

In the Council Chambers of the Showers City Hall on Wednesday, December 10, 2014 at 7:44 pm with Council President Darryl Neher presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
December 10, 2014

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

ROLL CALL

Council President Neher gave the Agenda Summation

AGENDA SUMMATION

Dan Sherman, Council Attorney/Administrator, gave the interim report from the Sidewalk Committee which endorsed amending the funding recommendations for the year. He noted the revisions amended the funding recommendations to reallocate some unspent funds in 2014, and request that the Mayor propose an additional appropriation for 2015 to make unspent 2014 funds available in 2015.

INTERIM REPORT FROM
COUNCIL SIDEWALK
COMMITTEE

Sherman said that the 2014 budget for this committee was \$300,000 from the Alternate Transportation Fund. He noted the January 2014 report from the Sidewalk Committee called for allocating \$298,000 for six sidewalk projects and one traffic calming project.

He said two projects had been completed in 2014, phases of another two projects were completed, but two sidewalk projects and the traffic calming did not get completed. He said the report requested that the council allocate \$69,000 to move four projects forward and then pay for the design of the new project. He added that there was a request in the interim report that the mayor allocate an additional appropriation for 2015 to add \$56,200 to the 2015 project funding.

Sherman offered to answer questions about the projects or the interim report proposal.

Sturbaum noted the sidewalk work on Maxwell Lane had been completed. He said they had been pleased to work with the Monroe County government to complete the project at Leonard Springs. He noted that instead of hurrying to spend money this year, the committee was asking that the unspent portion of the original allocation be put towards next year's projects.

There was no public comment on the report.

Rollo noted that there were 40 sidewalk projects (representing over ten miles) that were evaluated for funding, with many more for next year, not including traffic calming projects. He said that matching funds had been lost a few years ago, and he wanted the council to know that there were several large projects that were very expensive. He said the 17th Street project alone exceeded the entire year's allocation by \$100,000. He wanted the council to make a priority of asking other entities to consider helping with some of these projects. He noted the Metropolitan Planning Organization asked for INDOT funds, as well as others.

Rollo noted that less than ½ mile of sidewalks were completed each year, therefore there was need for more funding for this purpose.

Mayer, the council representative to the Utilities Service Board, noted that Utilities provided support when they were included, but noted that they functioned on rates paid by customers, and it was not always appropriate for them to help fund a project. Rollo followed up noting that Utilities' help on mutual projects was greatly appreciated at the time, and he understood that Utilities had different priorities at this time.

Sandberg, having formerly served on the Sidewalk Committee, said she knew of the difficulties in prioritizing projects. She noted her appreciation for the work of the committee in retrofitting sidewalks.

Spechler recognized Sturbaum's third year of chairmanship of this committee. He also recognized the contributions of Granger and Rollo noting that they worked well together. He said the work was gratifying, and he appreciated the work in his district. He said the work on 17th Street was crucial for our community and said the safety issues would guide this committee in the future.

Interim Sidewalk Committee Report
(cont'd)

Volan thanked the committee members. He noted his interest in Rollo's call for new partners and new money, and he wondered if TIF money could be used for certain sidewalk construction. Volan noted that decades of growth had left the city without certain infrastructure, and he hoped new money could be found for sidewalks. He also noted the 17th Street project and remembered an 11 year old girl who had come to the council to say there was no way to safely cross that street. He said he hoped she was heard now.

Sturbaum said that with the cooperation of Utilities and Public Works, the biggest project they funded was on East Third Street. He said 17th Street and Kinser Pike had been similarly neglected. He lauded Granger's advocacy for Kinser Pike as impetus in finding a way to complete a sidewalk from 17th Street to the Bypass. He spoke of the area around the 17th Street roundabout, the funding for some of that area, and said that this was a priority of the committee.

Mayer called for Indiana University to put in a sidewalk in front of Assembly Hall on 17th Street and noted that IU had never put in sidewalks in front of their buildings. He said that was a bothersome issue when they put millions of dollars into a building, but depended on the city to put in sidewalks to access them.

Rollo noted other people who served on the committee were Jane Fleig from Utilities, Scott Robinson from Planning, Bob Woolford from HAND, Steve Cotter from Parks and Rec, Sue Wanzer from the Clerk's Office, and Dan Sherman who assembled the report.

It was moved and seconded to adopt the Interim Report from the Council Sidewalk Committee. The report was adopted as presented by a voice vote.

