

In the Council Chambers of the Showers City Hall on Wednesday, November 17, 2004 at 7:30 pm with Council President Diekhoff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
November 17, 2004

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

ROLL CALL

Council President Diekhoff gave the Agenda Summation.

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Jason Banach reported attending the Monroe County Educator of the Year Award program sponsored by the Franklin Initiative and the Bloomington Area Chamber of Commerce. He thanked community teachers for their dedication.

MESSAGES FROM
COUNCILMEMBERS

Chris Sturbaum talked about a new not-for-profit organization, Stepping Stones, which will focus on transitional housing issues for individuals 18 to 24 years of age. Sturbaum briefly discussed the reality and risks of young people who become homeless. He noted that an adult supervisor will live within the transitional housing unit. For more information, Sturbaum recommended contacting Sherri Benham at 336-7196.

Andy Ruff reported attending the annual Oxfam banquet at Indiana University. He described an 'eye opening' event related to hunger issues. Ruff recommended that others attend future Oxfam events.

David Sabbagh wished his wife Linda a Happy Anniversary.

Dave Rollo reported that he continues to follow many of the voting anomalies that occurred around the country on November 2nd. He emphasized that disenfranchisement, whether intentional or due to machine error, should be unacceptable to United States citizens. Rollo noted that electronic voting machines with no audit or recount ability are unacceptable. He urged the city council and citizens of Bloomington to have a dialogue on this subject.

Tim Mayer thanked the city street department for leaf collection efforts. He encouraged citizens to move their leaves toward the curb to help the city with removal and noted that the city supports a very environmentally-friendly policy where collected leaves are composted. Mayer also criticized Target stores for banning Salvation Army bellringers this holiday season. He suggested that citizens support downtown shops that do welcome the Salvation Army fundraisers.

Dan Sherman, Council Attorney, read a statement for Chris Gaal which consisted of the obituary of Leah Garlotte:

Leah Woods Garlotte, 47
Nov. 1, 1957-Nov. 15, 2004

Leah Woods Garlotte, 47, of Bloomington, died Monday, Nov. 15th, at Bloomington Hospital.

Born on November 1st, 1957, in Fort Wayne, IN, Leah was the daughter of Melvin Wesley and Helen (Woods) Garlotte.

She was the Director of the Hilltop Garden and Nature Center at Indiana University where she ran programs in gardening for children and the community. Leah taught classes at I.U. in green space management and ecological landscaping, gardening with youth at risk, and other horticultural and environmental topics. While at Hilltop Leah co-founded the Grow Organic Educator Series and helped to establish the Plant a Row for the Hungry campaign.

Leah originally came to Bloomington from Indianapolis to study art

and journalism at Indiana University. After earning the Bachelor of Arts in Fine Arts degree she combined her graphic art and writing talents with her lifelong love of nature to creatively advocate for animals and the forest.

During her 28 years in the area, she worked as Education and Volunteer Coordinator at the Monroe County Humane Association and City of Bloomington Animal Shelter, and was a wildlife rehabilitator. She was instrumental in protecting the forests of the central hardwood region as a participant in ForestWatch, a founding member of Heartwood, and an organizer of the Indiana Forest Alliance. Leah also was active in the Bioregional Movement, where she explored ways to meld peace and justice for people with her concern for the earth.

As part of her environmental advocacy Leah was on the board of directors of Protect Our Woods, Native Forest Network, and other groups. She also edited and published the ForestWatch Journal, Heartwood Annual, and the Bloodroot Journal.

She loved to watch birds, keep bees, kayak, hike, hunt mushrooms, garden, care for her cats and dogs, and attend to her friends and loved ones.

Survivors include life-partner Christopher Gaal; parents Melvin and Helen Garlotte of Sun Lakes, Arizona; and two brothers, Barton Melvin Garlotte of Phoenix, Arizona and Bryan Steven Garlotte of Comstock Park, Michigan.

There will be a celebration of Leah's life at the Unitarian Universalist Church, 2120 N. Fee Lane, Bloomington, on Sunday Dec. 5th at 3:30 in the afternoon.

