

In the Council Chambers of the Showers City Hall on Wednesday, March 21, 2007 at 7:30 pm with Council President Dave Rollo presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
March 21, 2007

Roll Call: Wisler, Diekhoff, Ruff, Sandberg, Rollo, Sturbaum, Volan, Sabbagh, Mayer

ROLL CALL

Council President Rollo gave the Agenda Summation

AGENDA SUMMATION

The minutes of January 17, 2007 and February 7, 2007 were approved by a voice vote.

APPROVAL OF MINUTES

Brad Wisler wished everyone a Happy Spring.

REPORTS:
COUNCILMEMBERS

David Sabbagh extended condolences to the family of Wade Steffey. He noted the accident at Purdue that took this young BHS South graduate's life impacted the Bloomington and Purdue communities and his family.

Susan Sandberg announced that the Commission on the Status of Women program entitled *Women on Board* would be held March 28, 2007 at the Monroe County Public Library. She noted that the Commission wanted to encourage women to become engaged in civic life, and was providing a panel discussion by board or commission members from the community, a keynote speech by State Senator Vi Simpson, and a presentation of the Emerging Leader Award to Tiffani Cannon.

Chris Sturbaum talked about the ribbon cutting ceremony for Noodles Restaurant at the Von Lee Theater. He showed a picture of the opening of the Von Lee Theater (then named the Ritz) in 1928, reminiscing about that time of prosperity and the talking animated mouse in some of the first talking pictures and Charlie Chaplin movies that were shown to live piano music. He noted that architect John Nichols was commissioned to design the Von Lee, the last of his buildings in Bloomington. He noted that the only reason that the façade was retained on this building during its renovation was that the Historic Preservation Commission had designated this property as locally historic in nature, and that the Common Council had supported this by ordinance. He said that the theater should have been saved as a movie theater and used by the Film Studies Department, but said that the façade still afforded people a picture around which to remember stories of the Von Lee. He wondered what would be present in that location 80 years from now, but celebrated that we at least had this window to past history.

Tim Mayer welcomed folks back from spring break, noting the beauty of the weather and the calm nature of the community during this time.

Craig Brenner, Community and Family Resources Department, introduced David Hummons, Chair of the Commission on the Status of Black Males. Hummons acknowledged that the Commission had given the second Annual Recognition of Outstanding Black Male Leaders of Tomorrow Award to Cordero Rhyne. Rhyne thanked the Commission for the award. Hummons also acknowledged an award given posthumously to Alvin Henry who was tragically killed in a traffic accident.

MAYOR and CITY OFFICES

Deputy Mayor James McNamara read a proclamation from the mayor proclaiming March 2007 the National Disabilities Awareness Month in Bloomington.

Susan Rinne, Director of Options for Better Living, thanked the council and the City of Bloomington for their efforts to advocate for persons with disabilities in the city and employing persons with disabilities.

Reports from the Mayor and City
Offices (cont'd)

Jim Shelton of Hire Potential Indiana spoke about and reminded the council of the Business After Hours Event the following day.

Mayor Kruzan noted that Daniel Grundmann had followed through with the hiring of folks with disabilities. He noted that two city departments, Utilities and Animal Care and Control, had been honored for hiring folks from Stonebelt. He said that the employees were reliable and talented and that the reward was to the person who did the hiring as much as anything.

Timothy Mayer thanked Rinne for her direction as Executive Director, noting that all of us might be just a step away from a disability. He thanked her for acknowledging his board membership along with thanking Jim Shelton and Iris Kiesling who are also board members. He noted, too, that the name and concept of Hire Potential was developed in Bloomington and was now serving as a model for the State of Indiana.

There were no council committee reports at this meeting.

COUNCIL COMMITTEES

Community Member Stephanie Kimball gave a short presentation on the National Day of Climate Action that was to take place on April 14, 2007. She noted it was a Step it Up Bloomington event. She said that it would coincide with over 1000 other events across the nation to draw attention to global warming and encourage the reduction of carbon emissions by 80% by 2050. She invited the public to attend.

PUBLIC INPUT

Kimball's presentation moved Steve Volan to note that citizens were encouraged to speak or make simple presentations at this portion of the meeting.

It was moved and seconded that Eric Sandweiss be appointed as an advisory member to the Historic Preservation Commission. The nomination was approved by a voice vote.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Resolution 07-02 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis giving the Committee Do-Pass Recommendation of 7-0-2. It was moved and seconded that Resolution 07-02 be adopted.

LEGISLATION FOR SECOND READING

Assistant City Attorney Trish Bernens explained that the resolution approved two agreements that would extend the current interlocal agreements by five years. In the planning and zoning agreement, the city would retain planning and zoning jurisdiction over the areas outside the corporate boundaries. She explained that the two changes in this new agreement involved deleting the timeline for annexations, and deleting the requirements for quarterly joint meetings between the city and county plan commissions. She noted that there was a provision for having joint meetings as needed. Bernens also noted that the building code interlocal agreement centralized building code enforcement for both the city and the county and had no changes from the past agreements.

Resolution 07-02 TO EXTEND INTERLOCAL COOPERATION AGREEMENTS BETWEEN THE CITY OF BLOOMINGTON AND MONROE COUNTY, INDIANA IN REGARD TO PLANNING AND ZONING JURISDICTION AND BUILDING CODE AUTHORITY

Chris Sturbaum requested that the city and county Plan Commissions have a joint meeting soon. Bernens said she would relay that request to Planning Director Tom Micuda, and noted that County Commissioner Iris Kiesling was present and would relay that request to the county staff.

Resolution 07-02 (cont'd)

Kiesling said she appreciated the council's consideration and concurrence on these agreements. She said that the Areas Intended for Annexation (AIFA) plan was working well. She said that the county was continuing to develop the update of the 1996 comprehensive plan and encouraged the council members to participate in the questionnaire that the county was being offered for this process.

Kiesling said that the consolidation of the building code process was working well and that it provided some predictability for the builders.

Sabbagh noted that this was a legally binding resolution that outlined rights of both the city and county. He asked why the previous agreement on annexation was not legally binding. He asked "why have we done no annexations when we had a five year annexation agreement in the previous one?" He said that the city had not fulfilled that annexation obligation. He asked if that agreement legally bound the city to do the annexations.

Bernens said that the agreement stated that the city 'intended' to annex, and not that the city 'will' annex areas. She noted that annexation was a legislative action and that even if the city brought forth annexations, the council could still vote to not annex a property. She also noted that the agreement was specifically written without the words 'shall' or 'must' to give the legislators discretion in annexations. She noted that the deeper meaning of this question was in regard to policy and that the mayor would answer those questions.

Mayor Mark Kruzan noted that the city annexed 1200 acres or 34% of the entire annexation plan within the first year of the current agreement. He added that this was the largest amount of area that the city had annexed since 1975. He said that Sabbagh's statement of 'no annexations' was actually false.

Sabbagh said that the five year plan was agreed on by the council and that the plan was not completed. Kruzan noted that while that statement was correct, the city was not legally obligated to complete that plan.

Ruff asked Kiesling if the county had problems with the annexation progress that the city had over the past five years. Kiesling noted that planning in that area was under city planning jurisdiction and therefore the costs were on the city, but there were no additional taxes paid to the city, and there was no voter enfranchisement for those residents. She noted, however, that the city had an interest in that area for the future, thus the reason for the agreement.

Sturbaum asked if anyone had asked to be annexed into the city. Kruzan said there had been some contact by citizens who asked if they were in the 'annexation plan'. He added that a small number were opposed to annexation and a smaller number wanted to be annexed voluntarily. He said that the city was taking a cautious approach to make sure that city resources were not stretched too thin. Kruzan noted that the city had annexed more area in the past few years than it had since 1975. He said that we needed to make sure that city services to existing residents were not diluted by over committing to additional areas through annexation. He said that existing demand can outpace affordability. He added that there are tax benefits to annexation, but careful cost/benefit analysis was needed in determining the actual cost of services to new areas. He reiterated that the city's first obligation was to the existing taxpayer.

Sturbaum noted that if a citizen wanted their property to be annexed, they should contact their council representative for help.

Wisler said that if the reason for not annexing the areas was the need for more cost/benefit analysis, the equation would be fairly simple. He asked if calculations had been done at this point. Kruzan said it was a simple proposition, but not a simple task. He noted that many persons in public works, controller's office and others were carefully analyzing numbers and resources to see just what could be absorbed with current city operations, and where more resources would need to be added. He used sanitation as an example, saying that the tipping point may require the purchase of an additional truck with an additional sanitation crew to service an adjacent annexed area rather than adding several newly annexed city blocks to a particular route. He said that with police and fire protection, the worry of stretching services too thin was a concern.

Wisler said that these costs could be quantified and analyzed with tax revenues. Kruzan said they could for today, but referred to his memo on the unpredictability of the tax base and costs associated with it. He said for 2008 and 2010 a shortfall in revenue might exist, and that this would be dictated by the state general assembly's actions.

Wisler said people in these areas lived under rules passed by the council but didn't get to vote for them. He said this created an inequity and asked what would make the numbers and analysis any more certain in the future.

Kruzan noted that he had sent Wisler a lengthy message and noted that county residents had a say in who gets elected in the county, and those elected officials would also be voting on this very interlocal agreement.

Wisler asked when the decision could be made as to whether the annexations could take place. Kiesling stepped forward and noted that the city Plan Commission had two very active representatives who were appointed by county commissioners. She said one also sat on the Board of Zoning Appeals. She remembered that Mayor Allison wanted to annex the Broadview area, but that the services and infrastructure improvements were too expensive to do so at that time. She said that she suspected that that particular annexation actually cost more than the taxes paid from that area.

Kruzan noted that the agreement period was not indefinite, but was for five years, with options to renew. He added that county officials would be voting on this agreement and that there was accountability for anyone, city or county, who voted to extend this agreement as all were elected by their respective constituents. He said that without this agreement, not only could the citizens being annexed not be able to vote for the city officials who were annexing them, but also would have no say at all on the annexation plan as stipulated in the agreement. In other words, without that agreement, there would be no county review of these matters.

Kruzan said he said that the right of property owners to challenge municipalities on annexation issues by city administration and council that they couldn't vote for was something he supported in his years in the state legislature.

Wisler asked if there was a regular review of annexations, and what was that process.

Susan Clark said that the city was in the middle of an assessment of annexation plans, looking at the areas that could be annexed without causing the city to have to add to paving crews, new employees, buy new sanitation trucks or add personnel to those ranks. She said that regular assessments were often done during the budget time and were included in the next year's proposed budget.

Resolution 07-02 (cont'd)

Wisler asked what would happen if the agreement wasn't passed. Bernens said that the jurisdiction would go back to the county. If it was passed, the current agreement would be extended for the next five years. She also stated that new areas could be considered in the next review of the agreement in five years.

Sabbagh asked about the southwest portion of the map and asked if that area intended for annexation would need as much infrastructure improvement and additional resources as the previously mentioned Broadview addition to the city.

Clark said that Clear Creek Estates and Eagleview were not in that condition, and in response to Sabbagh's questioning about easily annexing those areas, pointed out that those areas had no contiguity with city property at this time, and therefore those newer, more built out areas could not be annexed at this time. She noted that the areas with contiguity, closer to the city boundaries, had issues with storm water drainage with narrow roads and some of the same issues as the Broadview annexation held for the city.

Volan asked if all the remaining areas could be annexed within five years. Mayor Kruzan said that the city was planning to begin annexing some of those areas this year, but nowhere near that amount. He said that uncertainties with a change in tax revenue, population growth within the city, and assessment of city services had to be considered. Clark noted that the process could take up to two years and had other state legal stipulations regarding timing of annexations.

Sturbaum asked if a change in the federal or state government administrations would allow more comfort in making these decisions. Kruzan said it would help, although it would take a while to undo changes that have made property tax revenue projections unstable.

Volan noted that it was a matter of which government body was representing citizens at what time. At this time Kruzan and Wisler briefly reviewed their respective views on representation of citizens, inside and outside the AIFA.

Mayer pointed out that development in the AIFA would cost more than development in the county.

Sabbagh asked if the county or city paid for new infrastructure in the AIFA. Commissioner Kiesling noted that the developer was expected to pay for roads and build them according to city standards, not county standards. She also noted that city, county, and state maintained roads cross the county.

There were no public comments on this legislation.

Final Council comments:

Wisler said he was surprised that there was no public comment on this item. He noted that his concern was not the annexation itself, but keeping people in uncertainty for an extended period of time. He said that county government would naturally hesitate to invest in those areas if they thought the city would annex it in a couple of years, adding to the secondary affect of this agreement. He said that while he didn't want to see those areas revert to the county control, there needed to be more pressure to get off the fence and annex these areas. He said that he appreciated the amount of work and research done in making these decisions and did not want to belittle the job that was being done. But, he added, as it was his philosophy that folks should not sitting in limbo

on this until the administration feels like acting, he would be voting no on this legislation.

Sabbagh said Wisler expressed his very feelings. He noted that Hyde Park was the only neighborhood that wanted to be annexed, and that areas usually do not come forward demanding annexation. He said that the AIFA should be developed to city standards, but leaving people in limbo was not fair. He said that when an area was about to be annexed, the city always used the argument that those areas have all the benefits of city residents but are not paying for these benefits. He said that he was disappointed that the 'five year plan' was not carried out. He said that he didn't like the fact that the city was controlling the planning destiny of these people and they didn't have input.

Sturbaum said that there was no public comment on this; no one who was in this situation was objecting to the agreement, and so he would support the agreement.

Sandberg said she didn't share Wisler's concerns. She said she was comfortable with the staff review of the agreement. She added that she wanted to be responsive to sentiments on this issue and asked that folks feel free to contact her or other council members.

Ruff said he respected the theory of 'taxation without representation' but noted that this was an interlocal agreement and would not exist unless the elected county officials agreed. He said this was not a trivial matter and noted that in past years, because the county didn't have a good land use plan, the city, under state law, had control over the entire 2 mile fringe. It was only after they did have a comprehensive land use plan that the interlocal agreement came into play. He maintained that there was county representation and accountability in this whole process. He also noted that the agreement dealt with zoning and planning codes, not the entire Municipal Code, and that the county residents had representation at the Plan Commission level where most of these decisions are made.

In commenting on issues that arose in the earlier discussion Ruff said one method of recourse for citizens was the next election cycle. He also noted that residents living in areas adjacent to the city limits, by that very proximity, were most likely aware that their property could be annexed, and it was through this agreement that those folks were kept informed.

As to the statement that the city was annexing at a slower pace than the old administration, Ruff noted that a new administration was entitled to address the agreement in its own way. He said that while he previously voted on this agreement, he would not accept the statement of not following through on a commitment. He said that costs of services, preference of citizens, growth projections, goals of the community, land use needs and planning philosophies change within that five year time period and that they all needed to be considered in each proposed annexation action plan. He reiterated that this was an intention and not a committed agreement, and would not accept any insinuation that he fell behind on duties or didn't fully understand the implications of the agreement.

Volan said that he hears complaints the impact of city wide 'carnivals' like Little 500 and the struggle of the city police enforcement in keeping up with the demand of their services. He noted that the principle tenet of urban writer and activist Jane Jacobs was that cities are formed by people who gather to trade goods, services, information, and ideas. He said those who locate outside cities know that they grow. He said that

Resolution 07-02 (cont'd)

unlike states, or counties, when more people enter the area, the city boundaries will grow. He noted that his council district 6 was the only city council district without a city boundary, and was actually the district that would have the most to lose by annexations as more services would be taken from that area and diverted to newly annexed areas especially those developed in a suburban, less sustainable and less efficient manner.

He said he had no problem agreeing to this resolution.

Mayer noted that, with regards to the question about not fulfilling the last agreement, the city was actually being prudent in not annexing everything in the previous agreement. He noted that during that time, there was a shift in public policy to annex land that was not fully developed rather than ones with fully developed infrastructure. Until this is new land was developed the tax base was not growing. He said the city needed to wait until that was developed before we looking to annex new areas. He noted that changes in state law are important to understand noting that previous annexations only included improvements to the center line of roads of the furthest distance annexed while now the entire road, from side to side, must be improved. He said that most importantly the developers of areas added to the city sewer system sign a waiver that passes through to the buyer of the property stating that they will not oppose annexation. He noted that these citizens clearly understand that in time they will be annexed into the city. He said that the development boom in the county overshadows the development in the city in areas west and north of the city and from the south and west from adjacent counties. He said that with development coming in from counties surrounding us what we really need is more emphasis on county wide planning and regional planning. He added that we need to realize that our community is a major employment and shopping center for the region.

Rollo thanked Clark, Bernens, Kiesling and Kruzan for answering questions regarding this resolution. He noted county representation on the Plan Commission and the Board of Zoning Appeals and that there was recourse for residents in these areas. He noted that he might have been swayed by this argument if there had been a number of citizens objecting to the resolution. He said that this plan was the prudent approach, and that Mayer was correct in that the county development had eclipsed the city in scale. He added that because of the anticipated enactment of the growth policies plan and the UDO, an extraordinary build out has stretched the city capacity to deliver services. He noted that there was no way of knowing what the circuit breaker property tax law would have on the housing market in the fall, or housing devaluation in the near future. He noted that we needed to be careful and prudent in the future.

Diekhoff thanked Clark and Bernens for their work adding that there is a lot of background work in considering annexations. He also thanked Kiesling for being present.

Resolution 07-02 received a roll call vote of Ayes: 7, Nays: 2 (Sabbagh, Wisler)

(minutes continued on next page)

It was moved and seconded that Ordinance 07-07 be withdrawn from the agenda. Parliamentarian Mayer noted that this motion was subject to limited debate, and needed a simple majority to pass.

There was no discussion on the item.

The motion to withdraw Ordinance 07-07 from consideration received a roll call vote of Ayes: 9, Nays: 0.

There was no public comment at this point in the meeting.

The meeting was adjourned at 9:17 p.m.

APPROVE:

ATTEST:



Dave Rollo, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

LEGISLATION FOR FIRST
READING

ORDINANCE 07-07: TO AMEND
TITLE 15 OF THE
BLOOMINGTON MUNICIPAL
CODE ENTITLED "VEHICLES
AND TRAFFIC" - Re: Amending
Provisions Regarding Stop Signs,
Speed Limits, Various Parking
Restrictions, and Pedestrian
Crossings

PUBLIC INPUT

ADJOURNMENT