It was moved and seconded that Ordinance 14-24 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 4-1-2. It was moved and seconded that Ordinance 14-24 be adopted.

LEGISLATION FOR THIRD
READING

Ordinance 14-24 To Amend Title 4 of The Bloomington Municipal Code Entitled "Business Licenses and Regulations" - Re: Chapter 4.16 (Itinerant Merchants, Solicitors and Peddlers - *deleted and replaced*); Chapter 4.28 (Mobile Vendors - *added*); and, Chapter 4.30 (Pushcarts - *added*)

Ruff asked the council's preference about introducing a motion to defer action on Ordinance 14-24 until the first quarter of 2015. He was advised that it was more about the timing of the proposal rather than the substance, and he chose to move the following:

MOTION to defer action on
Ordinance 14-24

Ruff moved, and Mayer seconded, to defer action on Ordinance 14-24 as revised until the 1st quarter of 2015 at which time it would be introduced with a new number.

Ruff said that additional issues had arisen in the discussion that even staff, with all their work and input from stakeholders, didn't anticipate. He said he was still confused about the math and some of the other issues. He noted that he felt it was better to consider this in the new year than to pass an ordinance that would need to be amended in the very near future.

Volan asked what 'defer' meant in this instance. Dan Sherman, Council Attorney/Administrator noted that Volan might be more comfortable using the word 'postpone.'

Ordinance 14-24 – Motion to postpone (*cont'd*)

Volan noted that there was not a specific date for bringing back this issue and asked Ruff to state his intentions with regard to a date for consideration of the legislation. Ruff said he was defining a window of action without a specific date. Volan asked if it would be more appropriate to add a specific date to this motion. Sherman stated either was appropriate.

Neher asked if the administration supported the motion. Patty Mulvihill, Assistant City Attorney, said that the administration would support this.

Volan said he knew that there were a number of amendments that were going to be proposed by different council members and asked when they would be introduced. He noted for future discussion, it would be good to know things that council members were thinking about.

Spechler said he wanted to get this right the first time, and supported postponement. He noted that he had been thinking about an amendment regarding the operation of food trucks in the University Village Overlay while allowing them to operate in other parts of the city as well.

Mayer asked for the definition of University Overlay. Spechler said it was similar to the definition of Kirkwood and the Courthouse Square area in an ordinance previously discussed with standardized businesses.

There was no public comment on this motion.

In his comment on this motion, Volan explained for the public present what postponement meant. He advised them not to expect a discussion at this meeting. Neher clarified that the postponement would require a 'restart' including a new number, new first reading, and new discussion. Sherman said that the Ordinance as amended in the committee meeting would come forward in this new ordinance, with additional information if the council wished to include that.

Rollo said he'd like the staff to have the latitude to make changes, especially since the council would hear the entire ordinance again. Sherman suggested the council think about this 'as revised' instead of 'as amended' which would allow for changes suggested at the Committee of the Whole meeting or further changes that might be added.

Volan said he would reintroduce this under a new number at any time. Neher asked Rollo if he wanted to amend Ruff's motion to include the words 'as revised' instead of 'as amended.' He agreed to that and made the motion for a friendly amendment. The change was approved by a voice vote.

Ruff noted his appreciation for all, especially staff and community members, who were willing to take more time with this discussion so that the issue could be revisited as little as possible.

Granger said it was not her first choice to delay the ordinance, but she appreciated the desire to get the legislation right, and not continually amend it.

Rollo noted he wanted to see a comparison of what similar cities did with this issue, wanted a noise level set for food truck generators, wanted to see some valuation of distance from brick and mortar restaurants, generator sounds with regards to outdoor seating, hotels, lodging, and people living downtown. He suggested a more clear understanding of the Home Rule option for emissions.

Sandberg said she liked the extra time for the public to understand the nuances, and what the legislation would do. She wanted to explore the idea of food truck pods. She said this didn't need to be a zero sum game, and the legislation could be done with respect.

Mayer said his concerns were similar to Rollo's concerns. He said enforcement was critical to the success of the policy, and they needed to find a way to make sure it was fair and even handed. He added that consequences of violations needed to be clear and understood. He thanked the staff for their work.

