

In the Council Chambers of the Showers City Hall on Wednesday, April 6, 2005 at 7:30 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
April 6, 2005

Roll Call: Banach, Diekhoff, Ruff, Gaal, Rollo, Sturbaum, Volan, Sabbagh, Mayer

ROLL CALL

Council President Ruff gave the Agenda Summation.

AGENDA SUMMATION

The minutes of Special Session of March 30, 2005 were approved by a voice vote.

APPROVAL OF MINUTES

Chris Gaal announced that the community radio station WFHB was having their fund drive this week and urged people to participate.

REPORTS:
COUNCILMEMBERS

Sturbaum promoted the Hoagie Carmichael Sculpture Project.

David Sabbagh provided a synopsis of the Bloomington Life Sciences Partnership which held an event entitled, Building Regional Innovations Through Partnerships. He explained that the goal of the event was to provide a network of discussion between central Indiana leaders. He offered a website for further review, www.bloomingtonlifesciences.com.

Dave Rollo announced the dates and details for upcoming community events including the School of Public and Environmental Affairs symposium entitled Global Climate Change Effects on Natural and Human Systems.

Andy Ruff announced that the Bloomington Alternative Newspaper was going to print.

Marin McGrane of the Mayor's Office introduced Bet Savich from the Community and Family Resources Department.

▪ MAYOR and CITY
OFFICES

Savich welcomed the members of the Teen Action Project in the audience. She introduced Julia Wilson and Abraxas Segundo and read a proclamation from the mayor.

Wilson addressed issues regarding Bloomington's homeless population.

Segundo noted details about the upcoming Homeless Bound Walk and thanked the mayor and the council for their support on the project.

Wilson and Segundo then took turns reading from the mayor's proclamation.

James McNamara, Deputy Mayor, followed up with complimentary comments regarding the work of these teens and provided details on upcoming events to increase awareness of homelessness in Bloomington.

McGrane introduced Duncan Campbell.

Campbell, member of the Historic Preservation Commission, reported that the commission rewarded Joe Harrell for his contributions to the community that have enhanced the development of downtown Bloomington.

McGrane said that the final report that would be provided by Danise Alano, Assistant Director of Economic Development, Kate Mobley, the sustainability intern from the mayor's office, and Ron Walker, Director

of Economic Development.

Mayor and City Offices (cont'd.)

Alano discussed the events during the month of May that advocated for citizens' awareness about global environmental issues. She thanked the organizations that were involved in helping the city coordinate the events. Alano also offered a website that would provide further details, www.bloomington.in.gov/mayor.

Mobley outlined details of events that highlighted Bloomington's and Indiana University's dedication to creating a better environment for future generations.

Walker presented the annual tax abatement report. He announced that there could be a supplemental review later in the summer for abatements that needed extra time. He made recommendations for substantial compliance of all the projects that filed a CF-1 form. Walker reminded the council of their legal role in determining substantial compliance and then preceded with the details and statistics of the complaint abatements.

▪ TAX ABATEMENT
REPORT

Rollo asked about the measure used to gauge substantial compliance. He offered the Johnson Creamery project as an example of a substantial compliance that was touted as exemplary. He asked Walker to provide future reports that contain a rating scale to help assess the gradation between mediocre compliance and excellent compliance.

Walker said that currently the review was empirical. He said that there was not a rating system but agreed that attention could be varied and brought forth for projects that have excelled in certain arenas of criteria and offered to work on that for future reports.

Rollo clarified that his interest in this information was to improve the quality of future abatements granted by the city.

Rollo then asked Walker to repeat his explanation for not reaching the estimated employment for the Hirons Investment abatement.

Walker repeated that at the time of the approval, the project regarded Hirons Investments and that they had estimated their employment would reach 30 additional employees. Walker explained that this year Hirons Investments only reported 9 new employees but that the other new workers were employed on the premises of the Hirons Investments building.

Sturbaum requested that for future abatement reports pictures be made available.

Ruff asked for clarification regarding the 20-25 employees at the Hirons Investment site.

Walker confirmed that the 20-25 new employees at the Hirons Investment site did represent new employment to the community.

Ruff asked Walker to address how the council might weigh in on why it would matter if the McCoy-Gables project was condominiums or rental units.

Walker said the original intention of the project was to build owner-occupied housing. He continued that the project could not be completed as intended, and as such, the new inherits of the project needed to change the intention to rentals. He offered that substantial compliance had been awarded to this project because the law grants latitude for a project if the owner made a good-faith-effort, which was considered to

be the case with respect to this project.

Tax Abatement Report (cont'd.)

Ruff asked for clarification about the Thickstun Glass Project in which the owner was not working towards affordable housing but the abatement was approved.

Walker recited that when the project was approved the owner listed there would be three affordable rental units. Walker continued that the owner provided rental rate information last year that qualified under HAND's affordable rate or was very close. He emphasized that the rental units were only a part of the project as a whole, citing the main intent was the renovation of a blighted building.

Ruff asked to be provided rental rate information stated in terms of its affordability as relative to other affordable programs.

Gaal moved that Walker present his supplemental report regarding the remaining CF-1 forms for improvements to real estate and investment in new manufacturing equipment on June 15, 2005 and that the report be filed with the council office by June 6, 2005. He continued that after the supplement report had been presented, the council would make an initial determination regarding the status of these tax abatements.

Dan Sherman responded that the best course of action was to accept the report, and once the motion had been introduced, then the council could make comments and end with a vote.

A motion was offered and seconded for the council to accept the tax abatement summary as amended by the previous motions of council

Duncan Campbell offered his experience with how to assess the impact of tax abatements and how that might not occur for some time after a project has been completed.

Sturbaum expressed an interest in being made privy to Walker's response to Campbell's question.

Rollo offered his agreement with Sturbaum yet cautioned that projects are not necessarily stalled when they do not have the aid of a tax abatement. He reiterated his earlier concern that the value of a project must be carefully weighed in order to assess the benefit to the community.

Gaal commented on concerns raised by Sturbaum and Rollo, stating that he believed their comments and questions were very important and respected their pursuit for a more robust viewpoint on the evaluation of measuring a tax abatement's value to our community.

Mayer added that one of the difficulties of quantifying the value of the projects is the vagueries of the market.

Banach spoke on the council's ability to review abatements on an individual basis and commented that he believed a thorough job is done analyzing the merits of every abatement.

Ruff added that the city has received a lot of complaints when the council takes action, like with tax abatements, that some citizens consider obstructive to the growth of the economic market and he emphasized that these abatements are an example of how the council meddles with the economic market.

The Tax Abatement Report was approved by the council.

There were no council committee reports.

- COUNCIL COMMITTEES

There was no public input.

- PUBLIC INPUT

There were no appointments to boards or commissions.

BOARD AND COMMISSION
APPOINTMENTS
LEGISLATION FOR SECOND
READING

It was moved and seconded that the Ordinance 05-10 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 4-0-4. It was moved and seconded that Ordinance 05-10 be adopted.

Ordinance 05-10 To Amend Title 4 of The Bloomington Municipal Code Entitled "Business Licenses Generally" (Amending Chapter 4.04.110 Entitled "Lunch Wagon" by Disallowing Lunch Wagons from Operating Near the Farmers' Market When the Market is Open)

Marsha Veldman, Community Events Coordinator for Parks and Recreation, reiterated the intent behind the change to the code regarding lunch wagons. She mentioned that lunch wagons are an increasing threat to the integrity of the Farmer's Market and said that the Parks and Recreation Department believes that this issue should be dealt with sooner rather than later.

Mayer asked how many lunch wagon permits are currently circulating

Veldman did not have a response.

Sturbaum asked Veldman to elaborate on how lunch wagons were a growing problem.

Veldman responded that previous years show no activity on the periphery of the market. She stated that last year there were two vendors that annexed themselves to the periphery and sold every weekend of the market. She said there were at times as many as 5 vendors. She offered that at glance, the vendors did not pose a problem, but taken as a whole and applied throughout the whole market season, she said they act as parasites, leeching off the revenues generated by the Market.

Sturbaum asked how the lunch wagons compete directly with the vendors inside the market.

Veldman said that some of the lunch wagons were competing directly, for example the coffee truck vs. The Market Café.

Sabbagh asked if knowledge was held about the actual fiscal impact to vendors committing to the Market.

Veldman responded that no statistics were available to represent the actual fiscal impact to Market vendors by the peripheral lunch wagons.

Sabbagh asked where the money paid by Market vendors goes.

Veldman offered that the City receives a percentage on what The Market Café and The Bread Vending stall. She informed that the farm vendors and craft vendors pay a flat fee. She stated that that money goes into a non-reverting account that helps to support the market, market staff, buy supplies, and pay advertising.

Sabbagh asked Veldman is she was aware of other locations in the city where protections are in place for establishments like the Market.

Veldman was unsure.

Rollo reiterated Veldman's answer that it could not be determined whether or not revenue had been lost, but asked if complaints had been issued by Market vendors.

Veldman said that some complaints had been received but that vendors are busy and not privy to what is going on along the periphery.

Ordinance 05-10 (cont'd.)

Rollo reiterated Veldman's comment that not establishing these rules could lead to disintegration of the market. He asked if studies had been done with other communities in similar settings and whether data could be pulled from those studies to help establish this ordinance.

Veldman reported that she has visited other markets and believes that the character of a market is diluted when peripheral lunch wagons are present.

Steve Volan asked for figures on direct revenue that the city derives from the market.

Veldman answered with \$32,500.

Volan asked what percentage of that dollar amount is from fees paid by market vendors.

Veldman responded that the above mentioned revenue is almost entirely yielded from fees paid by vendors. She cited that approximately \$1,000-\$2,000 is generated from items sold that promote the market such as water bottles and t-shirts.

Volan asked if vendors are obligated to report their gross revenue derived from sales in the market.

Veldman responded that the only vendors under that obligation are the Café and Bread Stall.

Volan reiterated comments made by Veldman in which she expressed the concerns that allowing peripheral wagons created a flea market appearance and pressed for an answer to clarify that the ordinance before the council was to specifically address lunch wagons.

Veldman responded affirmatively.

Volan commented that if worries regarding the appearance of the market were a concern, would it not be prudent to be concerned with other types of potential vendors as well.

Veldman responded that the other types of vendors observed along the outskirts of the market are already covered under a different ordinance.

Volan asked for the enactment of enforcement of the ordinance.

Veldman responded that market staff would be responsible for alerting those not in compliance with the ordinance.

Volan summarized Veldman's comments and asked why or how the market administration decided that only one food vendor would be allowed.

Veldman responded that the food vendors currently allowed were relocated with the Market once it was established they were beneficial to the attendees. She stated that the Bread Stall was added at a later date and strategically placed to improve customer circulation.

Volan asked who would entertain the notion if a prepared-food-items-vendor approached the market with an original idea.

Veldman answered that two locations were currently established for

food vendors and that new inquiries were rejected. Veldman described the Farmer's Market Advisory Council made up of 9 members, 3 being vendors, 3 being customers, and 3 representing businesses.

Ordinance 05-10 (cont'd.)

Volan asked for a demographic of the 3 vendors that are on the advisory council.

Veldman responded by stating that the category of business representative is the hardest to fill. She noted that currently none of the members represent food establishments.

Volan hypothesized that if a person wanted to setup a food cart on the SW corner of 6th and College would the Bakehouse have any opportunity to object. He emphasized that he wanted to know if food carts in general were able to set up anywhere along a city right-of-way.

Veldman responded affirmatively.

Sabbagh hypothesized with a question that asked what would happen if he setup a corner stand to sell basil.

Veldman responded that that was covered under a different ordinance. She further explained that if the ordinance before the council tonight were to pass, a person would not be able to setup and sell basil, but that currently a person could do that.

Mayer asked about how the city handled speaking with the property owner of the parking lot south of the Farmer's Market.

Veldman said that discussions were established resulting in the decision to not allow persons to sell in that parking lot.

Sherman read from the ordinance governing lunch wagon permits, stating that licensees can not create an impediment to the free flow of traffic, including sidewalks.

Sturbaum asked if the Parks and Recreation Department had considered a regulatory solution rather than an outright ban.

Veldman responded that the future may result in an expansion of vendors outside of the market.

Volan asked if a representative from Bloomingfoods was in the audience. None available.

It was moved and seconded that Amendment #1 to Ordinance 05-10 be adopted.

Mike Renniessen, Director of Parks and Recreation, summarized the amendment.

Rollin Suthers, resident and shrimp vendor, commented that his sales are part time and enjoyable. He expressed his happiness at being a part of the community. Suthers described his work that prepares him for the Farmer's Market and offered details on the origination of the seafood that he sells. He recited the fees he has paid and the steps he went through to receive his license and food clearance. Suthers said he believed that the growth of the Farmer's Market could be promoted by allowing additional vendors in the vicinity, as well as in the stalls, at the market. He also noted that his request to be a part of the Farmer's Market was denied.

Amendment #1 to Ordinance 05-10
This amendment expands the boundary in which licenses are prohibited from operating lunch wagons during operation of the Farmer's Market by including the area between Sixth and Seventh Streets from College to Rogers and the area on Madison from Sixth to Seventh Streets. The amendment also corrects the title of the ordinance by changing the reference from "Chapter" to "Section" in the ordinance's subtitle.

Amendment #1 to Ordinance 05-10 received a roll call vote of Ayes: 6, Nays: 3 (Sturbaum, Sabbagh, Banach).

Vote on Amendment #1 to Ordinance 05-10

Public comment on Ordinance 05-10 as amended:

Lee Jones, market vendor, spoke about the history and formation of the market and stated that if regulations were not used to protect the quality of items sold, that vendors would purchase items wholesale and then resell them at the market. She said that this disregard to the place of purchase or quality of the product undercuts a farmer's efforts. Jones outlined the contract that vendors sign with the city and said that the contract limits the kind of competition a vendor is allowed to undertake at the market.

Cynthia Brenheim, expressed her discomfort with the ordinance stating that she believed the ordinance was based on fear and that other vendors would increase the aesthetic and economic aspects of the market.

Suthers addressed the council again and stated that he visits the farmer's market because of the quality of food, not the price.

Banach asked if all the sellers at the Market are individuals, families, or companies.

Veldman said that all sellers were family operated business.

Banach inquired if vendors are affected by the Living Wage Ordinance since they sign a contract with the city.

Veldman said she did not know.

Banach admitted that the question was rhetorical, commented on how difficult the issue was and expressed his intent to vote against the proposed ordinance.

Diekhoff recited his comments from the previous week and included that he would support the ordinance but wanted more information on the studies being done on expanding the market.

Gaal said that the growth of the market was apparent but urged people to look at how it has grown. He said that it was important not to lose sight of the purpose and original intention of the market. Gaal complimented the Parks and Recreation Department and said that their decisions affecting the development of the market had always been reached through very careful consideration. He concluded that the market was a unique establishment with an environment purposefully different from flea markets and fairs.

Sturbaum concurred with Gaal and said that it is the responsibility of the Parks and Recreation Department to protect the original intent of the market. He did caution that the ordinance at hand might be pruning the market too much and offered a vision where the market would be allowed to conform to the unique character of the community. Sturbaum suggested that periphery vendors could be judged individually, instead of banning them all together. For example, he pointed out that fresh shrimp is not sold inside of the market and contended that it could be allowed. He recommended that the city take one year to study the periphery of the market and decide how it could best enhance community interaction without losing the heart of the market's intent.

Volan added that valuable information and studies could be performed on the effects of the peripheral activity. He asked if harm is really done

by a periphery vendor selling an item that is not sold in the market proper.

Ordinance 05-10 (cont'd.)

Sabbagh said that if competition was a true concern, the ordinance could be extended to limit sales at grocery stores during market hours. He admitted that he was being sarcastic and said that he does not believe the market needs this protection and that he would not support the proposed ordinance.

Rollo said that he believed the request from the Parks and Recreation Department was proactive and necessary. He urged fellow councilpersons to see the importance of the ordinance and support it.

Mayer said he believed that the ordinance did not fully explore the issue of lunch wagons and how to regulate them. He stated that he feels uncomfortable regulating the activity around the farmer's market in this instance. He offered the solution of working with private property owners within the vicinity of the market to limit commercial activity on those privately held properties. Mayer advocated Sturbaum's recommendation of holding off for a year to reexamine the situation.

Ruff noted that the potential for the market to become something other than originally envisioned was possible. He admitted to feeling persuaded by the remarks made by outside vendors and remarked that the crux of the issue is that any change in policy will result in winners and losers. Ruff also said He said that he is interested in the ideas of other councilpersons that regard the expansion of other vendors into the market.

Volan reiterated his interest in receiving documentation showing that lunch wagons that do not compete with market vendors are problematic for the market. He speculated whether or not all peripheral businesses would have a negative impact on the market.

Ordinance 05-10 received a roll call vote of Ayes: 4, Nays: 5 (Sturbaum, Mayer, Sabbagh, Volan, Banach).

Vote on Ordinance 05-12 as Amended

It was moved and seconded that the Ordinance 05-09 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 8-0. It was moved and seconded that Ordinance 05-09 be adopted.

Ordinance 05-09 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" To Establish a Historic District -- Re: Brick Streets in University Courts (Bloomington Historic Preservation Commission, Petitioner)

Nancy Hiestand of the Housing and Neighborhood Development Department spoke about the ordinance and displayed photos. She outlined the areas under consideration, gave details about the chronology and history of the area and emphasized its historical significance.

Rollo asked if snowplowing concerns would be created.

Hiestand said that potential damage could be possible.

Ordinance 05-09 received a roll call vote of Ayes: 8, Nays: 0 (Diekhoff absent)

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

LEGISLATION FOR FIRST
READING

Ordinance 05-11 To Amend Title 9 of the Bloomington Municipal Code Entitled "Water" (Rate Adjustment)

Ordinance 05-11

Ordinance 05-12 An Ordinance Concerning the Construction of Additions, Extensions and Improvements to the Waterworks of the City of Bloomington, Indiana, the Issuance of Revenue Bonds to Provide the Cost Thereof, the Collection, Segregation and Distribution of the Revenues of said Waterworks, the Safeguarding of the Interests of the Owners of said Revenue Bonds, Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds, and Repealing Ordinances Inconsistent Herewith

Ordinance 05-12

Ordinance 05-13 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District - Re: "The Home Laundry Building at 300 East 3rd Street (Bloomington Historic Preservation Commission, Petitioner)

Ordinance 05-13

There was no public comment.

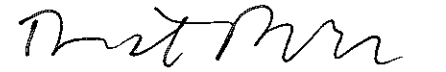
PUBLIC INPUT

The meeting was adjourned at 10:55 pm.

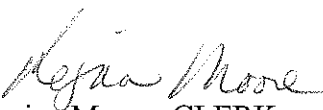
ADJOURNMENT

APPROVE:

ATTEST:



DAVEROLLO VICE PRESIDENT
~~Chris Sturbaum, PRESIDENT~~
Bloomington Common Council



Regina Moore, CLERK
City of Bloomington