Memorial contributions may be made to the Sycamore Land Trust, P.O. Box 7801, Bloomington, IN 47407, and the Monroe County Humane Association, P.O. Box 1334, Bloomington, IN 47402.

MESSAGES FROM
COUNCILMEMBERS (cont).

There was no message from the mayor.

MESSAGE FROM THE MAYOR

There were no committee reports.

COMMITTEE REPORTS

There was no public input at this time.

PUBLIC INPUT

There were no appointments.

BOARD AND COMMISSION
APPOINTMENTS

It was moved and seconded that Resolution 04-21 be introduced and read by title and synopsis. Deputy Clerk Matt Weber read the legislation and synopsis giving the Committee Do-Pass Recommendation of 8-0-0. It was moved and seconded that Resolution 04-21 be adopted.

LEGISLATION FOR SECOND
READING

Resolution 04-21 To Designate an Economic Revitalization Area, Approve a Statement of Benefits, Authorize a Period of Tax Abatement, and Waive Certain Statutory Requirements –
Re: 1500 S. Patterson Drive
(Schulte Corporation, Petitioner)

Ron Walker, Director of Economic Development, reported that the city and State of Indiana have been working together for several months to help keep Schulte Corporation in the community and assist them with their expansion. He gave a synopsis of the company's expansion plans and noted that Schulte plans to increase their workforce from 168 to 223 employees. Walker emphasized the importance of the city lending assistance to Schulte as it is a valued basic employer in the community.

Company President John Kokenge gave a brief history of the Schulte Corporation and noted that the planned expansion is a significant undertaking for the company. He said they are very excited about their relocation site, which will allow for a higher quality work environment for employees. In addition, Kokenge reported that the relocation and expansion will allow Schulte to house its manufacturing and distribution centers at one location.

Sabbagh asked Walker to reiterate the starting and average salary at Schulte. Walker said general operators start at \$7.54/hour and earn \$10.24/hour at the end of their first year, not including benefits. Kokenge provided additional information on employee benefits, including a matching 401K plan that Sabbagh inquired about.

Resolution 04-21 (cont).

Ruff asked what the total incentive package was. Kokenge reported that the economic impact of the incentive package from the State of Indiana is \$650,000. Ruff asked for more information regarding how a successful company with double digit growth requires assistance for this type of investment. Walker responded that it is not atypical for a company in rapid growth mode who is landlocked and limited in size to need some public assistance. He added that it is common for the community to assist valuable employers who are in transition and in a position to increase benefits to the community. In this case, Walker said the City of Bloomington and the State of Indiana were able to offer the corporation, who is taking a big risk, what they needed to not only stay, but expand within the community.

Kokenge added that it is common for communities to forge public/private partnerships in order to compete with other communities who are doing the same. He described the incentive package and relationship as a win-win situation for the company and community.

Ruff asked if Schulte would have been able to relocate and expand without an incentive offer from local government. Kokenge said that this expansion would have been too large for the company to undertake without a partnership with local government.

Ruff asked Walker what additional companies are located at the Indiana Enterprise Center (IEC). He referred to a marketing campaign implemented by the Bloomington Economic Development Corporation that was geared toward attracting out of town companies. Ruff added that it appears there are only local, existing companies taking advantage of the IEC site.

Walker noted that the site was branded as the IEC and a national marketing campaign followed. He added that one start-up tenant, Cook Pharmica relocated to the IEC site. Walker highlighted that the community could have been at risk of losing Schulte and noted the same could be said for Best Beers, who also relocated to the IEC.

Dave Rollo asked about the products manufactured and the clientele of Schulte. Kokenge said the company makes ventilated wiring shelving and wood storage systems. He pointed out that they distribute throughout the world and sell to high-end retail establishments, builders and professional installers. Kokenge added that Schulte does not sell to "big box" stores.

Rollo inquired about the educational attainment of employees. Kokenge said Schulte employees range from lead operators, who are required to have at least a GED, to engineers. He suggested that as the company continues to grow, they will hire additional employees at all ranks.

Chris Sturbaum commented that this is exactly what tax abatements are to be used for. He said Schulte's continued investments are a win for the community and a win for the company. He thanked the company for staying in Bloomington.

Sabbagh said this is precisely what tax abatements are for. He highlighted the importance of supporting the manufacturing sector and described the expansion as a good project.

Ruff thanked the Schulte Corporation for their community involvement and noted that he would like to see more tax abatement applications like this. He also thanked the applicant for efforts made to hire local architects and builders. In the future, Ruff said he would like to see better articulation of the ways companies can demonstrate their

commitment to the community. Ruff emphasized that Bloomington is a business-friendly community. He requested that Schulte pass this sentiment along to fellow Bloomington Area Chamber of Commerce members. In closing, Ruff predicted that the Schulte Corporation is not banking on the expansion of I-69 and does not need the highway to remain competitive.

Resolution 04-21 (cont.)

Rollo thanked Schulte for their community investment and noted that the company has formed an excellent partnership with the city.

Gaal said this is a good economic development partnership for the community. He spoke briefly about the negative economic impact of "big box" stores such as Wal-mart and said he was pleased that Schulte does not supply these retailers with their products. He pointed out that stores such as Wal-Mart are pressuring their suppliers to move productions overseas to take advantage of inexpensive labor, which in turn, makes products more affordable. Gaal noted that this is a flawed strategy and that good-paying manufacturing jobs are leaving America because of it. He said it is not easy to keep manufacturing jobs in our country, but hopes that Schulte's strategy and partnership is a success.

Mayer thanked Schulte and Walker for reaching this partnership. He added that the community is entering a bargain with Schulte, where the corporation is investing in the community and citizens should purchase Schulte products and talk with friends and neighbors about the company and products.

Resolution 04-21 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 04-34 be introduced and read by title and synopsis. Deputy Clerk Weber read the legislation and synopsis giving the Committee Do-Pass Recommendation of 8-0-0. It was moved and seconded that Ordinance 04-34 be adopted.

Ordinance 04-34 To Amend Title 7 of the Bloomington Municipal Code Entitled "Animals" (Amending Chapter 7.48 Entitled "Adopted Animals" in Order to Codify Adoption Fees and Increase Fees Related to a New Spay/Neuter Service Conducted by the Animal Shelter)

Julio Alonso, Director of Public Works, gave a synopsis of Ordinance 04-34, which he noted would ensure that every animal adopted at the animal shelter would be spayed or neutered before leaving the facility. In addition, the increase in adoption fees would provide additional services, including vaccinations and an identification microchip. Both the Animal Control Commission and Board of Public Works unanimously support the proposed ordinance. Alonso reported that an appropriation ordinance will be presented in early 2005 to incorporate new fees into the animal control budget.

Rollo asked if an animal with a microchip could be identified outside of the community. Alonso described the microchip and noted that an increasing number of animal shelters and clinics across the country possess the equipment necessary to scan the microchip. In addition, all animals with the microchips are recorded in a national registry.

Volan asked for clarification regarding the cost of the described procedures at private veterinary clinics versus the cost at the animal shelter. Alonso noted that while private veterinary clinics charge more for the previously described procedures, several are working with the shelter to provide the services at a significantly reduced rate.

Rollo commented that in addition to real savings for the adopters, this ordinance is an investment for the community.

Mayer thanked the administration for supporting a humane policy that will benefit the community.

Ordinance 04-34 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 04-35 be introduced and read by title and synopsis. Deputy Clerk Weber read the legislation and synopsis giving the Committee Do-Pass Recommendation of 6-1-1. It was moved and seconded that Ordinance 04-35 be adopted.

Susie Johnson, Director of Housing and Neighborhood Development, asked the council to amend Title 12 of the Bloomington Municipal Code to improve the safety of city sidewalks for citizens. She explained that the ordinance would reduce the amount of sidewalk space that must be cleared, which will help assist property owners who are responsible for clearing sidewalks. In addition, Johnson said this ordinance would flatten the fine schedule to \$50.00, as opposed to the current \$25.00, \$100.00 and \$1000.00 fine schedule. Lastly, Johnson said this ordinance will continue to give city staff the authority to enforce the law by writing citations. Johnson pointed out that the Community Council on Accessibility is in full support of this ordinance and this change will help the City of Bloomington live up to the pledge of being a pedestrian friendly community.

