

In the Council Chambers of the Showers City Hall on Wednesday, May 7, 2008 at 7:30 pm with Council President Susan Sandberg presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
MAY 7, 2008

Roll Call: Piedmont, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler
Absent: Mayer

ROLL CALL

Council President Sandberg gave the Agenda Summation

AGENDA SUMMATION

The minutes of December 19, 2007 were approved by a voice vote.

APPROVAL OF MINUTES

Mike Satterfield mentioned that the community lost McDoel Market and Deli a few weeks ago. He said he was a regular deli customer, and while the deli always seemed to do very well, he rarely if ever, saw grocery customers. Satterfield added that there was insufficient community support for this type of venture. He added that if small business owners were expected to take the risk, then there must be support for them. He said that he hoped that in the future, neighborhoods would support small businesses with their purchasing power.

REPORTS:
COUNCILMEMBERS

Chris Sturbaum called attention to the Presidential primary which brought attention to Indiana and in which record numbers of people voted. He said it was exciting that so many people were becoming involved, and it was exciting that the candidates visited Indiana, walked the streets and talked to the community.

Steve Volan said welcome to the third season of the year, summer. He said that winter has been eliminated. He said he agreed with Satterfield about local business, and cutting down vehicle miles driven.

Dave Rollo said today was another record price for oil, the reasons for which have not been made clear by the media. He said eliminating state and federal taxes was a short term fix, not a solution. He said he blamed the media and elected officials who refused to focus on the real issues and solutions. Rollo said since a fundamental tipping point has been reached, oil will never be cheaper, and until the media take this seriously and begin correctly informing people, nothing much will change. He said we need to plan for the inevitability of shortages and high prices.

Brad Wisler congratulated all of the winners from the primary elections. He shared a story from the Indianapolis Star that he called big news and relevant to Bloomington. His reference to the Fair Train that runs every August from Fishers to the Fairgrounds, which reportedly could become a consumer rail line in two to four years, which would be six to eight years ahead of the previous announced schedule. The article went on to say that the project was ahead of schedule because instead of starting with the "Cadillac system" they would begin with the Chevy system". The twenty mile system would begin during the 6:00 to 9:00am and 4:00 to 6:00pm rush hours and would coordinate with the IndyGo bus system. Wisler added that the long term plan was to create several regional routes throughout Indianapolis area. He went on say that the important points here were that by going with a less elaborate model, things could be quicker, and that this was a coordinated and concerted effort by a number of different organizations. He said this could be used as a model for Bloomington to begin its efforts for transportation in and around the city, and that it was time to formalize local efforts through a council committee and collaboration with other local and state organizations.

Isabel Piedmont said she appreciated Satterfield's comments about the closing of McDoel Grocery, and how unfortunate it was to lose another

Council Comments (*cont'd*)

small, local business. She suggested that in the future when small businesses encounter problems they should contact the city's Economic Development Office for resources and assistance. She announced that her constituent meetings would be held at Rachel's Café on the last Saturday of each month.

She said she was excited by the large voter turnout for the primary. As a poll worker, she thanked everyone who participated in the process. Piedmont also announced that the U.S. Green Building Council has an Indiana Chapter with a Bloomington branch opening soon, which she called very exciting.

Susan Sandberg thanked Piedmont for working as an Inspector at the polls on election day, and announced that she too worked as a Judge. She said many thanks to everyone who worked the polls on election day because while it was a long day, it was a very important day. She announced that the coming Saturday the post office would be collecting canned food items for the Hoosier Hills Food Bank. Sandberg added that Sunday was Mothers' Day and reminded everyone to please be kind to their mothers.

Raymond Hess, Transportation Planner, and Steve Cotter, Natural Resources Manager for Parks and Recreation, presented information on Bloomington Bikes Week. He reported that May was National Bike Month, decreed by the League of American Bicyclists. He said during Bloomington Bikes Week there was an event for every type of cyclist, with an emphasis on information and education. He said Ivy Tech Community College was one of the collaborators for educational programming.

MAYOR and CITY OFFICES

Cotter described some of the activities of Bike Week for children. He also said that Revolution Bike and Bean, Bikesmiths, and Bicycle Garage were sponsoring a \$100.00 gift certificated for participants in the Bike-to-Work Day, and that Bloomington Bagel Company and Starbucks on Indiana were also sponsoring participant prizes. He said Bloomington Hospital and Safe Routes to School were also event sponsors.

