there were several people in the IU Geography department that studied food and food security. He said the issue tonight was the culmination of this study, and he was supportive of it.

Mayer thanked all the people who worked on the food charter. He noted the article in the day's HT and quoted Julio Alonso, Director of the Hoosier Hills Food Bank:

> *In April of 2014 Feeding America report showed that Monroe County 2012 food insecurity rate was 17.9% for about approximately 24,740 people. In the six county area the food bank services the rate of people without adequate or nutritious food was 22.4% which is higher than the state and national averages. That's 41,300 people including 10,900 children who are food insecure in our community.*

Mayer said that was a staggering statement, and within Monroe County it would equal about 1 in every 3 people. He noted the Feed Our Future program of the Community Kitchen that included distributing food via Backpack Buddies Programs, After School Programs at the Boys and Girls Club, The Rise and Girls, Inc., and the Summer Breakfast Program. Mayer also noted that the Postal Workers were collecting food for the food bank on their home routes on May 9th and urged people to put out cans of food for the collection.

Sandberg noted that the Jack Hopkins Social Services Fund included provisions to highlight food security for low and moderate income residents. She applauded Mother Hubbard's Cupboard, Hoosier Hills Food Bank, and the Community Kitchen along with the South Central Community Action Program for their work in this area. She said Bloomington does a good job with these food issues.

Neher said that the legislation was about possibilities. He noted clients of Mother Hubbard's Cupboard and the Community Orchard were empowered to take ideas to reality. He said the Food Charter would give more possibilities to the community. He expressed his support.

Ruff said there were about 70,000 people in our community who were food secure and probably never thought too much about the food system in the community. He thanked the Food Policy Council and people who made the council and community more aware and food secure. He called it thankless work, and said in the long run everyone would benefit from this effort.

Rollo said the people who were present to support this legislation were inspiring to him, and that he looked forward to the next step, the Food Action Plan. He said this plan was important for a sustainable city. He noted social equity, environment and economy were all touched by food issues, and that this issue would be a glue for the community, regardless of faith or income status. He added this measure was good for the environment because it would shorten lines from the producer to consumer. He also noted that these types of programs enriched soil and created jobs, and money spent here would stay in the community.

The motion to adopt Resolution 15-09 received a roll call vote of Ayes: 9, Nays: 0.

Resolution 15-11 OPPOSING ENACTMENT OF SENATE ENROLLED ACT 101 OTHERWISE KNOWN A THE "RELIGIOUS FREEDOM RESTORATION ACT" (RFRA)

It was moved and seconded that Resolution 15-11 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, noting that there was no committee recommendation on the item.
It was moved and seconded that Resolution 15-11 be adopted.

Rollo asked Neher to read the resolution. Neher gave context by noting the previous week, Governor Mike Pence announced that he would be signing the Religious Freedom Restoration Act in private. He read two clauses that would be entered into Indiana Code under the guise of this act.
He said that Section 7 of the IC would read:

> *As used in this chapter, person includes the following:*
> *1) An individual*
> *2) An organization, a religious society, a church, a body of communicants or a group organized and operated primarily for religious purposes.*
> *3) A partnership, a limited liability company, a corporation, a company, a firm, a society, a joint stock company, an unincorporated association or other entity that:*
> *a. May sue and be sued.*
> *b. Exercises practices that are compelled or limited by a system of religious belief held by*
> *1. An individual*
> *2. The individuals who have control and substantial ownership of the entity regardless of whether the entity is organized and operated for profit or non-profit purposes.*

He said a person, as in this case meaning a person as an individual, church, limited liability company etc.,

> *whose exercise of religion has been substantially burdened or likely to be substantially burdened by a violation of this chapter may assert the violation or impending violation of the claim or defense in a judicial or administrative proceeding regardless of whether the state of any other governmental entity is a part of the proceeding.* (as read from Section 9)

He quoted NPR:

> *So in other words, while the federal law states that a person can sue the government for a grievance, Indiana makes a point stating that it doesn't matter if government is involved at all.*

He noted that Apple, Angie's List, the cities of Seattle and San Francisco, Connecticut, Anthem, Dow AgroSciences, Emmis Communication, Eli Lilly, Indiana University Health, and Kittle's Furniture had all stated an opposition to RFRA. He noted that Governor Pence, in a nationally televised interview, repeatedly refused to answer whether or not RFRA would allow discrimination under Indiana Code.

Neher noted that there had been a promise of revision or clarification of this law. He said the proposed resolution stated that either of these measures was unacceptable. He said there were only two options: to repeal RFRA, or advance the cause of equality by resolution.

Neher then read the text of Resolution 15-11.

President Rollo called for public comment:

Isabel Piedmont-Smith said she was proud of the council for producing the resolution laying out such a clear statement in such a short period of time. She said she was proud to be a native of Bloomington, Indiana. She also said she was outraged at the state legislature and governor for putting through the poorly drafted, ill thought-out legislation which she said must be repealed. She thanked the council for preparing this statement.

