

In the Council Chambers of the Showers City Hall on Wednesday, January 19, 2011 at 7:30 pm with Council President Susan Sandberg presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
January 19, 2011

Roll Call: Mayer, Piedmont-Smith, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler (arr. 7:40)  
Absent: none.

ROLL CALL

Council President Sandberg gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved at this meeting.

APPROVAL OF MINUTES

Isabel Piedmont-Smith noted the recent Dr. Martin Luther King, Jr. Birthday celebration of the past Monday. She said that because his words had moved so many at the time (and since that time) to engage in the fight for social justice, she would read a section of his speech given at the Riverside Church in April of 1967, just a year before he was assassinated. She said his words were relevant today, over 40 years later as we pursue a better society in Bloomington and throughout the country.

REPORTS:  
COUNCILMEMBERS

She also made the statement that she would not be filing for a second term on the council.

Tim Mayer thanked the Street, Utilities and Sanitation departments for the work they do in the extreme cold. He also extended his thanks to the police and fire personnel who do their jobs in bad weather.

Dave Rollo noted the passing of Bob Bent, a professor emeritus of Physics, who continued teaching after his actual retirement, and was one of the first council appointments to the Bloomington Commission on Sustainability. He said he was grateful for Bent's expertise, especially in the early days of the Commission's work.

Chris Sturbaum talked about the need for civility in politics, and the need to 'agree to disagree' with respect and love for each other in this next year. He said we all take turns being right and wrong on a matter and we need to work against anger and distrust in council work. He said he would practice this and hopefully learn some things that he might not know otherwise. He asked that the council and country do that too, in the spirit of working together.

Andy Ruff thanked Isabel Piedmont-Smith for her service as a council member. He said he appreciated working with her as she brought forward many important initiatives and that she would be sorely missed on the council. He also hinted that she had a little while to change her mind on this issue.

He added his thanks to her for reading the Dr. Martin Luther King, Jr., speech segment. He said that MLK's message in terms of economic equality and larger message of non-violence in terms of aggression around the world, his stance against the Vietnam war and his own government's pervasiveness of violence was sometimes overlooked and not taught in schools.

Susan Sandberg also thanked Piedmont-Smith for her service and reminded everyone that she still had a year to serve on the council. She said her leadership and service was much appreciated.

Sandberg said that civility and public discourse was much on the mind of the country due to the recent incident in Arizona at a Congress on the Corner event in Tucson. She said that in the wake of the King celebrations, we should think of how to move the country forward in a

positive direction, not the least of which was mental health care and issues surrounding it. She noted the recent discussion about this with the visit of author and watchdog Wendell Potter and the showing of "Sicko" this month. She said we all would work together to keep Bloomington the place we want to live.

There were no reports in this category at this meeting.

MAYOR and CITY OFFICES

It was moved and seconded to accept a Conflict of Interest Statement filed by Council Attorney/Administrator Dan Sherman with regards to a sidewalk that was considered by this committee, which was adjacent to his property. The motion was approved by a voice vote.

COUNCIL COMMITTEES

- 2011 Sidewalk Committee Report

It was moved and seconded to adopt the 2011 Sidewalk Committee Report. The motion was approved by a roll call vote of Ayes: 9, Nays: 0

Sherman gave an overview of the Sidewalk Committee members and their expertise and other pertinent background data that included amounts and sources of funding. He said that Controller Trexler relayed to the Committee that the alternative transportation fund included the \$225,000 to be used by this committee, and also an additional \$540,000 to be used for the maintenance of other sidewalk and bicycle related projects which would not be included in the Committee's purview. He noted that the \$225,000 consisted of the \$15,000 set aside for traffic calming projects. He said he anticipated a request from the Prospect Hill neighborhood relating to this. He noted that there was \$210,000 available for sidewalk projects to be added to that amount to create the total.