Volan said he was grateful for the motion but disappointed that it took another week of doubt for the council to realize that more time would not harm the discussion of the issue. He said that sound – what it is and how it is measured -- was an issue within this topic. He said there were concerns about enforcement and other issues that had been surrounding this topic that could be explored. He said that everyone that had an interest in the issue wanted to see some legislation passed by the council, and said he had no doubt that all would work towards that end.

Spechler said that he supported postponement because he would like to see public areas such as parking lots, as well as private areas, used for food trucks. He asked the staff to look into that issue, mentioning specifically the parking lot behind Dunkirk Square. He said that he was in error in thinking that food trucks did not pay sales tax. He asked Carnes how much sales tax had been reported from food trucks, and what the volume of business was for food trucks.

Neher said there was no harm that the discussion was held at this meeting because the council found out that there were more considerations that needed to be taken into account for effective legislation. He supported the motion to postpone action.

Mayer added to his comments by thanking the vendors, restaurant owners, and others who were closely following the issue for their careful consideration, presentations, civility, understanding, and thoughtfulness as this process unfolded.

The motion to postpone the ordinance until the early part of 2015 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 14-25 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 7-0-0. It was moved and seconded that Ordinance 14-25 be adopted.

Ordinance 14-25 To Amend Title 20 of the Bloomington Municipal Code Entitled "Unified Development Ordinance" (Amending Sections 20.05.110 & 20.05.111 Regarding Temporary Uses and Structures)

Neher asked Patty Mulvihill, City Attorney, to present the ordinance. She asked that the council vote against the ordinance as it was tied to the Bloomington Municipal Code Title 4 changes that were just postponed. She said that taking no action or passing this ordinance would be confusing and that the administration would prefer for this to come forward in the new year.

Volan questioned Mulvihill about the timing and meaning of this action. Mulvihill said that this proposal had already been before the Plan Commission and now the council had 90 days to act on it. If there was no action, the proposal would be adopted as the Plan Commission approved it, so the changes would actually go into effect.

Volan said the changes didn't seem problematic to him. Mulvihill said that the previous ordinance would have exempted licensees under Title 4 from getting a temporary use permit. To pass Ordinance 14-25 without Ordinance 14-24 would allow rug sellers and other temporary sales groups to not get a temporary use permit. She said this was not the intent of the proposal that was passed by the Plan Commission.

Mayer verified that a 'No' vote would mean everything would remain the same as it was now.

Ordinance 14-25 (cont'd)

The motion to adopt Ordinance 14-25 received a roll call vote of Ayes: 0, Nays: 9.

LEGISLATION FOR SECOND READING

It was moved and seconded that Ordinance 14-26 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 8-0-1 from the Committee of the Whole meeting immediately preceding this special session.

Ordinance 14-26 To Amend Title Two of The Bloomington Municipal Code Entitled "Administration and Personnel" (Amending Section 2.08.020 which Sets Forth General Provisions for the Establishment, Membership, and Operation of Boards, Commissions, and Councils, and Amending Section 2.23.090(d) to Bring the Expiration Date of the Commission on Aging in Line with Other Such Local Entities)

It was moved and seconded that Ordinance 14-26 be adopted.

Neher noted this ordinance was discussed earlier in the evening at a committee meeting. He asked Wanzer if there was anything she thought needed to be added to the discussion.

Wanzer said the synopsis detailed the issue well, and she emphasized the loss of staggered terms was not an oversight or mistake by any one person, but a complication of people leaving a commission or board seat before the end of their term. She said sometimes there was a question about creating a new term for a new member.

There were no comments from the public.

Mayer noted the extensive discussion earlier and that the lack of questions and comments at this portion should not be construed as disinterest.

Volan said he would abstain from the vote because he didn't have time to study the issue well. He said he was not a fan of adopting anything in one evening if it was not essential.

The motion to adopt Ordinance 14-26 received a roll call vote of Ayes: 8, Nays: 0 Abstentions: 1 (Volan).

COUNCIL SCHEDULE

It was moved and seconded to cancel the meeting on December 17, 2014. There were no questions or discussion on this motion and it was approved by a voice vote.

Dan Sherman noted the Internal Work Session that was scheduled for December 19, 2014 at noon. He said there were things coming up in the first cycle in the new year that could be discussed.

Neher asked council members if they would be able to attend the work session, and three said they would. He recommended cancellation. It was moved and seconded to cancel the Internal Work Session on December 19, 2014. The motion to cancel was approved by a voice vote.

The meeting was adjourned at 8:46 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Darryl Neher, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington