

In the Council Chambers of the Showers City Hall on Wednesday, January 21, 2003 at 7:30 pm with Council President Diekhoff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
January 21, 2004

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

ROLL CALL

Council President Diekhoff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Chris Sturbaum reported that several council members recently attended the conference that the Indiana Association of Cities and Towns held for newly elected officials. He said one of the most meaningful things he learned was that those attending were citizens, not full time politicians. He added that this was the way the founders of Indiana wanted it to be so that regular people would be working for the city.

MESSAGES FROM
COUNCILMEMBERS

He said he had a letter signed by seven council members to the Alcoholic Beverage Commission that petitioned against the Von Lee liquor license. He noted the hearing would take place on February 4, 2004 at 9:00 am. He said that for two years the Save The Von Lee committee had been protesting against the loss of that theater and the behavior of Kerasotes, the owners, to forbid the use of this historic theater by the community. He said the case for restraint of trade would take place in the courthouse on January 28, 2004, at 9:00 am. He said the free market was not allowed to operate and that a viable theater had been removed from the community.

Andy Ruff read from a letter sent from Indiana State Senator Larry Borst, Chair of the Senate Finance Committee, that was published in the Indianapolis' The Southside Times newspaper on October 30, 2003.

To fund I-69, INDOT would have to pledge all of its expansion funds, \$21%-25% of its entire construction budget, to I-69 every year for 14 years to complete the project. Even if INDOT had no additional big expansion projects under development, it is unlikely that that much money could be dedicated to a single project for such a prolonged period. There would be no expansion projects, added travel lanes, new road construction, major improvements, etc., funded anywhere else in the state for fourteen years. INDOT has said that 80% of the I-69 costs will come from federal funds; however, there is no federal categorical funding for such projects. Even if a new federal category were created at some future date to provide funding for I-69, Indiana would have to compete with states like Texas for the funds. INDOT could probably qualify much of its existing federal road funding for I-69, however that would not increase total federal road funding for Indiana. That would only draw federal funds away from other projects. It is unlikely federal funds in excess of Indiana's regular apportionment will be available to build I-69.

There has been discussion that I-69 could be built as a toll road; however, several studies have demonstrated that the project as a toll road is not feasible. If the project were built on a pay-as-you-go basis with state funds, it would require the equivalent of a five cent gas tax increase dedicated entirely to I-69 to complete the project in 14 years. There are no other state funds available for the project.

Ruff read an excerpt from a report on WFIU's Third House:

Four south central Indiana state legislators agreed with State Senator Lawrence Borst that Indiana cannot afford to build I-69. Matt Pierce, Becky Skillman and Eric Koch said that I-69 could only be built if the federal government came up with new money for it. Koch, a Republican whose district includes portions of Lawrence, Monroe Jackson and Bartholomew counties, said he doesn't foresee that happening. Skillman, a Republican Senator from Bedford and Chair of the Republican Senate Caucus, said that legislators elsewhere in Indiana will not give up highway projects in their regions for I-69. Calling their opinion unanimous, Koch said he would not support a gas tax hike for I-69. Richard Bray, a Republican Senator

from Martinsville, said he doesn't think Indiana could afford even 20% of the required local state money if the feds did come up with extra money.

Ruff then read from the Indianapolis Star regarding a meeting of the Peoples Agenda Forum sponsored by Indianapolis Star and WTHR Channel 13 where state legislators listen to citizens voice their opinions and concerns on issues.

They came to the statehouse, sat down in lawmakers chairs and looking into their eyes, told them what they should do. The loudest message on Tuesday night rang clear as dozens decried the proposal to extend I-69 through southern Indiana, calling it unacceptable.

Ruff said those who have been opposed to the highway for years have not just been looking at environmental and family farm concerns. He said the fiscal component had been considered from the beginning. He added that taxing could only be done to a certain extent, and this extravagantly expensive highway would be a major issue in the upcoming state campaigns.

He thanked folks for listening, and encouraged them to visit the Bloomington Alternative website noting that there would be a related article posted there over the weekend.

Stephen Volan thanked those who helped in his campaign at this first regularly scheduled meeting of the year, and hoped by extending his thanks at this time, he would off set any errors in thanking folks before this. He extended a particular note of thanks to Tyler and Dave Ferguson.

David Sabbagh noted an article published on January, 20, 2004 about two men who intimidated disabled diners at an area restaurant. He read from the report:

Two men were arrested Friday after they alleged intimidated a group of people with mental and physical disabilities at a local restaurant. The two men called the group stupid and retarded. The transitional services employee called the management of the restaurant and asked that the two and their female companions leave. The transitional group rose to move to another area of the restaurant when the two men confronted the group and continued making derogatory comments. They threatened to beat up members of the group when the police arrived and the men were found to have alcohol on their breath.

Sabbagh added that one of the functions of government was to protect the most fragile of our society. He said these actions were outrageous and encouraged the prosecutor to throw the book at these men. He added that he hoped the community would speak out about this and that it was not appropriate in a safe and civil city.

Tim Mayer noted that Mrs. Ray Kroc of McDonald's restaurants had recently bequeathed \$1.5 Billion dollars to the Salvation Army.

Timothy Mayer read a proclamation from the mayor that named February 8, 2004 to be Girls and Women in Sports Day in Bloomington. Beverly Calendar-Anderson, Tulip Trace Girl Scouts, accepted the sealed proclamation and thanked the mayor and council for this proclamation on behalf of the National Girls and Women in Sports day planning committee. She listed several events planned for that time and invited citizens to those activities.

MESSAGE FROM THE MAYOR

Nancy Hiestand, gave the Report on the McDoel Historic Conservation District. She said three years ago the council approved the designation. She added at the time, it was called a phase of a historic district, and that a proviso was needed to survey property owners in the district to retain the district, rescind the district, or to elevate it to a historic district. She

COMMITTEE REPORTS

- Report on McDoel Historic Conservation District

explained that the regulations in a conservation district included reviews of demolition of a structure, construction of a new structure, or moving of a structure.

McDoel Historic Conservation District
Report (cont'd)

She said the Historic Preservation Commission heard only three petitions during this time 1) petition from BRI to move a house to 700 West Wylie, to move another house to 415 W. Allen, and Housing Solutions request for new construction on 726 W. Allen, and 2) a petition by an owner to demolish a property and build another home on the site. She said there had been no other demolition of structures within the district.

The proviso that the Department of HAND survey the owners was actually included in the legislation, and the Historic Preservation Commission decided it would use the regulations that applied to National Historic Register Districts to select how the polling would be done. She said that individual property owners were given one vote each; regardless of the number of properties they owned in order to give all a voice.

She outlined that the letter was mailed on August 19, 2003 and was concluded on November 14, 2003, and were counted by Michael Flory, Regina Moore and Nancy Hiestand. She outlined the results as:

- Votes against the elevation to a historic district: 138
- Votes to retain the conservation district: 105
- Votes against retaining the conservation district: 34
- Votes to elevate the conservation district to an historic district: 5

She said this indicated a 3-1 vote to retain the conservation district. She said there were 240 ballots mailed, and 140-145 ballots were returned. She added that Michael Flory reported that if owners were permitted to vote multiple times with regard to the number of properties they owned, the results would have still been the same.

She added that the Historic Preservation Commission voted to recommend retaining the conservation district based upon the survey.

She added that Ordinance 01-04 stated that if no opinion reached a majority, the district would stay in place.

It was moved and seconded that the council accept the McDoel Conservation district report as presented by staff.

Volan questioned Hiestand on the total number of structures in the district and she explained that 110 rentals was part of the overall 271 structures. He asked about the four separate questions, and she explained that the questions voted on were derived from the state statute.

Sabbagh asked about the outcome had the voters been apportioned a vote per property, and Hiestand said the vote would still have been 3-1 in favor of retaining the conservation district.

Banach asked about the vote and how it was figured. Hiestand pointed out the unambiguous vote indicated she was looking at the 105 votes to retain the district and the 34 votes against retaining the district when she made that statement. Banach asked if one owner owned 20 or thirty properties. Hiestand said that there was nothing of that sort, but an exercise in tallying votes by parcelization. She explained that the church sat on three or four legal parcels, but would be given one vote versus four votes. She added that there weren't that many parcels owned by investor owners. She said one person owned five parcels and that was probably the largest landowner, who, she added that that person, actually had voted to retain the district.

Sturbaum said the simple question was to retain or not retain the district, and that the elevation to historic district question was required by state statute, but was not the focus of the neighborhood vote. Sturbaum asked

if the method of determining votes, owners and parcels turned out to be a sensible and simple process. Hiestand affirmed.

Elizabeth Cox-Ash, an executive committee members of the McDoel Association, thanked the previous council for approving this, and added thanks to four council members (Mayer, Sabbagh, Willsey and Diekhoff) that helped work through how the votes would be gathered. She thanked Michael Flory, Dan Sherman, the Historic Commission and Nancy Hiestand for their efforts throughout the process. She said that the granting of the conservation district had given the neighborhood the stability it needed for it to grow. She said in 1998, when the neighborhood association was begun, the neighborhood surrounded an abandoned manufacturing site and was not a desirable place to live. She said since the establishment of the conservation district, 80% of homes purchased were owner occupied, and with the stability of home investment housing prices had risen from an average of \$65-70,000 to \$85-95,000 with some selling three to four times the original prices, with several prices above \$100,000.

Cox-Ash said the Historic Preservation Commission, according to statute, for moving, demolition or building of structures, adding that certificates of appropriateness were then issued. She outlined the same four requests that Hiestand discussed, but showed pictures of houses that had been moved, new construction, homes with new additions as well as kit homes to give the flavor of the neighborhood. She added that the conservation district has increased the number of home renovations in the area, and added that a tour guide had been created for this unique neighborhood. She said the McDoel Neighborhood Association was the first to have a long range plan with long term and short term goals, and asked that the council vote in favor of keeping the conservation district.

Keith Romaine, member of the executive committee, said that part of this whole process was having a lot of parties which included a garden and home tour, a parade, ice cream social, a street party and a Halloween party, all with over 100 persons attending. He added that owner occupied homes have increased from 35% to 45% during this time.

Rob McCrea said he was a lifelong resident of Bloomington, but had lived in McDoel for just a short while and said the core neighborhoods were indicative of the finest qualities of Bloomington. He asked for unanimous support in the vote to retain the conservation district as an indication of support to those who have worked to preserve the history and character of the neighborhood.

Matthew Press, 601 West Dodds, said he added an addition to his home that almost doubled the size of his house. He said the conservation district guidelines added to the value of this remodeling, and encourages other neighborhoods to do the same if they think it is appropriate. He asked for support from the council.

Danielle Bachant-Bell, said that renovations on her house were easily done within the parameters of the conservation district. She said it was nice to walk through a neighborhood with such a diverse population, where neighbors know and enjoy each other, and said that the conservation district has helped to establish this as a true neighborhood.

Jack Baker, a resident of McDoel, said that before the conservation district the neighborhood needed attention, given static property values, disorderly growth, a perception that the area was unsafe, and a neighborhood that was not attractive to buyers. He said that all that has turned around and now the fabric of the neighborhood is being added to. One of the accomplishments is that it has showed that neighbors,

McDoel Historic Conservation District
Report (cont'd)

citizens, and government can work together if they are tenacious. He thanked the council for giving them the help in doing this, and noted overcoming miscommunication and a mayoral veto. He added that after three years this neighborhood has an example to show other neighborhoods that need stability and solutions to threats to their neighborhoods. He said he hoped these actions will help with development in the IEC area and hoped that attention would now be turned toward the Broadview area, Prospect Hill and the Near West Side neighborhoods. Baker said he had just spoken with Mayor Kruzan, who had indicated his support for the actions of the neighborhood.

Sabbagh said this issue was controversial when it came up and that he found it difficult to be the council representative when the issue, he felt, was evenly divided. He said that people who were concerned about the conservation district were shown that this was a successful endeavor and that he would vote to keep the district.

Volan said he was please to note his enthusiastic support for the acceptance of this report. He added that one reason why this district is worth conserving is that it specifically predates the widespread acceptance of the automobile, and is still able to accommodate them; but at the expense of the pedestrian way of life. He said what makes a city livable is acceptance of multiple modes of transportation and the priority of pedestrian oriented public spaces over auto-oriented ones. He said his own neighborhood, Old Northeast, along with Garden Hill, Elm Heights, and Eastside, would do well to study McDoel's example.

Sturbaum said this was an historic celebration in Bloomington and equated this with the Prospect Hill district and said that it also reflects a turn in the historic preservation movement. Rather than saving mansions and homes of the wealthy, this district valued saving and enhancing a working class neighborhood. He noted the Sears catalog homes that were constructed there are an important part of Bloomington's past and history and deserved preservation. He said that it was exciting to see neighborhoods working together, and it had displayed a new sense of itself. He said this was a good example of how government can work, and congratulated everyone who worked for this and those who voted for it.

Banach said he was one of the opposing votes three years ago, but will support it now. He said he would always take these designations seriously when significant portions of a neighborhood express grave concerns about changes that would take place. He said he had an issue with polling by owner rather than parcel, because if one person owned 50 houses he believed they should have 50 votes. He wished the neighborhood well and said he would support the district continuance.

Gaal said he supported Sturbaum's statements, adding that if only one council member had changed his mind, this would not have happened. He noted when the voting process had been established, the votes went to people not properties by conscious effort. He said that his belief is that democracy is based on people, while a plutocracy is based on wealth, and that it was inappropriate to give votes to the people or businesses because they own more property. He said property rights were the rights of people regarding property, not the rights of property. He said it would be interesting to see how this neighborhood would change with the CSX project, development of the IED, extension of Hillside Drive, the investment of the Bloomington Digital Underground in the area. He said the tool of the conservation district would help keep the integrity of the neighborhood intact in the midst of these other improvements, and that it was important to keep this perspective, and look at how this tool could be used elsewhere in the city.

Ruff said he remembered the debate as those who voted against this for fundamental political reasons and concerns, ones that he respected then and respects now. He said he didn't recall if the mayor's objections at that time were along those same lines, and wasn't sure what they were about. He said he was glad this had worked out so well, and that the same opposition and concern is not being raised now. He said he was glad Banach felt he could be consistent with his values and still vote for this now, and thanked him.

Mayer said he remembered the debate, the division, the hurt feelings, and that people's toes got stepped on with lack of communication. He said the council saw the wisdom of the conservation district and went forward with it. He said the lesson to be learned was that a few people with an idea, who were willing to listen, who are willing to work with all others with guards down, can grow an idea. He added that more people are joining in, the neighborhood is becoming more diverse, neighbors are respecting renters, and that the area has become a community within a community. He commended all for their effort and said that this went beyond the paint and plaster of the conservation district.

Diehkoff commended all for their hard work and said that communication and working together have set an example for other neighborhoods in the city.

The Report was accepted by a roll call vote of Ayes: 9. Nays: 0.

Mr. and Mrs. Ray Murphy, parents of a developmentally disabled son, read a letter that they had written to the editor of the newspaper regarding the recent harassment of the developmentally disabled at a Westside McDonalds. He said that this should not happen and the behavior should be penalized, but prayed that these actions might someday not occur. He said he spoke with the police, and expressed dismay that there was no such thing as a hate law in Indiana. He spoke with the prosecutor who felt bad about the incident. He said he and his wife were torn and had proposed as a penalty working out their public service at Stonebelt with the very people they insulted and disparaged. He said we need to fight these conditions and that we need to make our laws stronger and penalties more severe. He asked the council help the most vulnerable of this city's population by doing everything they could to help fight these conditions.

There were no appointments.

It was moved and seconded that Ordinance 04-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0. It was moved and seconded that Ordinance 04-01 be adopted.

Jim Roach, Planning Department, reviewed the ordinance, by giving the location, current zoning, size of property, and the Growth Policy Plan for the area. He said the development would extend Adams Street, had one karst feature on the mainly wooded property, and was adjacent to multifamily, industrial and future industrial uses. He said the proposed change in zoning from the currently single family zoning to a Planned Unit Development which would be exclusively multifamily. He said the plan called for 160 units (half one bedroom units, half two bedroom units) at the density of 6.9 units per acre. He said about ten acres of land on West Adams Street would be preserved for active and passive uses of a gazebo and trails. He said urban residential uses, clustered and taller buildings, creation of common green areas, common elements to create

McDoel Historic Conservation District Report (cont'd)

PUBLIC INPUT

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Ordinance 04-01 To Amend the Bloomington Zoning Maps from RS3.5/PRO6 to PUD and to Adopt the Preliminary Plan for the Adams Grove Planned Unit Development -- Re: 1201 S. Adams Street (Millennium Property Management, Petitioners)

Ordinance 04-01 (cont'd)

road connections and the creation of denser residential areas near bus services was all called for in the Growth Policies Plan.

He showed the Alternative Transportation and Greenways System Plan map and pointed out how this project would provide the bike paths recommended in that plan. He pointed out the CSX Switchyard location and showed the proposed project's accessibility both now and after already approved development occurs in the area. He said the ten acre green area would not be an easement because of its environmental features. He concluded by noting the density fit the Growth Policies Plan recommendations, preserved green space would provide a focal point for the residents, a single type housing (while not exactly fitting the GPP, the Plan Commission thought it would be appropriate in this location being adjacent to industrial and office uses while affording the developer the opportunity to preserve greenspace), will provide for connectivity to both the north, west and south. He said the Plan Commission's recommendation was 7-0-1.

Gaal asked about connections from the property to Bloomfield Road to the north. Roach said the ATGS Plan called for signed bike routes and sidewalks but no additional off-street features along Adams Street. Micuda added that connections from Bloomfield Road to the downtown, would be best along an widened Bloomfield road which has yet to be funded. Gaal noted this was a dangerous route for bikers. Micuda said the future improvements would take bike paths, sidewalks, or side paths into consideration.

Sturbaum asked if this area historically had been changing generally from single family zoning to PUDs. Roach said that without checking he couldn't tell for sure, but there were some areas that did have single family zoning with the possibility of duplexes. Micuda outlined the areas that had been zoned for single family housing and said that many of them were rezoned at varying densities. When Sturbaum speculated about the future changes, Micuda said the department would like the remaining parcels to remain single family and be redeveloped in that fashion.

Rollo asked about plans for accessibility to the Clear Creek Trail, to which Roach said this would be a possibility using smaller local roads and sidewalk system to the larger off street trail system. When asked if there were obstacles to a road directly west to the area, Roach said there was an auto salvage yard with potential environmental constraints to re-development and an existing multifamily development without a road.

Micuda asked if the petitioner could talk about connections between these properties as he was the owner and had alluded to this possibility in Plan Commission meetings.

Mike Pauly, Millennium Property Management, said he has spoken to owners of adjacent properties regarding connectivity within all the developments to Weimer Road and Second Street. Rollo commended him for trying to do this since Adams Street is not complete and since there is not presently any public transportation in this area.

Volan said at the last meeting he alluded to what bothered him most about the project, the form of the buildings. He said in future projects he would be looking for something of a more urban form. He said he would be abstaining from the vote as he didn't have a strong enough objection to vote against the project.

Rollo said he would be supporting the project as he had seen an earlier version and commended the developer for reducing the footprint of the built environment and providing greenspace.

Sturbaum said that because changing the direction of the status quo will be like turning around an ocean liner, there was no point in voting against this current proposal and that he would also abstain from voting.

Mayer asked for clarification of the rules regarding council members abstaining on final votes. Dan Sherman, Council Attorney/Administrator read from the Bloomington Municipal Code 2.04.0360 (d):

Members shall vote on all questions before the council except in situations when there is a conflict of interest or other good cause. If a member fails to vote on any matter, any other member may raise the question and insist that the member either vote or state their reason for not voting and be excused.

He stated that the question was whether the reasons heard from the new council members constitute good cause.

Banach asked for a point of order saying that he has abstained from final votes before and said it had been the practice to allow the council member the prerogative to do so. He said there was no reason to prevent them from abstaining now.

Mayer said his point was that the action was extraordinary, and in light of the two new council members saying that they would abstain, it would be a good idea to set our rules so that everyone knows the procedure from this time forward. Mayer said that it was his personal opinion that council members should vote yes or no on each item.

Banach asked why there was a sudden change in what had been the rule, and why it hadn't been questioned before when he, himself, had abstained from voting on an item. He asked why the point was not raised then.

Diekhoff as president noted that the question had been called and seconded.

Ordinance 04-01 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 2 (Sturbaum, Volan).

There was no legislation for first reading.

LEGISLATION FOR FIRST READING

It was moved and seconded to suspend the rules so that an item not on the agenda could be considered. Sherman noted this motion needed a two-thirds majority to suspend the rules. The motion passed with a voice vote (with no dissentions).

SUSPENSION OF THE RULES TO CONSIDER ITEM NOT ON THE AGENDA

It was moved and seconded to cancel the Committee of the Whole scheduled for January 28, 2004 since there was no legislation to be considered. The motion passed with a voice vote (with no dissentions).

CANCELLATION OF MEETING FOR JANUARY 28, 2004.

The next regularly scheduled meeting will take place on February 4, 2004.

There was no public comment.


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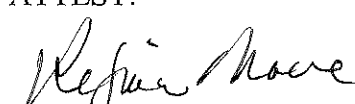
The meeting was adjourned at 9:05 pm.

ADJOURNMENT

APPROVE:

ATTEST:


ANDY RUFF, Vice President
~~Michael Diekhoff, President~~
Bloomington Common Council


Regina Moore, CLERK
City of Bloomington