He added that the East Third Street sidewalk, the Committee's highest priority for a number of years, had other city funds dedicated to its construction as well as the funds allocated by the Sidewalk Committee.

Sherman reviewed the proposed projects, giving a number of details of their particular areas, issues related to the different sites and then noted six program criteria.

Sherman gave the funding recommendations of the committee and funds related to each project as:

- Third Street Sections 1-4, Bryan to Hillsdale for \$129,811 (supplemented with \$175,000 from the 2010 Greenways budget and neighborhood capital improvement funds in the HAND budget)
- Southdowns, Jordan to Mitchell for \$50,662
- Morningside for \$13,929
- West 17<sup>th</sup> Street for \$15,638

Sandberg asked for council questions for Sherman.

Volan asked when the bus stop was moved in relation to the Morningside Drive sidewalk, and if it might be moved again. He also asked if that was the only reason the sidewalk was being proposed. Sherman said he didn't know exactly when it had been moved. He said this was a feeder street to a number of neighborhoods right off of Smith Road with no sidewalks. He said residents, and families with strollers had to use the street in this area to walk, and that was the reason for the proposal there.

Volan asked if the district representative knew anything more about the situation.

Satterfield said that the area had a lot of pedestrian and autos. He said it was also around a curve and up a hill with shrubbery causing a blind area. He said it was a safety concern as well as one of the bus stop relocation.

Volan said that if the committee and the district representative believed that the bus stop relocation wasn't the only or primary reason for proposing a sidewalk in this area, it was fine with him.

Volan also asked where the rest of the funds would be obtained for the West 17<sup>th</sup> Street project since the committee proposed \$15,000 and the project cost was \$25,000.

Sherman said these were estimates with a 10% overage built in, and that it was likely that there would be money left over from other projects.

There were no comments on the Sidewalk Report from the public.

Rollo thanked the committee on behalf of the residents in Council District 4 for their support of the Marilyn Street project with its cost overrun. He said it had been in the queue and was an important connector for the pedestrian and alternative transportation corridor that extended all the way from Clarizz Boulevard, through Bryan Park and eventually to the B-Line. He added it was important for storm water control for residents in the area also. He also thanked them for supporting the missing link on Southdowns, adding that it would provide better stormwater control in that area also.

Sturbaum said there were sidewalk needs all over town, and that they were more than the committee could fix. He said the committee focused on where the greatest use would be. He said the formulas were based on where people lived and walked. He said simply that the paths worn by people walking were to be paved, such as Third Street.

Satterfield, who served as chair of the committee, thanked the committee members for their support on all the projects, particularly Third Street and Morningside. He also thanked Sherman for giving the report.

Mayer echoed the thanks regarding the Third Street project, adding that there were people continually walking in the street in that area due to lack of the sidewalk.

Rollo noted that there was a ranking score and filter that the committee used, and that he wanted the public to know that the proposals were not the result of a random process of picking from a lot of requests. He noted that the low ranking for the south side of Moores Pike near College Mall Road was related to what he called an oversight in the design of the intersection, making it impossible for folks to walk to Renwick. He said that the remedy for retrofitting this was now more expensive than if the area had been designed for pedestrians. He said he wished there was more money for this committee.

It was moved and seconded to adopt the Sidewalk report for 2011. The motion received a roll call vote of Ayes: 9, Nays: 0

- Vote on Sidewalk Report.

Mayer gave a report on the recommendations of the Physical Improvements subcommittee of the CDBG Grants. He noted the amount allocated was approximately \$600,000 and noted that the recommendations were forwarded to the mayor. He read a list of the applicants and project areas, adding that none received a recommendation for their full request.

- Mayer – CDBG Physical Improvements

Mayer noted Utilities Service Board meetings would be on Mondays in 2011. He said the USB had approved modifications to industrial treatment permits for manufacturers in the community which set up a protocol for identifying chemicals used in plants, and what can and can't be discharged and how. He said that the board also approved modifications to sewer usage with regard to discharges from restaurants in respect to fats, oils and greases (FOGs).

- Mayer – USB

Sandberg reported that CDBG Social Services subcommittee had also recently met and made recommendations to the mayor. She said that specific information would be forthcoming.

- Sandberg – CDBG Social Services

In light of this meeting being the first of the new year, Sandberg reviewed the rules for public comment at council meetings. She said the public was welcome to contact the council in any number of ways besides speaking during this portion of the meeting.

PUBLIC INPUT

Hal Turner, the Bloomington District Office Manager for Congressman Todd Young, noted the office in Suite 114 of Showers Plaza was now open. He welcomed constituents to come with any problems related to federal agencies with which they dealt.

Daniel McMullin thanked the council for the time to speak. He apologized to the city, Public Works Board and Ms. Sandberg for abruptly and mistakenly interrupting a meeting the night before. He said he honestly thought that the Council Chamber was called the McCloskey Room. He said he was sorry, but felt that the law shouldn't have been called on him adding that his action was misjudged and that the response was misguided. He said the anvil of truth and the hammer of non-violence as espoused by Gandhi and Martin Luther King should be employed.

He noted his main issue was the council rules for public comment and added that citizens should be given more opportunities to speak, more time to speak, and he would petition the council for a rule change on their policy for public comment. He asked that the council accept this petition.

Isabel Piedmont-Smith noted for the record, and to clear up any misunderstanding, that the public could speak during the meeting for any item on the agenda AND speak at one of the two public comment periods for any item not on the agenda.

It was moved and seconded that the following persons be reappointed to the boards or commissions indicated below. The reappointments were approved by a roll call vote of Ayes: 9, Nays: 0.

BOARD AND COMMISSION APPOINTMENTS

Sarah DeLone	Animal Control
Gayle Stuebe	Bike and Pedestrian Safety Commission
Mike Gavin	Bike and Pedestrian Safety Commission
Alain Barker	Bloomington Community Arts Commission
Scott Jones	Bloomington Community Arts Commission
Lynn Schwartzberg	Bloomington Community Arts Commission
Jack Kahn	Commission on Aging
Alice Oestreich	Commission on Aging
Raquel Anderson	Commission on Hispanic and Latino Affairs
Patricia Marvin	Commission on Hispanic and Latino Affairs
Gregory Tournier	Commission on the Status of Black Males
Cathi Crabtree	Commission on the Status of Women
Andy Davis	Commission on Sustainability
Susie Hamilton	Housing Quality Appeals Board
Barbara Fuqua	Martin Luther King, Jr. Birthday Commission
Mary Tournier	Martin Luther King, Jr. Birthday Commission
Mike Szakaly	Redevelopment Commission
David Walter	Redevelopment Commission
Mike Avila	Traffic Commission

It was moved and seconded that Resolution 11-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 6-0-2.

It was moved and seconded that Resolution 09-11 be adopted.

Danise Alano Martin, Director of the Department of Economic and Sustainable Development, summarized the new general standards proposed for the tax abatement program which she said had not been revised for seventeen years. She noted the revisions were based on economic and sustainable development philosophy of both the mayor and council. She noted the intent of this incentive program was to enhance the quality of life in the city.

She said the resolution would codify a requirement of Memorandum of Understanding which would specify compliance terms and clawback provisions. She added that the grounds for non-compliance would be clarified better, and would include new evaluative criteria in addition to the basic requirements of job creation or capital investment. She said that predictability with fluidity was important to the process, and was reflected in the new guidelines.

She noted that affordable housing, value added productivity, clawbacks and compliance issues had been raised by the council in the committee meeting. She said that the Chamber of Commerce Advocacy committee had identified connectivity, transportation and targeting clusters for job creation. She said that projects that included the above provided a public benefit.

She said ideas for the future might include gathering specific employment data or environmental impact data for tax abatement applications and implementing an application fee as allowed by state law. She said she would like to have discussions about the application fee, and its use, if implemented.

Piedmont-Smith asked for clarification of how the designation of an Economic Revitalization Area and the approval of an actual project worked together. Alano Martin said that approval of the ERA, as defined by state law, was the first step in the process and was followed by the approval of the application. Piedmont-Smith said that the use of both processes would find that development on a property was difficult for physical or economic reasons, and that the project would provide good paying jobs and investment.

Ruff noted that he appreciated Alano Martin's follow up work with the council staff, especially the information from Portage, Indiana, policies. He asked about the application fee allowed by the state, and why Alano Martin wanted to take time to examine, but not implement this. Alano Martin said she was intrigued by the fee and what might be done with the funds, but noted that there was concern that the fee might scare an applicant and might result in average projects instead of excellent projects. She said that discussion and input needed to be gathered on the topic.

Ruff noted that the city of Portage directed the fees into an economic development fund and asked what other uses were allowed by state statute. Alano Martin said that Portage used the fund for various agencies besides city economic development.

Ruff asked how the determination would be made about the impact of an application fee on the development of projects. Alano Martin said by looking at Portage, the types of projects they get, their utilization rate, and with the Economic Development Commission and other boards and commissions that dealt with economic development input.

Volan asked if 'undesirable or impossible for normal development' were the only words that guided the designation of an ERA. She read again the state code wording, adding that this was not a new policy. Volan

## LEGISLATION FOR SECOND READING

Resolution 11-01 To Approve "The City of Bloomington Tax Abatement Program General Standards" Which Amends and Supersedes All Former Versions of the City's Tax Abatement Program Criteria and Procedures



said that he had wanted to verify that the wording and guidelines existed.

Rollo said he was pleased by the criteria chosen particularly by 'research and development of alternative energy production or other methods to build community resilience in a volatile energy market.' He asked if the Economic and Sustainable Development Department was prepared to put effort and capital into exploring this economic sector.

Alano Martin specifically mentioned the helpful work of Stacy Jane Rhoads. She noted that she was definitely interested in this, as well as the BEDC, SCCAP, Work One, and county council which have all been approached as to how to jump-start green jobs in this community as well as in the energy sector. She said that the department was assessing what companies were working in the area now and working to build an inventory of strengths and how it could be used. Rollo asked her to bring periodic reports to the council on that issue. Alano Martin said she would.

Sturbaum asked Alano Martin to restate the affordable housing component. She said that the general standards defined affordable housing as residential development with a recorded restriction that would require the housing to be rented or owned by qualified low or very low income households for a certain number of years. She added that the goal was to diversify the city's housing through workforce housing, high technology park housing, senior's housing in the downtown or along the B-line and accessible housing.

Piedmont-Smith asked if clawback provisions were specifically in the guidelines or if the guidelines allowed the option to be placed into the Memorandum of Understanding. Alano Martin said that it was the practice to look at this issue as either a termination of the incentive or an actual claw back of benefits. She said that for each project the provision might be different, but would have specific potential clawbacks and compliance requirements.

Ruff asked for clarification on Alano Martin's position on clawbacks. He asked if this would be clear in the Memorandum of Understanding, and if that would be all needed under state code to progress with any clawback efforts without the Portage clawback language. Alano Martin, noting she was not an attorney, said that Margie Rice, Corporation Counsel, had stated that a Memorandum of Agreement would be a contract, and under applicable laws, it could be enforced. She said both the recipient and the City would sign the contract.

Ruff asked about language supplementing the statement of benefits form for tax abatement applicants with questions on information on any pending legislation with federal agencies (National Labor Relations Board or OSHA) or specific information on major shareholders. She said it was the EDC and Staff's responsibility to get the information for the council to make their decision. She said that the current Memorandum of Understanding included language that the applicant would adhere to applicable state and federal laws. Ruff asked if she thought it would be appropriate to add a statement that required the applicant to disclose any pending litigation with any state or federal agency. Alano Martin said that it would be simple to do, and that the applications they had from other communities included this requirement. She reiterated that it was her department's responsibility to bring forth all pertinent information to the council.