There was no public comment.

PUBLIC INPUT

It was moved and seconded that Ashley McDonald be appointed to the Commission on the Status of Women.
The appointment was approved by a voice vote

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Ordinance 08-05 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0-0. It was moved and second that Ordinance 08-05 be adopted.

LEGISLATION FOR SECOND READING

President Sandberg announced that there was an amendment to the Ordinance.

Ordinance 08-05 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Repealing and Deleting section 2.12.040, Entitled "Tree Commission," and Adding Section 2.20.150, Entitled "Tree Commission"

It was moved and seconded to adopt Amendment #1.

Amendment #1

Sturbaum introduced the amendment that would elevate the Tree Commission's responsibility and allow it to advise the Plan Commission on tree-related matters since the Tree Commission is the first to learn of projects affecting trees. He said this would allow the Plan Commission to benefit from expert advice by the Tree Commission.

The amendment sponsored by Councilmember Sturbaum addresses the concern that the Tree Commission be able to advise the Plan Commission on tree-related matters as they arise. This codifies their advisory capacity to the Plan Commission.

Wisler asked about feedback from the Plan Commission. Sturbaum said it would be an advisory role and would provide additional information. Wisler asked about procedure. Sturbaum said Plan Commission would be advised when information was before the Tree Commission and could then decide if it warranted the expert opinion of the Tree Commission.

Amendment #1 to Ordinance 08-05
(cont'd)

Wisler asked how the procedure might affect projects. Sturbaum said the Tree Commission would probably just integrate their findings into a staff report, and that it probably would not require additional meetings on the part of the Plan Commission.

Volan asked if the Plan Commission would be required to receive a report from the Tree Commission prior to rendering a decision on a plan. Sturbaum said it would not be a requirement, but rather only when it was relevant. Volan asked therefore, if there was a particular need for this amendment or could the Tree Commission make recommendations at a Plan Commission meeting without a codified role requirement. Sturbaum said it ensured involvement early in the process. Volan said the amendment, which he thought was important, was worded too passively, and did not guarantee consultation with the Tree Commission. Sturbaum said this was a good start, and that if it turned out extra language was needed, then it could be added later.

Satterfield questioned which body had the responsibility to initiate the reporting process. Sturbaum said the Tree Commission would be responsible for bringing forward information.

Volan asked Dan Sherman, Council Attorney, what office drafted this amendment, to which Sherman responded that City Legal wrote it, and he has reviewed it.

Volan asked if his concern that the wording was insufficient was understood. Sherman said that wording was consistent with other commissions. He said he did not see it as presenting difficulties with who initiated reporting or request for information. City Planning would help facilitate information flow from the Tree Commission to the Plan Commission by virtue of their project review process which occurred well in advanced of any project.

Sturbaum shared information from Planning Director Tom Micuda, which supported the wording of this amendment.

Rollo thanked Sturbaum for bringing this forward because it codified the role and acknowledged the expertise of the Tree Commission.

Piedmont also thanked Sturbaum and said her experience in the Environmental Commission led her to believe that no additional wording was needed for this amendment.

Volan said that he supported this amendment and that his questioning was motivated by his concern for accurate information and appropriate advice.

Rollo said this interested him because of the lack of information available to the Plan Commission in the past. He added that Codification of these duties would lend more viability to the Tree Commission.

Amendment #1 to Ordinance 08-05 received a roll call vote Ayes: 8, Nays: 0.

Vote on Amendment #1 to Ordinance 08-05

It was moved and seconded that Ordinance 08-05 as amended be adopted.

Ordinance 08-05 as amended

Margie Rice, City Attorney, said on behalf of the administration she urged adoption of the Tree Commission ordinance as amended.

Piedmont asked if this ordinance would change the way funding was allocated for working with city trees. Rice said nothing would change with funding. She did say that one of the important issues of the Tree Commission would be education.

Public Comment:

Tonia Matthew asked if it was accurate that there was money in the tree budget to cut down trees, but not trim them. Sandberg said it would be addressed during next discussion.

Sturbaum said it would be a positive change to have the Tree Commission be a little more involved.

Piedmont said there was some concern in her district that moving responsibilities of the Tree Commission from Public Works to Parks and Recreation would change the perception of Street trees and trees in the public right-of-way. She said she hoped they would continue to be given high priority.

Ordinance 08-05 as amended received a roll call vote of Ayes: 8 Nays 0.

It was moved and seconded that Ordinance 08-06 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0-0.

It was moved and seconded that Ordinance 08-06 be adopted.

President Sandberg said there was an amendment to the ordinance.

It was moved and seconded that Amendment #1a be adopted.

Sturbaum introduced Amendment #1a.

He said the purpose was to fix minor errors, change time limits and add an appeal process.

Volan asked Piedmont about the appeals process. Piedmont said this amendment would clarify that the appeal would be heard by a Parks Board Commissioner at a public meeting.

Public Comment:

Tonia Matthew said it was very important for the public to know when a tree was to be removed. She said the notice should be placed not only on a tree, but also should be placed conspicuously in the H-T somewhere other than the small advertising space such as in a government or Out and About section. The notice should give process and timeline for appeal.

She added her earlier comment that she was told there was budgeted money for hiring contractors to cut down trees but not money for trimming. She said she preferred trimming and that every option be explored prior to cutting down trees.

Council Comment:

Sturbaum said he was pleased with this amendment because it was important to have the public process for oversight and input.

Piedmont thanked Sturbaum for introducing this amendment. She also responded to the comment from Matthew about notifying people as to

Vote on Ordinance 08-05 as amended

Ordinance 08-06 To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks, and Storm Sewers – Re: Repealing Chapter 24 Entitled "Trees" and Replacing it with Chapter 24 Entitled "Trees and Flora"

Amendment #1a to Ordinance 08-06 sponsored by Councilmembers Piedmont and Sturbaum, fixes three scrivener's errors, amends required time limits to be working days rather than calendar days, and adds an appeal process for the City's notice of tree removal. The new appeal process allows a citizen the same appeal process as for the tree permit appeals and notice of violation appeals, both of which involve public hearing. The difference is appeal of the City's notice of tree removal must be made within seven working days, as opposed to ten working days for the other two appeals. This time limit is shorter because an appeal made within seven working days of notice of tree removal will definitely be made before the City takes the tree down, as the City's notice must be made at least ten days before the tree is removed. The placard on the tree will include date of posting, so it is clear when the appeal period begins.

the appeal process. She said the placard to be placed on trees was to have the contact information.

Amendment #1a to Ordinance 08-06
(cont'd)

Volan said he too supported having information regarding how to appeal placed on the tree placard at the time the removal was planned.

Dan Sherman said he noticed an error in numbering. He said Section 12.24.060 currently read Section 12.24.60 and he requested that it be changed to read .060.

Amendment #1a received a roll call vote Ayes: 8, Nays: 0

Vote on Amendment #1a

It was moved and seconded that Amendment #2 be adopted.

Amendment #2 to Ordinance 08-06.

Piedmont introduced Amendment #2, designed to replace more trees than are removed at or near an original location.

The amendment sponsored by Councilmember Piedmont revives the target of replacing twenty percent more trees than it removes on an annual basis and does so with practices observed by certified Urban Foresters. As the ordinance replaces an entire chapter of the code, this paragraph inserts the current replacement policy into the new chapter.

Wisler asked about the possibility of moving trees.

Mick Renneisen, Director of Parks and Recreation, said moving trees was not a regular practice, but rather more of an extraordinary measure due to the health of tree, the availability of the rental equipment and appropriate plot for relocation.

Lee Huss, Forrester, said cost was based on the size of tree and type of tree for care and maintenance afterwards. His estimate ranged from \$300.00 to thousands of dollars.

Wisler asked about replacement of trees and whether there would be a requirement as to size or type of tree. Piedmont said she did not think that type would be specified, just as long as when a tree was removed, another would replace it close to the original location. The city practice has been to allow the City Forester to decide what tree should be used as a replacement.

Volan asked the origin of the language for this amendment. Piedmont said it was from a portion of the code that was to have been removed.

Sturbaum asked if there was any objection to this language being reinserted.

Margie Rice, City Attorney, said there were no objections. Sturbaum emphasized that this was not a change from current policy and practice.

Volan asked if this was existing policy. Piedmont said yes, but that it was a goal, not mandate, and that some years the goal is exceeded.

Renneisen said the Street Department managed the urban forest, and Lee Huss from Parks and Recreation advised on the trees that need to be removed or pruned and maintained. Some of the funding for managing trees came from the Street Department. Money from Parks and Recreation paid for new plantings, pruning, and some for removal of hazardous trees. He added that the Parks Board was very used to public comment and hearings, and that they were very open to that process.