Jack Khan said he was pleased with the resolution and said the council was courageous in making this statement. He thanked the council.

Melanie Davis said she heard Bloomington was a wonderful place before she moved to town six years ago. She said it was such a place, and expressed her pride in the council and the community for its celebration of diversity. She was pleased with the people's opposition to RFFA.

Jami Scholl, an employee of an IU Diversity Program, said she was pleased and touched to see that the council was supportive of all kinds of people that she had worked with in that program.

Gabe Coleman said he was awed by the council's message and agreed that it should be sent to the businesses that had made statements about the legislature's actions. He thanked the council.

CW Poole said he was supportive of the council's actions. He added that RFRA was not ill thought out, but rather a specific and purposeful statement of the intent of the state legislature. He said he was proud that Bloomington would be making this statement to the Governor.

Council comments:
Spechler congratulated Neher and other council members who drafted this resolution, which he called serious and competent. He added that it captured what the community thought of the general assembly's work. He said this type of action drove people away, and that the influence of rural Republicans still had influence in Indiana. He said this would pass and people would be valued for their contributions as citizens of the state. He hoped that the 'stain of Governor Pence and this legislature' would be forgotten, but added that it would take years to do so.

Volan said the only thing that surprised him was that it had been so many years since he voted for the ordinance that added 'gender identity' to the city Human Rights Ordinance. He said we accept everyone in Bloomington and that people here have trouble understanding why other people wouldn't do the same. He noted other cities around the state that had sexual orientation and gender identity as protected classes.
Volan said that Indiana was the state of Madam CJ Walker, Booth Tarkington, Theodore Dreiser, Hoagy Carmichael, Wes Montgomery, and Kurt Vonnegut. He said that this resolution was also trying to reclaim the good name of our state, and he hoped it would help do that.

Susan Sandberg said she applauded the five Republican representatives who joined with Democrats to vote against RFRA. She said it had been a difficult week with the eyes of the nation on Indiana, but said that the state was filled with good people who were ready to become public servants without being beholden to money, lobbyists or the American Legislative Exchange Council (ALEC.) She said that only 28% of those registered voted in the last election. She said a minority of voters were making bad laws. She urged people to be a part of democracy and vote, to help undo the damage that had been done, change the face of the Indiana General Assembly, and find a replacement Governor.

Granger thanked Dan Sherman, Council Attorney/Administrator and Barbara McKinney, Human Rights Attorney for the city for their work.

Neher noted the expedited work of Sherman and McKinney in preparing this resolution. He said he had been in touch with a friend in Valparaiso who worked with their Republican mayor to put in a Human Rights Ordinance, and talked about a groundswell of support for this type of thing.

Mayer thanked Neher for his initiative in bringing this forward, and to President Rollo for making room on the agenda for the resolution. He

said he was thankful that the RFRA law was poorly drafted. He recalled that Governor Pence had made the statement that he wanted to put Indiana on the map, and added that, indeed, he had.

Resolution 15-11 *(cont'd)*

Ruff agreed with council statements on the horrible backwards act that was taken by the state.

He said Rev. Byron Bangert, longtime member of the Human Rights Commission, had sent an email of support for the resolution at 5:30 that day. Ruff read:

> *There should be a call to rescind the language that extends personhood to all kinds of corporate entities and businesses. This redefinition of personhood in Indiana law under this act is an extremely pernicious feature of Indiana's RFRA. It is the most subversive subterfuge of individual rights and freedoms echoing not just the Hobby Lobby decision but also the Citizen's United decision and worse, including a far more expansive version of these rulings in Indiana law. If opportunity allows, please consider amending the draft to call for rescinding the egregious move to make legal persons out of businesses and other corporate entities.*

Ruff said that he wanted to bring this to everyone's attention. He said that things could be inserted and snuck into pieces of legislation that could be very important in their far reaching effects.

Sturbaum said he felt sorry for the haters and the fearful. He said love was a higher way that brought joy to the heart. He added that RFRA was bad politics, but even further, bad religion.

Rollo thanked Neher, and all council members, for their work on the resolution which he said came to the agenda quickly. He said it came quickly into the agenda. He said that RFRA had 'freedom' in the title, but it didn't promote freedom, but rather promoted bigotry and prejudice. He said we should work to repeal it, and noted Poole's comment that RFRA focused on discrimination at its core. He said he was actually happy to see severe economic pressure on the state for RFRA.

Resolution 15-11 received a roll call vote of Ayes: 9, Nays: 0.

COUNCIL SCHEDULE

Dan Sherman, Council Attorney/Administrator, noted that the council schedule may need to be modified to add a Committee of the Whole meeting after the Regular Session of April 22, 2015.
The motion received a roll call vote of Ayes: 9, Nays: 0.

ADJOURNMENT

The meeting was adjourned at 9:20 pm.

APPROVE: ATTEST:

Dave Rollo, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington