

In the Council Chambers of the Showers City Hall on Wednesday, August 1st at 7:30 pm with Vice President Steve Volan presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
August 1st, 2007

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

ROLL CALL

Council Vice President Volan gave the Agenda Summation

AGENDA SUMMATION

The minutes of May 23, 2007 and July 18, 2007 were approved by a voice vote.

APPROVAL OF MINUTES

No reports were given by Council Members.

REPORTS:
COUNCILMEMBERS

Miah Michaelson, Assistant Director of the Arts for the City, presented the Mayor's Award to Bloomington North Senior Jeremy Gotwals. She said Gotwals was a volunteer active in the Bloomington arts community and was recently a part of the MTV reality show MADE, and was selected because of his musical talents. She then asked him to speak.

MAYOR and CITY OFFICES

Jeremy Gotwals thanked Mayor Kruzan, MTV Networks, and his family. He also thanked Bloomington saying that the City's culturally rich community allowed him to be who he is today.

There were no Reports from Council Committees.

COUNCIL COMMITTEES

Lucille Bertuccio, of the Earth Elder organization, stated she was concerned about global warming adding that despite the news and press on this issue, there seemed to be no sense of urgency among citizens. She said more needed to be done at the City level to encourage people to walk and ride bikes, even to the point of giving free bus tickets to every resident to help change the car culture. She said that, at 72 years of age, she walks three miles to and from work and believes it is the responsibility of each community member to be environmentally responsible.

PUBLIC INPUT

Gabe Rivera said that we must end the drug war because the prohibition of drugs actually promotes the making of money from illicit drugs. He then played a tape of a former police officer and a Vietnam vet opposing the drug war.

George Huntington, General Manager of Bloomingfoods Market and Deli, said he wanted to personally thank the Council for their support on the near west side grocery project. He said the new market had been open for a month and thanked the city for supporting a community owned business.

There were no appointments to boards or commissions at this meeting.

BOARD AND COMMISSION
APPOINTMENTS

It was moved and seconded that Ordinance 07-15 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that the committee recommendation was Do-Pass 9-0-0. It was moved and seconded that Ordinance 07-15 be adopted.

LEGISLATION FOR SECOND
READING

ORDINANCE 07-15 TO
AMEND TITLE 8 OF THE
BLOOMINGTON
MUNICIPAL CODE,
ENTITLED "HISTORIC
PRESERVATION AND
PROTECTION"
TO ESTABLISH A HISTORIC
DISTRICT
- Re: 2102 West Vernal Pike
(Vivian Galligan, John Galligan Jr.
and John Galligan III, Petitioners)

Nancy Hiestand, Housing and Neighborhood Development Department Housing Coordinator and staff member for the Historic Preservation Commission, noted her last report and also noted that the Historic Preservation Commission had unanimously voted to establish this historic district. She then gave a brief history of the historic and architectural value of the home on the site.

Vivian Galligan, homeowner with her husband and son, expressed her thanks to the Bloomington Historic Preservation Commission for their work on this project. She said she was requesting an adaptive reuse variance because their property was rezoned when they purchased it. She

said they had spent a lot of money and time to get the designation switched to a commercial property so they can sell it.

ORDINANCE 07-15 (cont'd)

Mayer noted that this property is surrounded by other commercial properties.

Sturbaum asked Hiestand if the Bloomington Historic Commission would have the legal right to review the ways in which sidewalks would be built related to the unique historic retaining wall on the property. He was concerned about any potential damage to the rare and the unique mortared fieldstone wall. Hiestand replied that there was concern about damage to the wall because it was a rural historic site, and she stated that the Historic Commission did have legal concern about the changes.

Sturbaum confirmed that there would be a sidewalk and parking area required for commercial use, and asked about the proper design for this type of structure. He noted that he wished to state for the record, that the City had expressed flexibility in how the design might take place.

Mayer commended Hiestand and stated that it changed the whole street in a wonderful way.

Sabbagh stated that he encouraged more projects like this. However, he said he hoped that in the future people wouldn't have as many hurdles as this family, noting that government programs needed to be flexible.

Ruff stated he did not remember these folks having much of a hassle but apologized to them if they did.

Ordinance 07-15 received a roll call vote of Ayes: 7, Nays: 0.
(Absent: Diekhoff, Rollo)

It was moved and seconded that Ordinance 07-16 be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis. The committee recommendation was Do-Pass 8-0-1. It was moved and seconded that Ordinance 07-16 be adopted.

ORDINANCE 07-16
TO AMEND TITLE 14 OF
THE BLOOMINGTON
MUNICIPAL CODE,
ENTITLED "PEACE AND
SAFETY"

City Attorney Margie Rice said the point of the proposed ordinance was to simplify the code so that it is easier for citizens to follow and police officers to enforce with regards to noise control. The ordinance revises the chapter from 11 provisions to 8, with all prohibited noises to be contained in one section as opposed to two. She said the exemption section had been expanded to include 13 provisions and the special permit session had been streamlined.

(Providing a Comprehensive
Revision of Chapter 14.09,
entitled "Noise Control")

Rice stated the most significant proposed changes were the increasing fines in the violation section, changed with the intent of deterring people from multiple violations. She noted that the proposed fine structure would keep the first violation fine at \$50, with the second fine \$100, and additional fines \$500, which was ten times the current fine structure. She said she believed that the changes would be effective in decreasing noise in the City of Bloomington.

Mayer said police officers had databases in their patrol cars so they could identify repeat offenders.

Wisler asked Rice if officers could give multiple warnings for noise violations. Rice responded that it was up to the police officer to decide whether to issue a warning or a ticket.

Wisler asked if violations could occur as a result of the use of noisy lawn equipment. Rice replied that it would depend on how and when the equipment was used. She said if it was used at an unreasonable hour a ticket might be issued, however, it would depend on individual circumstances.

Wisler asked if it was going to be up to the discretion of the officer whether to issue a citation or give a warning in this instance. Rice said it was, but explained that the citation could be appealed. She also said if the case came to her office for prosecution, the legal team would look at the citation to decide if the fine was worth perusing in court.

Sandberg stated that this was a serious concern for many Bloomington citizens, and wanted to know how material about the ordinance would be introduced to the public. Rice said the City did not intend for this ordinance to be punitive in nature, and the City would educate the public on the ordinance through a variety of communication outlets.

Wisler gave a scenario where someone had two violations but one was for hammering noise and the other was for a party, and asked if they would be under the same ordinance of noise. Rice replied that it would be, because it is in the same provision of the noise violation.

Volan then asked if police officers looked at distinctions between stationary versus moving noise, as he believed a lot of complaints came from vehicle noise. Rice said they did not separate them.

Volan wanted to know how the City would educate students a month before schools start on the new noise ordinance, and wanted to know how the administration planned on getting the word out.

Corporation Council Kevin Robling said the City would reach out to students and tenants with information bags from Housing and Neighborhood Development. He stated that they would also work with student organizations to get the information out.

Sturbaum asked if the landlords would have any liability with the new ordinance. Rice stated that landlords were not the target of this legislation.

Public Comment:

Garden Hill resident Phil Worthington said that this issue should have been addressed eight years ago, but was happy that something was now being done to protect the safe and civil city. He said the council owed the citizens of Bloomington an explanation for why they have been silent on the noise issue for so many years.

Margaret Greischer wanted to address the issue of inadvertent noise versus intentional. She said there was no excuse for the boom car industry and that it was past time to do something. She encouraged Rice and the Administration to additionally increase the fines.

Sturbaum said the Council would revisit this issue a year from now, and if this ordinance had not worked, the council would look to revise the ordinance. He said he accepted the constructive criticism, and would keep a close eye on the issue in the future.

Ruff stated that he understood people's frustrations with this issue because he lives right behind Bears Place. However, he noted that the safe and civil city worked both ways. He said if you give a person a fine for having a party, and then for driving a loud car this could be viewed as unfair. He said he did not feel that one could generalize people who have loud cars as having more money, as one member of the public suggested. He acknowledged that loud noise affected quality of life, but said he believed this ordinance was fair, and was comfortable with implementing it into law.

Wisler stated concern over the way the ordinance was written because there could be intentional and non-intentional violations. He felt it would be wise to clarify the intent in the ordinance. He noted that since the current law was not enforceable, he advised voting for the new ordinance because it was a step in the right direction. He, too, said that the council would revisit this ordinance in the future.

Mayer suggested that they dedicate this ordinance to Phil Worthington because he had worked relentlessly on this issue for many years. He thanked Worthington for his hard work and apologized to him for not addressing the issue earlier. He said he preliminarily offered an amendment to escalate these fines, but talked with police officers and found that if the penalties were higher police officers might be hesitant to issue tickets. He said for this reason he would prefer to pass the ordinance as it was written, and in the future they would talk with police officers to see if the ordinance was making a difference.

Sandberg said she supported this ordinance as it was written. She said that boom cars were very disruptive to citizens and believed the ordinance set a reasonable standard.

Volan said he believed the change in the noise ordinance was long overdue. He stated that District 6 gets 33% of the noise violations from the City. He understood the frustration of the citizens who have come before the council. He then read a letter from an IU student and some quotes from the late IU president Herman Wells (indicating that noise had been a long time problem between students and neighbors), which were in favor of doing something about noise in the community. He said he believed the ordinance was a step in the right direction.

Ordinance 07-16 received a roll call vote of Ayes: 7, Nays: 0.
(Absent: Diekhoff, Rollo)

It was moved and seconded that Resolution 07-07 be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis indicating that the action at the Regular Session of June 20 was a motion to consider rescinding this Tax Abatement with a vote of 9-0-0. It was moved and seconded that Resolution 07-07 be adopted.

Economic Director for the City of Bloomington Danise Alano noted that this resolution would terminate both the unused tax abatement and ERA designation that was attached to this property by a previous owner. She said that Middle Way House, the present owner, because of their tax exempt status, would not be using these provisions.

Sturbaum asked if this was essentially book keeping. Alano stated that is exactly what Resolution 07-07 was.

Mayer thanked Alano for her work on this project.

Resolution 07-07 received a roll call vote of Ayes: 7, Nays: 0.
(Absent: Diekhoff, Rollo)

There was no legislation for first reading at this meeting.

There was no public comment at this section of the meeting.

The meeting was adjourned at 8:55 pm.

APPROVE:



Dave Rollo, PRESIDENT
Bloomington Common Council

ATTEST:



Regina Moore, CLERK
City of Bloomington

Resolution 07-07
TO TERMINATE TAX
DEDUCTION FOR
IMPROVEMENTS TO REAL
ESTATE AND REMOVE THE
ECONOMIC
REVITALIZATION AREA
(ERA) DESIGNATION
AUTHORIZED BY
RESOLUTION 01-30 AND
RESOLUTION 02-01
- Re: 318 South Washington
Street (Middle Way House,
Current Owner

LEGISLATION FOR FIRST
READING

PUBLIC COMMENT

ADJOURNMENT