It was moved and seconded to introduce an amendment to Ordinance 04-35. Diekhoff read the synopsis of the amendment giving the Committee Do-Pass Recommendation of 4-0-4.

Diekhoff identified the downtown areas that are heavily-traveled and explained that this amendment would require property owners to clear snow to the lesser width of 54 inches or the full paved width of the sidewalk, as opposed to the current 36 inches that is required.

Rollo asked what the average width was of downtown sidewalks. Johnson identified the average sidewalk width downtown as ten feet.

Volan asked how businesses and residences in the downtown zone would be notified of this ordinance. In addition to coverage in the newspaper, Johnson said that the city will issue press releases and work with the Bloomington Downtown Commission to notify the individuals affected by this change.

Banach asked whether a property owner or lease holder would be responsible for paying a citation. Johnson said that the property owner would be responsible.

Volan asked if it would be legal for a property owner to write in to a lease that the tenant would be responsible for clearing snow from the sidewalk.

Banach suggested that it would be very likely a landlord would put the duty of clearing snow from the sidewalk in a lease.

Mayer asked if the downtown district that was identified as pedestrian heavy could be described as the downtown shopping district. Johnson said that would be an accurate assumption and that it makes sense for businesses to clear their sidewalks.

Amendment #1 to Ordinance 04-35 received a roll call vote of Ayes: 9, Nays: 0.

Ordinance 04-35 To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks And Storm Sewers" and To Amend Title 2 Entitled "Administration And Personnel" (Modifying the Duties, Fines, and Citation and Collection Procedures Related to the Shoveling of Snow from Sidewalks within the City's Right-of-Way)

Amendment #1 to Ordinance 04-35: Property owners are required to clear snow from the full paved width of their sidewalks under the existing code and would be required to clear snow for a minimum width of 36 inches under the proposed ordinance. This amendment would require property owners in the downtown area to clear snow to the lesser width of 54 inches or the full paved width of the sidewalk. This change is intended to provide more room to walk in heavily-traveled portions of the city while still leaving places for owners to place the shoveled snow.

It was moved and seconded to introduce an amendment to Ordinance 04-35. Chris Sturbaum read the synopsis of the amendment.

Sturbaum noted that he fully supports the intent of the original ordinance and that this amendment was not intended to weaken the ordinance but to allow some flexibility in enforcement.

Ruff asked how the city will interpret exactly when receipt of a citation is given. He asked if the 10 business day period for payment would start on the date the citation is written. If that is not the case, Ruff suggested that there would be no way to establish exactly when a violator receives the citation.

Sturbaum noted that the citation would be stamped with a date establishing when it was issued by the city.

Ruff suggested changing the language in the amendment to avoid any debate regarding when the 10 day period of payment begins.

Dan Sherman, Council Attorney and Administrator, suggested that the council offer an amendment changing the language to "10 business days from the issuance of the notice" as opposed to "within 10 business days of receiving the citation". Sturbaum noted that he would accept this change to the amendment. Banach said he would offer a friendly amendment.

As no council member opposed the change to the amendment, Amendment 2 was amended so that the 10 day period for payment of a citation would begin on the day the citation was issued by the city.

Volan inquired about how parking citation appeals were handled by the city. Deputy City Clerk Weber stated that the recipient of a parking citation has seven days to either pay or appeal the citation. If the citation is upheld, the recipient is notified and then has two weeks to pay the original fine.

Volan asked if this amendment would include a similar structure. Sherman noted that the Board of Public Works will make decisions regarding the appeals process and that codification was not necessary.

Ange Cahoon, Executive Director of the Council of Neighborhood Associations (CONA), reported that their organization is 100 percent in support of the amendment. She noted that an appeal process is necessary to provide fairness to the ordinance.

Mayer thanked Sturbaum for bringing forward an amendment to make the ordinance more equitable and provide the city with more enforcement power.

Banach also thanked Sturbaum for bringing forward the amendment. Banach noted that several council members, including him, voiced concern over the original ordinance and would not have supported it as originally written.

Ruff reported that he would not have felt comfortable supporting the original ordinance without an appeal process in place.

Rollo reiterated Ruff and Banach's comments regarding the need for an appeals process. He thanked Sturbaum for offering a good solution.

Volan echoed several council members' comments and thanked Sturbaum for bringing the amendment forward. He also said he was pleased with how the appeals process was developed.

Amendment #2 to Ordinance 04-35

This amendment makes three changes to the ordinance. First, it changes the word "shall" to "may" both in regard to the power to issue a citation and levy a fine for violation of the snow removal provisions. Second, it extends the time to pay the fine from seven days to ten business days. This will give property owners the same amount of time in order to either pay the fine or file an appeal. And third, it establishes an administrative procedure through the Board of Public Works to hear appeals of snow removal citations. Under this procedure, the property owner must file the appeal in writing with the Board of Public Works within 10 business days of receiving the citation. The Board would then hear the appeal at its next regularly scheduled meeting and may reduce or waive the fines for good cause.

Mayer thanked Johnson for recommending the need for an appeals process, as well.

Amendment #2 to Ordinance 04-35
(cont.)

Amendment #2 to Ordinance 04-35 received a roll call vote of Ayes: 9, Nays: 0.

Sabbagh asked if this ordinance would apply to side paths as well as sidewalks. Johnson noted that the city maintains side paths and added that the city recently purchased equipment to help clear side paths of snow and ice. Sabbagh also inquired about the clearing of sidewalks around Bryan Park. Johnson said the parks department will keep those sidewalks clear. She added that it is important for government to lead by example. Sabbagh asked if enforcement will be complaint-based or proactive. Johnson said the city would respond to complaints but that the city will focus enforcement in areas with high pedestrian traffic, including downtown and around schools.

Deliberation of Ordinance 04-35 as amended

Mayer asked if the enforcement officers will take into consideration scenarios such as when a cleared sidewalk is covered by snow from a street plow versus sidewalks that are just neglected and not cleared by the property owner. Johnson reported that the enforcement officers will use good judgment and take special circumstances under consideration.

Rollo asked for clarification regarding whose responsibility it is if a snow plow blocks a crosswalk. Johnson said it is ultimately the responsibility of the owner of the adjacent property. Regarding the fine increase from \$25.00 to \$50.00, Rollo asked if HAND found the lower fine ineffective. Johnson described this ordinance as flattening the fee structure. Johnson pointed out that the previous fee structure allowed for up to a \$1,000.00 fine. Rollo asked if multiple \$50.00 fines could be issued if the property owners neglect to clear their sidewalk. Johnson said to her knowledge, it has been the city's policy to not issue tickets. In response, Rollo asked how the city settled on the \$50.00 fine when the \$25.00 fine has been untested. He relayed concern from several constituents, primarily senior citizens, that \$50.00 seemed excessive. Johnson noted that through amendment number two, the appeals process will allow the city to address special circumstances. Rollo asked for confirmation that an appeal will need to be made in writing. Johnson said that is correct, that it will not be required to appeal in person. Rollo acknowledged that CONA will be offering services to assist senior citizens, but noted that many residents are not represented by neighborhood associations. Johnson confirmed that CONA is a county-wide organization. In addition, the Bloomington Volunteer Network and Indiana University are committed to helping recruit and target volunteers.

Banach asked if the city already has an ordinance that requires the removal of snow within 24 hours. Johnson confirmed that the city currently has such an ordinance. Banach pointed out that the city is making the ordinance more citizen-friendly and lenient by flattening the fee structure.

Sturbaum asked if a citizen has special needs and knows that they will have difficulty clearing their own walk, if there is a central telephone number that they may call for help. Johnson recommended that citizens call CONA at 331-3979. Sturbaum asked how often a violator may be fined. Johnson noted that a \$50.00 fine may be given per day per violation. Sturbaum also relayed several constituent concerns regarding the speed at which the snow plows operate. Alonso said they have supervisors that monitor the performance of snow plows and that they can communicate with the operators regarding their speed. He reiterated that the primary responsibility is to remove snow from the streets to increase safety and make the streets navigable for emergency vehicles.