Volan asked if the first amendment offered was unnecessary in that it specified public hearings for tree removal, which apparently was current practice. Renneisen said the Parks Board already heard appeals, and that the amendment stated the current practice. However, the clarification was that the decision would be made and announced at the meeting rather than just conveying the decision in writing.

Wisler asked why this language was excluded from the original revision or was it just oversight, because, he said, this was a pretty substantial piece to have overlooked in the new language.

Piedmont said it was taken out because it was such an inherent part of the city's everyday practices, just as other practices, policies and procedures are not always codified.

Amendment #2 to Ordinance 08-06
(cont'd)

Rollo asked about the relevant data and records associated with tree replacement. Renneisen said there were annual records of public trees that have been removed and planted.

Sturbaum asked if trees were cut instead of trimmed and whether it was related to funding. Renneisen said that trees were cut only when there was a scientific, educated reason to suggest the tree was near failure. However, pruning was dictated by budget because of the high number of trees in the city and parks which potentially could be pruned.

Piedmont asked about the specific numbers of trees removed and planted, which Renneisen said he would get for the Council.

Wisler asked about tree replacement for parks, especially the trees along Kinser Pike, which block gold balls from leaving the golf course. Renneisen said there had been a loss of pine trees along there due to their shallow root system and high winds. He added that the city was replacing these trees over a period of time.

Public comment:

Tonia Matthew said it was a great idea for the language about replacing trees to be added back to the code, since it was important that this be in print for the community to know that this was official city policy.

Council Comment:

Rollo said while the amendment was laudable, in the coming years he would like to see a tree habitat survey, because things other than trees, such as prairies, also are beneficial. He said he would like to see how much tree cover the city had, and which of those beneficial as habitat.

Amendment #2 received a roll call vote of Ayes: 8 Nays: 0

Vote on Amendment #2

It was moved and seconded that Ordinance 08-06 as amended be adopted.

Discussion of Ordinance 08-06 as amended.

City Attorney Margie Rice said the administration was very comfortable with this ordinance, and the amendment heard tonight struck the right balance between public input and the need for the administration to be able to move swiftly when needed.

She also affirmed that the amendment, which describes tree replacement, was and had been indeed the policy and practice of the city, and that the city was very proud of being a tree city and many accolades received, and as such took great care of its trees.

Sturbaum asked about the appeal process, which Rice said can be printed on the placard placed on trees. She added that the placement of placards on trees would be a new practice and that it had not been done in the past.

Ruff asked if the seven day approval time-line would be problematic for the Parks Board since they had meetings only once a month. Rice said it would not be problematic and that there could be special meeting called as well.

Sturbaum thanked the administration for taking positive criticism and working out the language of the ordinance.

Wisler said this ordinance was much improved from the first time it was read. He said he was happy to support it.

Ordinance 08-06 as amended (cont'd)

Volan said he was glad that ordinances were being improved. However, he believed that the city government can not just be transparent, but also must be apparent. He said the placard that would be placed on trees must be very forthcoming about the process, because that was the only way citizens would know the essences of the law.

Piedmont thanked the staff and the Tree Commission for their assistance.

Ruff thanked all for developing a fine process.

Sandberg said she too would support this ordinance. She also thanked the public their comments.

Ordinance 08-06 as amended received a roll call vote of Ayes: 8, Nays: 0

Vote on Ordinance 08-06 as amended

It was moved and seconded to postpone the introduction of Ordinance 08-07, until June 4, 2008 at the request of the administration. The motion received a roll call of Ayes: 7, Nays: 0. (Ruff was out of the room at the time the vote was taken.)

LEGISLATION FOR FIRST READING

Ordinance 08-07
(NOT INTRODUCED)

To Amend Title 4 of the Bloomington Municipal Code Entitled "Business License and Regulations" (To Repeal and Replace Chapter 4.18 Entitled "Pawnbrokers")

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read legislation by title and synopsis.

Ordinance 08-08 Authorizing the City of Bloomington, Indiana to Issue Its "City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2008 (Henderson Court Apartments Project)" and Approving and Authorizing Other Actions in Respect Thereto

Ordinance 08-08

There was no public input.

PUBLIC COMMENT

The meeting was adjourned at 9:25 pm.

ADJOURNMENT

APPROVE:

ATTEST:



Susan Sandberg, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington