

In the Council Chambers of the Showers City Hall on Wednesday, April 7, 2004 at 7:30 pm with Council President Deikhoff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
April 7, 2004

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

ROLL CALL

Council President Deikhoff gave the Agenda Summation.

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Chris Sturbaum said his recent attendance at a downtown parking meeting indicated that these problems are a symptom of moving forward with development without a plan. He said some of our decisions are committing us to moving in certain directions and we're not sure how it's going to work out. He said downtown businesses should survive the cure, and that he looks forward to working on the Growth Policies Plan. He announced that one of the planners being considered for a downtown planner for Bloomington would be featured on Community Access Television this weekend. He invited citizens to watch.

MESSAGES FROM
COUNCILMEMBERS

Chris Gaal noted that the Parks and Recreation Department recently released its 2004 Summer Program Guide. He said it was available on the city's website and also at www.bloomingtonparks.org and outlined some of the youth, musical and park activities of the Department saying that there was something fun in the guide for all ages of participants.

Andy Ruff commented on the Federal Highway Administration's Record of Decision regarding I-69 Route C-3 through Bloomington. He said he hoped that people understood that this was almost a foregone conclusion because the Federal Highway Administration as a general rule supports state decisions on expenditures of that state's share of federal gas tax money. He said that INDOT knows I-69 will be built with state money, Indiana's annual formula allocation of federal gas tax money, the same pot of money that funds the majority of the entire state transportation program. He added that this was not special federal fund for I-69.

Ruff said that this decision was expected, however and shouldn't change anyone's view on the project. He added that Mayor Kruzan has stated and written that his vision for the city of Bloomington did not include a major highway dividing it. He said our future quality of life and competitiveness in economic development lay in protecting our community character, environmental amenities, and high quality of life - the things that give Bloomington its advantage over similar places in the state and Midwest. He added that we need to stick to this vision and plan to prevent Bloomington from slipping into the haze of Generica, a generic, homogenized, interstate-type sprawling stereotype of Everywhere USA.

Ruff said that the I-69 highway would bring pressure from sprawl developments, bedroom community pressure from Indianapolis, more and more pressure from cookie cutter subdivisions and big box sprawl chain retail like found on any interstate in the country. He added that the environmental impacts of running a major international highway truck corridor through our city limits, down wind of the prevailing winds of our community would produce air and noise pollution through the heart of the city. He said the result of the legitimate sanctioned electoral process was that of electing people who articulated a vision and a plan for the future of this community that the majority of the community buys into and accepts and desires. He added that the community needs to stick with that plan.

MESSAGES FROM
COUNCILMEMBERS (cont'd)

Ruff said that I-69 would have huge impacts for the community, but that the likelihood of I-69 being constructed, given the funding and opposition, is no more likely than the possibility of Crane being shut down. If we use that same logic that highway boosters are using, namely that we just need to plan for the possibility of I-69 coming, then we should be planning for the just as likely scenario that Crane will close, that these same people who are saying this would have a huge impact on Bloomington.

David Sabbagh reiterated a comment made several weeks ago and again that morning about Park and Ride. He said Park and Ride is a big issue these days and he said he was a strong supporter of the program; it was a good program, and said that it should be expanded. He said it needed a new route, and that the only way this would happen would be to engage Indiana University in opening of 7th Street to bus traffic. He stated that IU wanted the campus to be a pedestrian campus, and while he agrees with that sentiment, he said that busses are an enhancement to pedestrian traffic and that 7th Street open for traffic would allow the clients of the Park and Ride – IU students—to be taken to the heart of campus. He said he would continue to talk about this important issue and once more said that the city should again engage IU in the discussion of opening 7th Street for bus traffic.

Dave Rollo agreed with Sabbagh's statement on opening 7th Street and said he also had closely watched the Park and Ride discussions. He said the Bloomington Transit/Planning Department's Park and Ride survey that was recently released had been reviewed by Laurence "Buff" Brown, an engineer and attorney presently working for the Indiana Department of Environmental Management in the Office of Air Quality as a transportation emissions expert. He added that Brown had served on the Traffic Commission for nine years and was well versed in these issues and had a critical view of the Park and Ride system. Rollo said he agreed with Brown's conclusions that the Park and Ride seemingly generates car traffic in that it serves students who commute to and from their apartments to the Park and Ride system and then use the shuttle into campus. He said that if that's the case, we're defeating the inherent goal of diminishing the amount of traffic on streets.

Rollo seconded Sturbaum's statement on a priority of a vibrant and successful downtown. He appealed to folks who want to see its vibrancy to make it a personal priority to patronize downtown businesses, restaurants, art galleries, Wonderlab and bookstores. He added that there was so much to see and do downtown, but that we can't take it for granted.

Rollo gave a Fourth District report which included an upcoming Plan Commission meeting rezone petition for Renwick, the development of the Ramsey Farm. He said the proposal included 360 housing units with 20,000 square foot commercial area on the northeast corner of the 80 acre parcel on Moore's Pike and Sare Road. He said the concerns of park expansion, storm water runoff, the effects of the commercial component, and connectivity would be discussed. He said of particular concern was a proposed traffic circle on Moore's Pike. He encouraged citizens to attend or watch this last commission meeting on the development.

Rollo addressed concerns of residents on Longwood Drive just east of the Deer Park Conservancy. He said that a significant soil berm was being constructed close to the fence on the eastern edge of the conservancy. Rollo said that Tom Micuda, Planning Director, said that although there were constraints on the topological impacts of contouring land and landscaping within the easement, there was sufficient ambiguity within the landscaping portion of the agreement to allow the construction of the berm. Rollo said the explanation on the part of Deer Park Management was that the berm was to shield the Longwood

neighbors from noise emanating from their facilities, but curiously, Rollo said, no Longwood residents were contacted to ask about noise or for notification of the construction of the berm. Rollo said he agreed with Micuda that although the berm may be legal, it was unfortunate and unneighborly that the residents weren't consulted in advance. Rollo said he was assured that city personnel would continue to inspect the berm as work proceeded on it.

Rollo thanked the residents of Ruby Lane for their patience in the construction of a sidewalk and underlying storm water project. He said he would press for its completion as the project is long overdue. Rollo said he would make it his highest priority to see the completion of the project.

Timothy Mayer welcomed Bet Savich and the members of the Teen Action Project to the meeting and hoped that they would learn something from the proceedings.

Mayor Mark Kruzan commended Mike Miller and Derek Hershberger, for their actions in assisting emergency workers in rescuing two persons from the icy waters of Griffy Lake on February 28, 2004. Kruzan read proclamations in thanks and recognition of their heroic actions. Kruzan said that the two would receive City of Bloomington Parks and Rec T-shirts to replace the ones they gave to the victims as they were pulled out of the water that day.

Pete Giordano, Director of Community and Family Resources informed the council about the Teen Action Program (TAP) being administered by the Bloomington Volunteer Network (BVN) within his department. He reported that this leadership program for youth was funded through a Community Alliance to Promote Education (CAPE) grant which is administered through the Community Foundation with Lilly Endowment Funds.

Erin Hess, the Teen Leadership and Service Coordinator for the BVN, said the two year CAPE grant was supplemented with funds from the CFRD. She explained the program was open to freshman, sophomores and juniors in all Monroe County high schools to help teens learn teamwork, communications, problem solving, marketing, understanding diversity issues, partnering with adults, goal setting, organizing community events and grant writing.

Michel Jander, Oriane Robison, Miyako Fugua, DeJohn Rose and Sophia Percival, the TAP team leaders told about their team projects which were funded as a result of their organizational and grant writing skills, and which would take place the following week during National Youth Service Days.

They thanked the mayor and council for supporting their program and recognizing the important role that youth play in the community. They also encouraged any teen interested to contact the BVN.

Mayor Kruzan thanked the TAP participants for their involvement, thanked the staff, Giordano, Hess, Lucy Schaich, and Bet Savich for their work with the program, and read a proclamation naming April 16-18, 2004 Youth Service Days in the City of Bloomington.

Several council members commended the students and staff for their work, and invited them to come back to the council meetings.