Ruff asked if Alano Martin had thought about a statement from Mr. Moore during the committee hearing regarding using the tax abatement policy to help ensure better shared productivity gains within a firm. He asked if the current proposal had the potential to be flexible in including

Resolution 11-01 (cont'd)

this information. Alano Martin said that specific types of projects were targeted that would provide a public good which would enhance that quality of life in Bloomington and diversify the economic base. She said the general standards were also open to other projects and didn't presume to know all the ways that businesses could provide public good. She said this incentive was built into by the flexibility of the project.

Piedmont-Smith said that Portage recommended but didn't require the hiring of a local work force. She asked Alano Martin if those requirements or recommendations were discussed at the EDC or staff level. Alano Martin said that the EDC didn't see that as a needed requirement, but considered it to be a public good. She said it was something to strive for. Piedmont-Smith noted that the CF1 form could be supplemented with a report on local residents hired, and asked if Alano Martin would consider adding that to the reporting process. Alano Martin said yes, and that each project would have its own set of compliance requirements. She said her department would be tracking and monitoring the proposed promised benefits and could add that information to the list.

Sandberg asked Alano Martin to discuss her annual tax abatement reports with particular interest to the non-compliance of the recipients over time. Alano Martin said that the work of the economic development community was to retain new business as well as attract them with financial incentives. She said either market conditions or voluntary rescission were the main reasons for terminating tax abatements. She gave an example of an historic property being bought by a not-for-profit, and not subject to taxing as one recent example. She added that another company had shifted their goals away from growth and asked that their abatement be rescinded. Sandberg noted that Bloomington hadn't experienced a company taking advantage of a tax abatement only to leave when the benefit period was over. Alano Martin agreed, but said that was not a reason to not include clawback language, saying it was safeguarding the public good while hoping for the best.

Ruff noted that the council had hearings on tax abatements where there had not been a representative of the firm in question. He noted that the Portage code required that presence, and asked Alano Martin to address this as a requirement to the current proposal on the table. She said that while the EDC made proposals on behalf of the applicant, she agreed that a representative should be present to answer council questions. She said it had been a matter of the city's practice and would continue to be, but that it didn't need to be codified. Ruff said in some instances it seemed, without someone from the company, that the Economic Development Department was the applicant's representative.

Satterfield asked Alano Martin if she advised applicants that it was in their best interest to be present at the council hearings. Alano Martin said they were presented with the proposed schedule and application procedures. She said that through her department's process the expectation was that the representative would appear at the hearings.

Public Comment:

Larry Jacobs, Chamber of Commerce Government Relations Manager for City Issues, said that there was always a risk factor in business ventures, expansion, or moving. He said that the proposed document was clearly defined in program, procedures, and expectations with the Memorandum of Understanding. He said the city had always dealt with the applicants in a respectful manner, and had very few if any failures. He asked for approval of this resolution.

Ruff commented that in the past, tax abatements had been controversial. He said he preferred to think of this as discussion and careful scrutiny that was part of the council's job. He said that sometimes this examination was construed as anti-business, but he said it was being responsible stewards of the city's resources. He said it was a tool that affected the economy of Bloomington and surrounding areas. He said the department, administration and EDC had done a good job with the revision of the guidelines. He said the way it incorporated performance factors regarding the environment, sustainability, quality of jobs, and living wage was significant progress over the old document.

He encouraged staff to look at the allowable 15% fee assessment to be added to a fund for encouragement of other economic development, adding that the firms Bloomington would attract would actually see this contribution as a benefit to the community. He also encouraged the staff to look at the clawback that would extend five years beyond the abatement as Portage languages set out. He noted, however, that he predicted increased localization and less flight risk as transportation costs increased due to energy cost increases.