Ruff asked for clarification on who is responsible for clearing areas such as the stairs that lead from the street up to the sidewalk on the North side of the square. Johnson said it is ultimately the adjacent property owner's responsibility to clear those areas. Johnson reiterated that it will be in everyone's best interest for citizens and businesses to be good neighbors and clear sidewalks, stairs and handicap ramps.

Volan asked what type of equipment the city utilizes to clear side paths. Johnson responded that small Bobcat machines are used to clear the side paths. Volan asked if a Bobcat could be used to clear a sidewalk as well. Johnson said the Bobcat vehicle would probably be too large to use on sidewalks. Volan asked how many \$1,000.00 fines have been levied. Johnson said it is her experience that there have been no tickets issued for noncompliance of snow removal. Volan asked if roads in town are wide enough for snow plows to push snow to the side of the road without infringing on sidewalks. Johnson noted that while that may be possible, it is the goal of the city to keep parking spaces cleared as well. Volan asked if the City of Bloomington has ever considered snow zones. Johnson said snow zones have been discussed and were not considered feasible. Alonso said that Public Works does have the authority to post no parking signs with twelve hours notice and will continue to discuss the helpfulness of that tool in clearing snow from parking places. Volan asked if it was more cost effective for a snow plow to remove snow than a person pushing a snow blower. Alonso responded that he would assume so given the width of a snow plow compared the swath a snow blower could clear.

Rollo asked what fine level other communities assess for failure to remove snow. He said he was concerned about the effectiveness of a \$50.00 fine versus a \$25.00 considering that the \$25.00 has never been tested. Rollo said that the higher fine would certainly be noticed more than the lesser one, but was curious about the factors taken into consideration when establishing the fine level. Johnson responded that other factors were not taken into consideration.

President Diekhoff called for public comment on the ordinance as amended.

Larry Williams commented that up to 8 feet of snow is plowed from the street on to his sidewalk. He believes the city is at fault in those circumstances and is concerned about the number of appeals he will be submitting.

Craig Harvey suggested that snow can be moved to the middle of the street instead of the side. In addition, he said he noticed downtown merchants last year who used small tractors to clear their walks, but, pushed the snow in front of crosswalks which makes pedestrian travel difficult.

Mayor Mark Kruzan said that the City of Bloomington will have the goal of leading by example and being in compliance, but will not necessarily fine itself. Kruzan also expressed some concern over increasing the lowest fine of \$25.00 to \$50.00. The tradeoff, he explained, is eliminating the \$1,000.00 fine and implementing an appeal process. Kruzan reiterated that the goal of this ordinance is compliance, not revenue generation. In addition, he pointed out that a strict interpretation of the current and proposed ordinances might only require one clearing of snow and ice within 24 hours. He anticipates rational enforcement of the new ordinance and the possibility of revisiting the law after it is implemented and public comment occurs.

Ordinance 04-35 cont.

Steve Matson voiced concern over the number of appeals that might overwhelm the board of public works. He noted the lack of discussion regarding a late penalty for non-payment of a fine. In addition, Matson spoke about the possibility of calling attention to downtown businesses that do not shovel their sidewalk and comply with the ordinance.

Jim Craig made a comment that he owns a home on rented property that is owned by a land trust. He asked who is responsible for clearing the sidewalk. Diekhoff recommended that Craig speak with HAND.

Mack Molden commented that he did not support the ordinance as proposed and suggested that the city reconsider a \$25.00 fine instead of \$50.00. He estimated that 99 percent of people drive when it snows and that the city should not pass an ordinance for the 1 percent that walk.

Sabbagh noted that a pedestrian-friendly city needs clean and clear sidewalks and that he will support the ordinance.

Mayer commented that this ordinance is good public policy. He raised the issue of property owners who are out of town and unable to clear their sidewalks. He described that as not an excuse. He noted that many property owners live out of town and will need to be responsible for clearing their sidewalks. In addition, he noted that when people go on vacation, he hopes they make the appropriate arrangements to keep their sidewalks clear. He believes that homeowners will be able to maintain their sidewalks and if not, receive help from within their neighborhood.

Rollo said he agrees that clear sidewalks will make Bloomington a more pedestrian-friendly community. He pointed out that his only concern was the number of elderly constituents that contacted him and also the new fine of \$50.00 when the \$25.00 is untested. He thanked CONA for offering assistance to those who will require volunteer help and said that he will hesitantly support the ordinance. He hopes that the ordinance will be revisited if need be.

Sturbaum pointed out that he hopes not a single fine is issued and that the citizens in need of assistance receive the help they need.

Gaal emphasized that the appeal is not the rule, but the exception. He said he does not anticipate city staff to be issuing unfair citations. He noted that mistakes do happen and people do experience hardships and that the appeals process will be in place for them. He said his primary concern is the city taking two big steps at once: enforcement and increasing the fine. He considers the amended ordinance fair and said that he will now support the ordinance.

Volan said the amendments improved the ordinance and that he appreciates the presentation made by HAND. Volan noted that when he ran for office, his platform was to create a pedestrian-centered city that is still automobile-friendly. He read a portion of a Herald Times article that highlighted the potential lack of volunteers to help people shovel their sidewalks. He expressed concern for property owners, especially business owners, who will have to go out of their way to appeal a citation when the city may be at fault by transplanting snow from the street to the sidewalk. Volan posed the question, "Why are streets considered public property but sidewalks not? Why is it that we (the city) plow streets but not sidewalks?" Volan noted that he will support the proposed ordinance as amended, but that he sees a larger problem, namely the inequity of street versus pedestrian travel. He said he hopes those issues can be addressed at a later date.

Diekhoff reported that when originally writing his amendment, he inquired about the possibility of having the city clear sidewalks downtown. He said he understands the concerns of property owners who may not always be able to promptly clear their sidewalk, but made clear that this ordinance is for the greater good of the city and will improve public safety. Regarding the speed of snow plows, Diekhoff said he believes plows are operated with common sense and that the citation process will proceed with common sense.

Ordinance 04-35 cont.

Ordinance 04-35 as amended by received a roll call vote of Ayes: 9, Nays: 0.

Sherman asked the council to reconsider their vote on the second amendment. He said amendment two provided the property owner ten days from receipt of the citation in order to pay the fine. That was done in order for the due date to pay or appeal to be the same. Sherman suggested that the council reconsider the second amendment so that citizens would have the same number of days to either pay or appeal.

Reconsideration of Amendment #2 to Ordinance 04-35

Mayer made the motion to reconsider amendment number two. Sherman noted that the language would be amended from "All appeals must be filed in writing within ten business days of receiving a citation" to "All appeals must be filed in writing within ten business days of the issuance of the citation."

It was moved and seconded to reconsider Amendment #2 with respect to parallel wording regarding issuance and receipt of a citation.

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

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

LEGISLATION FOR FIRST READING

Appropriation Ordinance 04-08 To Specially Appropriate From the General Fund, Parking Enforcement Fund and Cumulative Capital Improvement – Rate Fund Expenditures Not Otherwise Appropriated (Appropriating a Transfer of Funds within the General Fund – Clerk’s Office; Appropriating Funds from the General Fund – Fire Department for Overtime; Appropriating a Grant in the General Fund – Police Department; Appropriating Funds from the Parking Enforcement Fund for Security Equipment; and Appropriating Funds from the Cumulative Capital Improvement – Rate Fund to Repay an Inter-Fund Loan)

Appropriation Ordinance 04-08

Ordinance 04-37 To Amend Ordinances Which Fixed the Salaries of Appointed Officers and Employees of the Civil City for the Year 2005 (Ordinance 04-19) and of the Utilities Department for the Year 2005 (Ordinance 04-21) and 2004 (Ordinance 03-21) -- Re: Positions in the Sanitation, Information and Technology Services, Police and Utilities Departments.

Ordinance 04-21

There was no public input at this time.

PUBLIC INPUT

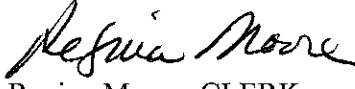
The meeting was adjourned at 10:11 pm.

ADJOURNMENT

APPROVE:


Michael Diekhoff, President
Bloomington Common Council

ATTEST:


Regina Moore, CLERK
City of Bloomington