Mayor Kruzan said that he and council member Stephen Volan had attended a meeting today with the Solid Waste Management District. He said that fifteen people had to go home today to tell their families that their jobs had been unexpectedly eliminated because the solid waste management district is in crisis. He said if the landfill closes there will be very few options. He added that the root of the problem was

MESSAGES FROM COUNCILMEMBERS (cont'd)

MESSAGE FROM THE MAYOR

- Proclamations
- CFR Teen Action Project Report

- Mayor's Solid Waste District Comments

management issues of those on the board and past practices of spending more than revenues and said there was a cost associated with not taking the maximum levy. He is concerned about these past practices, and doesn't want to repeat this at the city level. He said what was happening to the Solid Waste Management District was an example of this hitting home.

Ron Walker, Director of Economic Development, presented the annual tax abatement report to the council. Following the format of the report published in the Council Packet sent on April 2, 2004 he listed all active tax abatements, reviewed their current status, and assessed their compliance with the Statements of Benefits forms. In doing so he stated that compliance must be met by the property owners, and it was up to the council to decide if compliance with the Statement of Benefits was being met.

- Annual Tax Abatement Report

To the question about the meaning of 'substantial compliance,' Walker said that there were several things listed and considered on a Statement of Benefits. He added that each of the goals listed may not be met entirely, but it was up to the council to actually decide whether or not one issue or another negates the abatement or if the compliance with one of the major goals and not others is enough to continue granting the abatement. He added that those who apply for an abatement and do not meet up to the requirements as set forth by their Statement of Benefits due to factors outside of their control could not be held accountable for that. To further explain he added that since there is no way to predict the economy, changes in a particular market, or losing a contract because a customer filed bankruptcy, state law provided this type of protective wording. He said that it was the right of the council to determine whether these and other factors were beyond the control of the owner or not.

Walker stated that if the council found that a tax abatement recipient was not in substantial compliance, the council should make a motion to the effect that it desires to rescind the abatement. He added that the council should then send them a statement stating such and set up a hearing within 45 days where the recipient could make a case as to why they should be found in substantial compliance, or present information about factors beyond their control. The council would then weigh those factors and arrive at a final determination.

Walker highlighted the following tax abatements that he thought might have some special issues:

The Gables was approved in 1994 for a two-story six-unit condo with parking beneath the units. He said the investment was higher than the original estimate, and had changed from the original plan. He said this was now a rental project rather than owner occupied condos, but believed that they were in substantial compliance.

Bloomington Community Foundation had received an abatement for the North Showers Building rehabilitation. They have leased this portion of the building to Indiana University which has no tax liability. IU had submitted a compliance form every year to show that the project was meeting the goals of the abatement.

Rono Corporation redeveloped the former Thickstun Glass building. Their abatement included three affordable rental apartments; however, the owner claimed he was not aware of this stipulation. He had been renting them at market value, which was very close to the affordable rates. Walker said this wasn't the biggest portion of the abatement, and so considered the owner to be in substantial compliance.

Metropolitan Printing's abatement for real estate and equipment had been granted for 10 years. Walker said that investment had exceeded the estimate; however, the company had lost rather than gained employment because of factors beyond their control. He added that the good faith effort had been made to meet their goals as stated in the Statement of Benefits.

Annual Tax Abatement Report
(cont'd)

Lockerbie Court Condominiums received a ten year tax abatement for owner occupied downtown condominiums. He said that some units were purchased while the units were being built because the owners could customize their unit, however, those owners had not yet moved into the units because of financial and liability reasons and have rented them out. He said the rentals had never been advertised as such, and persons seeking to rent units there have been turned down because they didn't meet the income guidelines and/or credit approval.

Walker noted that there were several abatements that had not filed a CF-1 Form with the legislative body. He said that Print Pack, Habitat for Humanity and Renaissance Rentals, LLC had not submitted the forms, that he was in contact with each of these entities, and that he was working with them to help them get into compliance with the filings.

It was moved and seconded that Ron Walker provide a supplemental report regarding the remaining CF-1 forms for improvements to real estate and investment in new manufacturing equipment on May 19, 2004, that this report be filed with the council office by May 10, 2004, and that after the supplemental report has been presented the council would make an initial determination regarding the status of these tax abatements.

Motion to accept a supplemental report at a later date.

The motion received a roll call vote of Ayes: 9, Nays, 0.

Walker said that one project had not substantially complied with the terms of its tax abatement, that of Winterwood Management, formerly Buyers Only Real Estate with the project located at 2305 Rockport Road. He informed the council that the original developer of the owner occupied affordable housing went bankrupt and was purchased by Winterwood. He reported that they had never filed for the tax abatement assuming that they would not comply with the terms of the abatement.

It was moved and seconded that Pursuant to Indiana Code 6-1.1-12.1-5.9, the Common Council determines that the owner of Winterwood has not substantially complied with the Statement of Benefits and that the failure to do so was not caused by factors beyond their control. Therefore, the Common Council will hold a hearing at the Regular Session of May 19, 2004, to further consider the property owner's compliance with the Statement of Benefits. At the conclusion of the hearing, the common council may adopt a resolution terminating the tax abatement. The Council Attorney is directed to mail the statutorily required written notice to the property owner.

Motion to hold hearing with regards to termination of tax abatement.

The motion received a roll call vote of Ayes: 9, Nays, 0.

It was moved and seconded to accept the tax abatement report as modified by the council.

Motion to accept Tax Abatement Report

Ruff briefly outlined problems with the system of tax abatements and reporting, saying that it wasn't that he didn't support the abatements, but thought the issue was bigger than the council. He said a local tax abatement policy increased the likelihood that real public benefits result and go in large part to people in our community who need and deserve

economic benefits. He added that this would also link to a living wage. Sturbaum said today's market was much different than that of 1994 while citing examples of redevelopment and historic preservation work made possible by some tax abatements. He said that there were pros and cons in deciding on tax abatements, but that perhaps a closer eye should be paid to abatement requests in the future.

Discussion on Motion to Accept the Tax Abatement Report (cont'd)

Gaal said there had been some great comments made in the discussion, however, said that there was a difficulty with terminology used. He said 'substantial compliance' needed to be considered on a case by case basis, and that there were inherent risks in granting tax abatements.

Rollo said that in this deliberation, the council should consider what the community gives up in unrealized tax revenue in determining the usefulness of tax abatements. He said there was an interference with the market with respect to abatements, but the council should determine the benefits to the community as well. He questioned striking a balance between similar companies in the area and said we should review the economic sectors involved to see if abatements are favoring one business sector over another. He agreed that when companies experience a flux with respect to outside or national events the council should be savvy enough about this to give consideration to that enterprise. He said other things to consider with tax abatements were quality construction, design standards, environmental protection and the goals of the GPP.

Sabbagh said that tax abatements were the only tool given to municipal councils to help 21st century companies and hoped that the state legislature would create other tools to help local enterprises.

Volan said that the term 'substantial compliance' was confusing, but said that because of the discussion, he had a better understanding of it now.

Mayer thanked Walker for a thorough presentation and said that the council discussion raised good questions and comments.

The motion received a roll call vote of Ayes: 9, Nays, 0.

There were reports from council committees.

COMMITTEE REPORTS

There was no public comment at this time.

PUBLIC INPUT

It was moved and seconded that the following appointments be made:

BOARD AND COMMISSION APPOINTMENTS

- Cheri O'Neill Animal Control Commission
- Damon Simms Community and Family Resources Commission
- John Zody Community and Family Resources Commission

All appointments were approved by a voice vote.

There was no legislation for second reading.

LEGISLATION FOR SECOND READING

There was no legislation to be introduced.

LEGISLATION FOR FIRST READING

There was no public comment at this time.

PUBLIC INPUT

It was moved and seconded that the Regular Session on April 14, 2004 be cancelled and that the meeting scheduled for April 21, 2004 be combined with the meeting on April 28, 2004.

Other Business: Meeting Schedule

No one objected to this item being discussed and voted on, therefore the rules were not suspended to do so.

The motion was passed with a voice vote.

The meeting was adjourned at 10:05 pm.

ADJOURNMENT

APPROVE:

ATTEST:



Michael Diekhoff, President
Bloomington Common Council



Matt Weber, Deputy Clerk
City of Bloomington