He noted that he would like to have more of the requirements actually spelled out rather than leave it to the department's sense of responsibility to gather all the information needed for consideration.

He said that local hiring should hold more importance in the evaluation of the abatement application. He said that encouraging strong efforts of local hiring was important, both to Bloomington and surrounding communities, in strengthening and diversifying local economic opportunities.

He concluded by saying that he understood the concept of market factors being beyond the control of the tax abatement recipient, but would like to hear the same thing if a firm was wildly successful as well as unsuccessful. In fact, he said, perhaps the council might find that in the former case, the tax abatement would not be needed and could be paid back to the community. He said that the fact that this wasn't likely to happen was another example of the socialization of loss, and the privatization of gains. He reiterated that the statement should not be taken as anything but wishing every company would prosper and do well. He said this proposal was a significant step in making the tax abatement guidelines more "Bloomington" than ever before. He expressed his gratitude to those who helped form the proposal.

Rollo said that tax abatements were a useful tool, and that despite criticism, the city had done very well, including the addition of living wage criteria. He said that this proposal broadened the vision and made the policy much better. He said that since in the last two years Bloomington was ranked by Forbes as one of the best small places for businesses and careers he didn't hear the claim that Bloomington was unfriendly to businesses. He said that he did hear that tax abatements shifted taxes to other tax payers. He said that it was judicious to screen applications for the public good and enhancement of the community's economic health.

He said the former comments were in response to the fact that the document had room for expansion, and that the policy should take into consideration the increase of localization and rise in energy costs. He said that communities should now look at how to retain and grow wealth locally by examining economic leakage and creating substitutes for imports. He gave the example of local food production.

He said he was happy to hear that the Economic and Sustainable Development Department would be sending a representative to the Business Alliance for a Local Living Economy Conference. He said he'd love to hear back on what they find there. He added that with this proposal Bloomington was ahead of many communities. He thanked Alano Martin and the staff for their work.



Resolution 11-01 (cont'd)

Piedmont-Smith said she agreed with Ruff who said that the responsibility for collecting information had been left to staff rather than the applicant. She added that the specific criterion that must be met before a tax abatement was granted was not specifically set out. She said she understood the need for flexibility.

She noted that the resolution stated that tax abatements 'aid in achieving the Administration's vision...' and noted that this was, in effect, the current city administration which may or may not continue into the future. She added that the values of the administration was shared by the majority of council members at this point, and they shared the desire to hold recipients responsible for meeting the benefits promised to the community, and shared the value and goals espoused but the Peak Oil Task Force Report, mentioned more specifically in the guidelines.

She said she appreciated the update, but advised council members and EDC members to keep in mind that these goals must be kept in mind if there be a change in administration and/or a change in staff.

Sturbaum noted that this program had been successful over the years, despite a few that didn't go quite as the city might like. He said it was a very successful program. He said the revision and expansion of the concept of public good was proper to do before the process got broken. He thanked Alano Martin for the good work and indicated his support.

Mayer thanked staff and the EDC for their work. He said it was a long time coming and well worth the work.

Sandberg read from the Bloomington Forecast by Dr. Timothy Slaper, Director of Economic Analysis from the Indiana Business Research Center, Kelly School of Business:

*During the great recession the Bloomington Metropolitan Statistical Area suffered considerably less than just about every other city or region in Indiana. In 2009 and 2010 Bloomington's peers would be justified in being a tad jealous. In the coming year the prospects for the Bloomington area are almost optimistic compared to the rest of Indiana and the Midwest.*

She added that this was meaningful because of the work of the council and city administration.

Resolution 09-11 received a roll call vote of Ayes: 9, Nays: 0.

There was no legislation to be introduced at this meeting.

LEGISLATION FOR FIRST READING

There was no public comment at this meeting.

PUBLIC INPUT

The meeting was adjourned at 9:35 pm.

ADJOURNMENT

APPROVE:

ATTEST:



Susan Sandberg, PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington