

In the Council Chambers of the Showers City Hall on Wednesday, December 21, 2005 at 7:30 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
December 21, 2005

Council Vice President Sturbaum gave the Agenda Summation

AGENDA SUMMATION

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

ROLL CALL

The minutes of February 16, March 2, September 14 (Special Session) and October 19, 2005 were approved by a voice vote.

APPROVAL OF MINUTES

Gaal thanked everyone involved with many of the important developments in Bloomington in 2005. Gaal specifically noted the purchase of the CSX rail corridor through downtown, the completion of the downtown plan, the demolition review ordinance, the creation of the Commission of Sustainability, and the certified technology park downtown. He encouraged citizens to get out and enjoy downtown and said he looks forward to making 2006 an even better year.

REPORTS:

- COUNCILMEMBERS

Sabbagh wished everyone a Merry Christmas and happy holidays and said he looks forward to coming back in 2006 to do the peoples' business.

Mayer complimented and thanked city employees, especially those who work outside. He also asked citizens to remember those in the community who are less fortunate and said there are many opportunities in Bloomington to invest in people.

Sturbaum seconded Mayer's comments and thanked the community for coming to the aid of Martha's House. He said it was an especially appropriate time of year to consider the many ways in which citizens in the community are more alike than different. Sturbaum noted that while public praying may not be entirely appropriate, if he were to pray, he said he would request that everyone work together for the good of the community and country and wished peace on earth.

There were no reports at this time.

- MAYOR and CITY OFFICES
- COUNCIL COMMITTEES

There were no reports at this time.

- PUBLIC INPUT

Margaret Fette said a family had a sewage backup in their home and were victims of what she called an egregious policy of the City of Bloomington Utilities that does not hold the City responsible for backups into properties if the sewer lines have been cleaned in the last twelve months. She said it was not reasonable that the residents be responsible for the damage and noted that if a blockage caused a spill on a city street, the city would be responsible for the clean-up. She noted that the county health department referred the family to a professional cleaner, something Fette said was unreasonable. She asked the council to use their influence to change this policy.

Bob Miller, a member of the Martha's House Board of Directors, thanked the mayor's office, common council and the city for its support, thanked Perry Township Trustee Dan Combs and the Advisory Board, and thanked the county commissioners, county council and other trustees for their help. He thanked the Herald Times for their recent coverage of the financial crisis, and lastly thanked the citizens who were so generous to donate resources for the homeless shelter.

There were no appointments made at this meeting.

It was moved and seconded that Resolution 05-23 be introduced and read by title and synopsis. Deputy Clerk Matt Weber read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0. It was moved and seconded that Resolution 05-23 be adopted.

Danise Alano, Assistant Director of Economic Development, explained the purpose of the fund. She said the application was unanimously approved by the Economic Development Commission for a matching grant of \$25,000 for renovations of Rhino's Youth Center. She said a fire suppression system, a sprinkler system, adding some soundproofing tiles and window tinting. She said that the total cost of these renovations would be covered by this grant, matching funds that have already been raised, and individual contributions to the Center.

Alano noted that Brad Wilhelm from Rhino's Center was present for questions, and he stepped forward to thank the mayor's office, particularly Ron Walker, for support for the project.

Volan said he recently recommended to a young citizen to go to Rhino's Youth Center for some experience in stage craft, lighting, technical issues, video and audio techniques. He said the new space was wonderful and would support youth in the performing arts. He said he was happy to support this grant, and wished the Center the best in the future.

Sturbaum noted that the grant was approved by the Economic Development Commission, and hoped that it wouldn't be the last grant from this fund.

Resolution 05-23 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Resolution 05-22 be introduced and read by title and synopsis. Deputy Clerk Matt Weber read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0. It was moved and seconded that Resolution 05-22 be adopted.

Ron Walker, Director of Economic Development, gave particulars of this development with background of the request for tax abatement. He noted particularly the location of the project on South Sare Road and added that the public benefits to this project would include an expansion of health care in the community, a reduction in cross city east/west traffic, increased community benefits with continued uncompensated health care, and lastly the use of vacant land that has sat unused since the Canada Farm PUD was developed. He said the ten year abatement schedule would result in \$386,000 over the abatement period.

Walker gave the council a letter to supplement the application that outlined additional benefits. It outlined the company's dedication to providing uncompensated health care, an indigent medication program and free high school physicals adding that they would continue to respond to community need with a minimum of \$200,000 in uncompensated services per year. He said this was in addition to the commitment from IMA on the other tax abatement; it was particular to this new location.

Walker said that there would be 22 jobs created with the average starting wage for staff of about \$12.00 or about \$16.00 per hour with benefits,

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Resolution 05-23 To Approve Application and Authorize Grant from the Business Investment Incentive Fund (Harmony Education Center – Rhino's Youth Center, Petitioner)

Resolution 05-22 To Designate an Economic Revitalization Area, Approve the Statement of Benefits, and Authorize a Period of Abatement- Re: Glen Magna Way, Canada Farm PUD, Phase I, Parcel E (Rogers Property Management, LLP, Petitioner)

noting that the benefit package of 30% of wages.

Resolution 05-22 (cont'd)

Walker said that the new project would be generating new tax revenue of \$394,000 on this land. He said that the same period would generate about \$4500 on the same land over ten years. After the abatement period there would be \$78,000 in real property tax revenues generated.

Banach clarified that the \$4M figure was just the cost of construction and did not include the price of the land; Walker confirmed this.

Rollo asked if IMA would agree to include native plantings, mitigating storm water, which would partially compensate for the paved surface that would exist. Walker said the group has agreed to do native plantings on the property with a butterfly garden and a wet pond. He said storm water runoff would be handled by culverts and had been approved by Utilities. He noted that the IMA group wanted to fit in with the mainly residential appearance of the area. Rollo asked the implications for build out on the parcel south of there where the culverts release the stormwater runoff from this site. Patrick Murphy and Mike Bengsten from Utilities said they would be happy to investigate this.

Mayer said that part of the development approval process dictated that stormwater issues would meet city code; Walker said that regulation had been met.

Ruff said that he appreciated the additional community benefits commitment in uncompensated services, and asked how the present amount compared with that in the first IMA abatement. Dr. Rink said this estimate was based on the first abatement project figures, and assured the council that this was additional service over and above the first abatement.

Sabbagh said he would happily support this tax abatement.

Gaal said that this additional commitment addresses concerns he had last year about designating this parcel an economic revitalization zone, and that he was supportive of that now.

Sturbaum noted this also met the City of Bloomington's living wage ordinance requirements.

Mayer said it was a good project and thanked IMA for their help with indigent health care.

Rollo said this was an unusual designation of an economic revitalization area given that it is new unused land, but he said that the benefits would justify such a designation.

Ruff added that he was pleased that IMA was in agreement with the city's living wage floor linking livable wages for all employees as a critical element of the community benefits to be provided for a public subsidy.

Ruff noted that an adjustment needed to be made on the back of the Statement of Benefits to correct the number of the confirming resolution. It was noted that the roll call vote following would include agreement to that correction.

Resolution 05-22 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 05-34 be introduced and read by title and synopsis. Deputy Clerk Matt Weber read the

Ordinance 05-34 To Amend Title 10 of the Bloomington Municipal Code

legislation and synopsis, giving the Committee Do-Pass Recommendation of 7-0-2. It was moved and seconded that Ordinance 05-34 be adopted.

Entitled "Wastewater" (Wastewater Rate Adjustment)

Pat Murphy, Director of Utilities, presented a summary of Ordinance 05-34 and noted that the Utilities Service recommended approval of the ordinance by a 6-0 vote.

Sabbagh expressed concerns prompted by an independent auditor's report from the Indiana State Board of Accounts. He described the report as disturbing to him and asked for an explanation as to how the Utilities Department was responding.

Mayor Mark Kruzan explained that while the independent auditor's report has been received by the city, the state audit is forthcoming. He noted that the state audit which includes an annual exit interview will occur in January. Kruzan stressed to the public that the civil city audit is distinctly different from the state audit. He expressed that it was fair for a council member to raise questions before a vote due to political realities, but indicated that there is no practical link to the actual realities of the requested rate increase. Kruzan said that the 2002 and 2003 state audits revealed some problems and that the upcoming audit would show if the problems have been solved. He stressed that the city is certain that there has been no malfeasance. In addition, Kruzan said that there will be increased board involvement in fiscal management and that any problems must be corrected in a public way before the next audit.

Sabbagh said people he talks to in the accounting community say that the city should know what the problems are prior to the exit interview. Kruzan responded that some problems are evident but that others will arise from the audit. Furthermore, he stressed that the status of the audit is unrelated, in practical aspect, to the ordinance and rate increase and that the city can not afford to wait to postpone a rate increase when every month generates \$120,000 in lost revenue.

Sabbagh asked Kruzan how the city can be certain it is asking for the appropriate utility rates when the city is unsure of exact balances of revenues and allocations. Kruzan explained that the audit would likely show that monies have not been managed well as opposed to showing that Utilities does not know where monies are.

Sabbagh indicated that the 2003 independent auditor's report did not state the same concerns as the 2004 report and questioned whether the same problems existed in 2003. Kruzan noted that the 2002 and 2003 audits raised the same issues that were reported in the 2004 independent auditor's report. Kruzan's expressed concern that the same problems were not fixed from 2002 to 2005 and that he understands why the state would be alarmed.

Volan asked specific questions about the structure and timing of the state audit. Kruzan noted that the state audit occurs annually, beginning in March and typically lasts for a few months. Volan asked for confirmation that the city has identified a systemic need to address accounting procedures in Utilities which will be addressed soon. Kruzan confirmed and noted that some of the issues identified have already been and are still being addressed. He added that while the current situation is unacceptable to him, it would be unacceptable if the identified issues were not addressed before the next annual state audit.

Kruzan pointed out that the council is not in a good position because it is being asked to make a difficult vote as a result of problems within the administration of Utilities.

Tom Swafford, president of the Utilities Service Board, said the board is not satisfied and was led to believe that problems were to be corrected last year. He assured the council that he and the board will stay involved until the problems are fixed. He reiterated that no money is missing and that this is solely a record keeping problem that will be fixed.

Ordinance 05-34 (cont'd)

Rollo asked Kruzan to talk about the audit and the issue of transparency. Kruzan explained that the city will have an annual exit interview with the state board of accounts which will produce a report. He noted that the report will be taken to the Utilities Service Board and then the council. Rollo asked if the State Board of Accounts has a position on the proposed rate increase. Kruzan reiterated that the audit and the proposed rate increase were two separate issues and said the state did not have a position.

Ruff asked if the problems identified resulted from poor record keeping or mismanagement of money. Swafford answered that the issues were a result of poor record keeping. For example, he noted that streams of revenue were not organized the way should have been, which should be a simple fix.

Ruff asked if the council's vote on the proposed rate increase could have any connection or effect on the state's audit. Kruzan said the two issues were practically unrelated.

Kruzan stressed that there are 171 employees at Utilities, which has sustained a fire and change of administration in recent years. While the problems identified in the state audit would not reflect well upon the city, Kruzan said he was extremely optimistic that it would serve as a wakeup call leading to reform of management practices. In addition, he commended Utilities employees and said that the department is functioning extremely well.

Banach said he appreciates the follow up from the administration to the previous meeting's discussion. He cited existing needs in Utilities and said he has received assurances from the Utilities Service Board and administration and plans to vote to help the city meet those needs. Banach said he looked forward to regular updates of the public process to fix problems at Utilities.

Diekhoff thanked Kruzan and Swafford for clarifying issues and said he appreciates the assurances that the council has received. He said he plans to support the proposed ordinance in order to help Utilities complete projects and do their job.

Gaal seconded Banach's comments.

Sturbaum said this issue has overshadowed the job that Utilities has done over the years. He said he appreciates that the city is forward thinking and commended Utilities on making investments that are necessary for improvements. He requested that Utilities keep up their good work and get the bookkeeping issue straightened out quickly.

Volan seconded Diekhoff's comments.

Sabbagh said that numbers do matter and that not being able to determine cash balances is mismanagement, not just poor recordkeeping. He said there are serious problems with the accounting and that it is easy to ask for more money and a yes vote. Sabbagh emphasized that the hard vote was a no vote on this issue. He noted that he appreciates employees in Utilities, but said residents rely on the city

for fiduciary responsibility. Sabbagh said this is not a political vote and that it is the city's responsibility to make sure that accounting is correct before raising rates.

Ordinance 05-34 (cont'd)

Rollo said there are no easy votes. He reiterated and emphasized that there is a distinct difference between the ordinance at hand and the state audit. He thanked Swafford and Kruzan for their statements.

Mayer discussed the rate increase and noted that the proposed ordinance was coming forward with full support of the Utilities Service Board. He said the case has been made that the rate increase is necessary. Mayer noted that he does not see the connection between the rate increase and the audit and said it is essential in order to meet environmental commitments and the needs of citizens.

Banach announced that last week he requested comparative figures to other municipalities in order to help compare utility rates. Pat Murphy presented comparative figures received from Crowe Chizek, including the rates of smaller communities surrounding Bloomington. He pointed out that Bloomington's costs and fees are competitive.

Volan inquired about the high rates in Ellettsville. Murphy noted that Ellettsville has a treatment plant that has higher operational costs. Volan asked if communities ever collaborate in water treatment. Murphy said communities, as a rule, treat wastewater within the confines of their corporate limits.

Sabbagh what the Utilities budget is. Murphy said the department's budget is approximately \$25 million. Sabbagh asked, rhetorically, what would happen if a \$25 million business with that audit report approached a bank for a line of credit.

Ruff seconded Banach's comments and reiterated that Utilities has capital project needs that are not related to the mismanagement of records. Ruff reiterated comments that Mayer made about the Utilities Service Board being a citizen board that is in full agreement on the proposed ordinance. Ruff said input received from the board and board president Swafford was reassuring.

Ordinance 05-34 received a roll call vote of Ayes: 8, Nays: 1 (Sabbagh).

It was moved and seconded that Ordinance 05-35 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 Ordinance 05-35 be adopted.

Ordinance 05-35 An Ordinance To Authorize Issuance of Sewage Works Revenue Bonds (For Wastewater and Storm Water Projects)

Patrick Murphy, Director of Utilities, indicated that this ordinance was the financing mechanism and bonding component of the utility rate increase.

There was no public comment or council comment on this item.

Ordinance 05-35 received a roll call vote of Ayes: 8, Nays: 1 (Sabbagh).

It was moved and seconded that Ordinance 05-33 be introduced and read by title and synopsis. Deputy Clerk Matt Weber read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0. It was moved and seconded that Ordinance 05-33 be adopted.

Ordinance 05-33 To Amend Title 7 of the Bloomington Municipal Coded Entitled "Animals" - Re: Extensive Amendments which Delete Chapter 7.12 (Licensing) and Make Changes to All the Other Chapters in the Title

Julio Alonso, Director of Public Works, reported that the ordinance has been thoroughly debated and discussed at the previous meeting and he said he appreciates the support shown to staff and volunteers who have

put effort into this Ordinance over the last couple of years. He also thanked members of the public who provided valuable input. Alonso reported that the administration supports the amended version of the ordinance and asked for the council's support.

Ordinance 05-33 (cont'd)

Banach asked if the administration supports the amendment. Alonso confirmed that the administration appreciates the spirit in which the amendment was offered and supports it. Banach noted that since the administration is comfortable with the amendment, he would be more comfortable supporting it. Banach voiced concern though that the city did not have a formal agreement with any entities that the amendment affect.

Ruff reported that the amendment was developed rather late in the process and that it is not surprising that the administration has moved toward supporting it despite original concerns.

Sabbagh asked if the administration accepts the amendment in addition to supporting it. Alonso reiterated that the administration, in the spirit of conciliation, supports the amendment and the ordinance as amended. Sturbaum noted that Feral Cat Friends endorsed the amendment and asked if the administration anticipates a positive outcome from the ordinance as amended. Furthermore, he asked if the administration agreed that the Feral Cat Friends contributes valuable volunteer resources to the table. Alonso said the administration believes a positive outcome can be achieved and that the goals of the original ordinance are unchanged.

It was moved and seconded that Amendment 2 be introduced. Rollo read the synopsis, giving the Committee Do-Pass Recommendation of 9-0. It was moved and seconded that Ordinance 05-33 be adopted.

Rollo said that his amendment was in recognition of the volunteer group, Feral Cat Friends, who spayed/neutered approximately 500 cats in the community in the last year. Rollo estimated those services as an approximate \$70,000 worth of service to the community. He described the program as effective in reducing the number of feral cats in the community and the number of cats euthanized at the animal shelter. Rollo said the intention of the amendment was to provide a time period of six months to develop a collaboration and understanding between the volunteer group, the animal shelter, and the Public Works Department. In addition, the amendment would suspend implementation of the feral cat provisions of Ordinance 05-33 for six months.

Sabbagh asked what would happen if no agreement was reached within six months. Rollo said that if no agreement was reached within six months, the provisions stated in the ordinance would become law.

Elia Estrada introduced herself as a volunteer for the animal shelter and Pets Alive and thanked the council for considering the amendment to the ordinance. Estrada said Feral Cat Friends is rendering a tremendous service for the city and she distributed and summarized literature on feral cats.

Jennifer Mickell said she is concerned with the cost to the city if salaries are provided to those who tend to feral cat colonies. She summarized some benefits of feral cats and noted that they have been self-sufficient for many years. She voiced support for a volunteer program to manage feral cats.

Amendment #2 received a roll call vote of Ayes: 8, Nays: 1.

Ruff asked Rollo to elaborate on the estimated 500 spayed/neutered feral cats by Feral Cat Friends. Rollo explained that this service by Feral Cat Friends helps keep the feral cat population down. In one year, Rollo

Amendment #2 to Ordinance 05-33
The ordinance establishes a permitting system for the harboring of more than six feral cats in "feral cat colonies." This amendment would defer implementation of those provisions for six months. It recognizes that volunteers are already providing clear benefits to the community by tending many of these colonies and assuring that the inhabitants are spayed or neutered and in good condition. With that in mind, it provides more time and encouragement for City staff, with the help of as many as four Council members, to work with representative of the volunteers to develop alternate procedures for regulating treatment of feral cats.

Ordinance 05-33 as amended

reported, 500 cats can produce an additional 3,200 cats.

Ordinance 05-33 as amended (cont'd)

Public Comment:

Elia Estrada emphasized that Friends of Feral Cats volunteers its services to the city and that there is no expectation for volunteers to be paid a salary. Estrada suggested that the involvement of volunteers will save the city a substantial amount of money in addition to reducing the community's feral cat population. She described the amended ordinance as a win-win situation that will be good for the animals, good for the city, and is good government.

Sturbaum commended the administration for supporting the amendment and thanked public works for their effort on the ordinance. He said he is proud to be a member of a community that cares about its animal friends.

Rollo thanked the administration for supporting the amendment and said he looks forward to working with the city and Feral Cat Friends to reach a mutually arrived upon agreement. He thanked Public Works and everyone involved in animal welfare for their work on revising Title 7.

Sabbagh thanked Public Works for its hard work on the ordinance. He commended volunteer organizations that save the city money. Sabbagh explained that he was concerned about the amendment due to the lack of formal reporting to the city but indicated he plans to support the ordinance because it was clearly the right thing to do.

Mayer thanked Public Works and the volunteers who came together to put the ordinance together.

Banach thanked Alonso and everyone involved with the development of the ordinance. He said he was very pleased to support the ordinance and that he would like to see animal cruelty fines increased even more.

Ruff noted that a member of the public voiced concern about fines in Title 7 and requested that Alonso respond to the citizen. Alonso agreed.

Ordinance 05-33 received a roll call vote of Ayes: 9, Nays: 0.

There was no legislation for first reading.

LEGISLATION FOR FIRST
READING

There was no public input at this time.

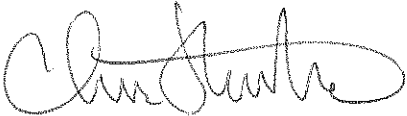
PUBLIC INPUT

The meeting was adjourned at 10:05 p.m.

ADJOURNMENT

APPROVE:

ATTEST:



Chris Sturbaum, PRESIDENT
Bloomington Common Council

Matt Weber, DEPUTYCLERK
City of Bloomington