In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, August 23, 2017 at 6:30pm with Council President Susan Sandberg presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
August 23, 2017

Roll Call: Sturbaum, Ruff, Chopra, Granger, Sandberg, Volan, Piedmont-Smith, Sims, Rollo
Members Absent: None

ROLL CALL
[6:30pm]

Council President Susan Sandberg gave a summary of the agenda.

AGENDA SUMMATION
[6:31pm]

Sandberg officially welcomed new Councilmember Jim Sims.

REPORTS

- COUNCIL MEMBERS [6:33pm]

Councilmember Steve Volan discussed the events of August 11th and 12th in Charlottesville and proposed it as a topic of conversation for the body during the meeting. He stated that such events could affect Bloomington in the future.

Councilmember Isabel Piedmont-Smith said that the actions in Charlottesville were unacceptable, as were the U.S. President's. She explained that Bloomington must prepare for the eventuality of white supremacists coming to the community.

Volan added that Bloomington experienced a white supremacist shooting in his district in 1999.

Councilmember Jim Sims echoed the comments of Volan and Piedmont-Smith about the protests in Charlottesville. He thanked the community for electing him. He ensured constituents that he took all community concerns seriously, especially those involving civil rights, justice, and racial discrimination.

There were no reports from the Mayor or city offices.

- The MAYOR AND CITY OFFICES

Jim Blickensdorf, with the City of Bloomington Parking Commission, welcomed Sims. He shared data about total parking citations in the months of June and July. He noted a downward trend in the number of total citations, which he labeled as alarming. He said he brought this data forward to the Council so that councilmembers could enquire about a shift in parking enforcement priorities or increasing the number of enforcement officers. He stated that enforcement was important not just for revenue but to ensure that visitors to the Bloomington area had parking spaces.

- PUBLIC COMMENT [6:39pm]

Councilmember Dorothy Granger moved and it was seconded to appoint Stephen Volan as Council Parliamentarian. The motion received a roll call of Ayes: 9, Nays: 0, Abstain: 0.

APPOINTMENTS TO BOARDS AND COMMISSIONS
[6:42 pm]

Volan moved and it was seconded to appoint Councilmember Jim Sims to the Utilities Service Board. The motion received a roll call of Ayes: 9, Nays: 0, Abstain: 0.

Granger moved and it was seconded to appoint Councilmember Andy Ruff to the Community Development Block Grant Funding Citizens Advisory Committee. The motion received a roll call of Ayes: 9, Nays: 0, Abstain: 0.

Sandberg appointed Councilmember Allison Chopra as Chair of the Jack Hopkins Social Services Funding Committee.

Volan moved and it was seconded that Ordinance 17-33 be introduced and read by title and synopsis only. The motion was approved by voice vote. City Clerk Nicole Bolden read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING
[6:46 pm]

Ordinance 17-33 – An Ordinance of the City of Bloomington, Monroe County, Indiana, Amending zoning maps from industrial general to institutional and from industrial general to residential high-dens multi-family regarding 1611 So Rogers Street, City of Bloomington

Volan moved and it was seconded that Resolution 17-35 be introduced and read by title and synopsis only. The motion was approved by voice vote. City Clerk Nicole Bolden read the legislation by title and synopsis.

LEGISLATION FOR SECOND AND SUBSEQUENT READINGS
[6:48 pm]

Volan moved and it was seconded that Resolution 17-35 be adopted.

Resolution 17-35 – To Approve Refunding Bonds of the City of Bloomington Park District in an Amount Not to Exceed Six Million Dollars to Refund the City of Bloomington, Indiana Park District Bonds of 2009

Jeffrey Underwood, Controller, explained that the resolution would refund the original 2009 Parks bond issued in the amount of $6.45 million for the Twin Lake's Recreational Center. He stated that there was $4.975 million remaining that would be refunded and estimated a gross savings of $350,000 (with a net present value of $290,000). He said the Parks Board approved the resolution the previous night during its meeting.

Council Questions:

Piedmont-Smith noted that the resolution contained a property tax clause and asked for comment.

Underwood explained that, though the bond would be paid for out of revenue from the Recreational Center, it was common to also ensure that the bond could be paid for with property taxes if revenues were insufficient. He said the city had no plans to pay for the bond with property taxes.

Councilmember Dave Rollo asked whether there were any plans to add any debt during the refunding process.

Underwood said no, and provided additional information about the process.

Piedmont-Smith asked for additional clarification regarding the issuance range within the ordinance.

Underwood explained that a variety of factors could influence the issuance amount and interest rate. He explained the bonds would not be issued if the city could not achieve a savings.

The motion to adopt Resolution 17-35 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Resolution 17-35
[6:53 pm]

Volan moved and it was seconded that Ordinance 17-33 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis.

Ordinance 17-33 – To Amend the Zoning Maps from Industrial General (IG) to Institutional (IN) and from Industrial General (IG) to Residential High-Density Multifamily (RH) - Re: 1611 S. Rogers Street (City of Bloomington)

Volan moved and it was seconded that the Council consider Ordinance 17-33 under second reading with the possibility that the ordinance could be passed at the same meeting at which it was introduced.

Council Questions:

Chopra asked why the ordinance was being considered at only one meeting instead of following the normal process.

Daniel Sherman, Council Attorney, responded that the Council was already familiar with the proposal. He added that the developer in question would be able to receive funding more promptly if the Council acted quickly.

Chopra stated she had not received any constituent concerns or feedback on the ordinance. She asked if any other councilmembers had received constituent feedback. No councilmembers had received any concerns. She added that the short time frame reduced the public's ability to weigh in on the issue.

Volan asked staff to explain the need to hear, deliberate, and vote on the ordinance during the meeting.

Eric Greulich, Zoning Planner, said that he had received a few calls during the Plan Commission process, but none had been negative. He said he could not comment on the Council's own requirements for voting unanimously to hear the matter in one evening.

Volan asked Sherman to elaborate on the need to hear the ordinance in one meeting.

Sherman responded that getting control of the site, through the rezoning initiative, was important for the developer to acquire financing.

Volan repeated his question, asking if anyone else in the room could speak to the question.

Deborah Myerson, Executive Director of South Central Indiana Housing Opportunities (SCIHO), introduced herself, and asked for the Council to consider the ordinance before September 8th to help SCIHO bolster its application for funding.

Rollo asked what further review processes would be available as the development proceeded.

Greulich indicated that the review process would likely involve the Board of Zoning Appeals and possibly the Plan Commission. He noted that the development would not necessarily be required to go before the Plan Commission.

Councilmember Chris Sturbaum confirmed that the development would not be a planned unit development (PUD).

Greulich said that was correct.

The motion that the Council consider Ordinance 17-33 under second reading received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to consider Ordinance 17-33 under second reading [7:04 pm]

Ordinance 17-33 (*cont'd*)

Greulich explained that the ordinance was a request from the Parks Department to rezone a portion of property that was purchased as part of the redevelopment for the McDoel Railroad Switchyard property. He noted the location and size of the property. He explained the requested zoning, which included Institutional (IN) and Residential High-Density Multifamily (RH). He explained that the existing zone for the property was Industrial General (IG), which was reflective of the past usage of the property. He said the rezoning to IN would help the Parks Department to better develop a proposed park on the site, while the rezoning to RH would allow for affordable housing to be built immediately adjacent to the park. He said the Plan Commission voted 5-0 to forward the request to the Council with a favorable recommendation.

Council Questions:

Chopra asked if the surrounding zones would remain IG.

Greulich confirmed that was the case.

Chopra asked if it would be safe for someone to live adjacent to the asphalt plant.

Greulich answered that he is not aware of any hazardous conditions.

Chopra asked for clarification as to the location of the two properties proposed to be rezoned.

Greulich displayed the location of the two portions of the property in question.

Chopra asked what the plans were for the IN area. Greulich displayed the conceptual plans for the area.

Chopra asked if IN was the typical zoning for a park.

Greulich explained that IG did not allow for a park, and IN was the closest match to the intended use for the property.

Sturbaum and Greulich clarified the location of certain portions of the property.

Rollo asked if there was a parking area planned for the property that would be in the flood plain.

Greulich said yes. He noted the process the plans for the area had been through, and added that the Environmental Commission did not have any concerns with the plans, as various precautions had been taken.

Sandberg asked Myerson to provide additional information about her vision for the residential component of the project. Myerson envisioned a total of sixteen affordable units on the property to be built in two phases. She noted the various community groups that might also be involved in the project. She explained the affordable component and what the eligibility requirements might be.

Volan asked how many stories the building would be.

Myerson said the building would be two stories.

Volan asked if there was an opportunity to build more units.

Myerson said that was considered but noted several concerns with adding more units, including parking availability and financing for the project.

Volan clarified that the building plan was to put in two separate buildings with eight units each. He asked why Myerson thought that all residents, including those with special needs, would have cars. Myerson responded that some residents might not have cars, but they might need a space for an aid to park. She said the main consideration for the number of units were the financing limitations.

Ordinance 17-33 (*cont'd*)

Chopra asked whether nearby neighborhoods had been involved in the process for the rezoning.

Greulich said that he received calls from a wide area, due to the size of the lot that the city owned. He said he could not remember many calls from the neighborhoods to which Chopra had referred.

Rollo asked whether the units would be suitable for family housing.

Myerson said that there would be one and two-bedroom units, and listed the likely square footage of each unit type.

Sims asked where the retention areas for the water run-off would be located.

Greulich responded that would be addressed with the overall design of the park, but noted the features that were specific to the proposed housing.

Sturbaum asked about the level of affordability for the apartments.

Myerson responded that the rates went from fifty-percent of the area median income to up to eighty-percent.

Sturbaum asked if she intended to use section eight for the initiative.

Myerson explained that those with section eight vouchers would be welcome to live there.

Sturbaum and Myerson discussed the ranges of rent that might be charged for various units.

Volan asked what the hours would be for Switchyard Park.

Dave Williams, Operations and Development Director, said that all park facilities were open from 5 a.m. to 11 p.m.

Volan asked if the park's parking spaces would be in use after the park was closed and if those spaced could be used by residents overnight.

Williams responded by noting that some sort of permit system had been suggested. He said it was still being considered.

Volan said there was an opportunity to share parking space and it would be irresponsible not to do so.

Volan asked if all residents that would live in the units had special needs.

Myerson said no, and said a total of five units would be for disabled individuals.

Volan restated the idea that some of the parking space could be devoted to more housing.

Myerson repeated that limited funding was the reason behind the occupancy levels, not space limitations due to parking.

Volan asked whether a three-story building would require an elevator.

Myerson said no, but she said they wanted to make sure the building served the needs of the residents.

Piedmont-Smith confirmed that the request in front of the Council was for rezoning and not to consider any development proposal.

Greulich said that was the case.

Rollo asked whether the intended project would have a parking ration of 1:1.

Myerson said that was the preliminary design.

Ordinance 17-33 (*cont'd*)

Sturbaum asked whether the Broadview Neighborhood would have an opportunity to provide input on the buffering for the project.

Greulich explained the various ways and times neighbors could voice concerns.

Chopra asked whether there would be a request for proposals (RFP) for the housing component of the project.

Greulich said yes.

Chopra asked if the assumption was that SCIHO would be the winning bid.

Greulich said he could not speak to that question.

Chopra asked why Council was hearing the matter.

Greulich said the city wanted to encourage affordable housing with the Switchyard Park project. He said there was at least one interested entity, but the RFP was required to go out and be open generally.

Chopra asked whether the RFP would only be for affordable housing.

Greulich suggested that the question might be better answered by someone from the Parks Department.

Chopra said she did not understand why the Council was hearing from SCIHO, who had not yet won the bid.

Greulich said that the request before the Council was for a zoning change, and the intent was to have a portion of the land available for an affordable housing project, whether completed by SCIHO or some other entity.

Rollo asked where the nearest grocery store was in relation to the property in question.

Greulich explained the various locations of nearby grocery stores and how people could travel to those stores.

Public Comment:

Jim Blickensdorf echoed concerns voiced by Volan related to parking and spoke about the possibility of shared parking.

Additional Council Questions:

Rollo asked if the site could accommodate future development or more density, possibly by shared parking similar to what had been suggested by Volan and Blickensdorf.

Greulich reiterated that the request before the Council was simply for a rezone. He said that once the property had been rezoned, it could be used in any number of ways. He suggested that the density could be addressed at a later date.

Volan asked whether the land in question would be conveyed and whether it would be sold at market rate or some reduced rate.

Greulich said he believed it would be handled through a long-term lease.

Paula McDevitt, Director of the Parks and Recreation Department, provided background on the parcel. She clarified that the parcel of land was a surplus in the plan for Switchyard Park, which was why it was under consideration for an affordable housing initiative.

Volan asked if SCIHO was merely one entity that might be submitting a proposal after the RFP was release.

McDevitt said that was correct.

Council Comment:

Granger thought the parking questions were premature as those issues were not under consideration as part of the request. She said she appreciated Ms. Myerson's input to give the Council a better idea of what was possible for the site, but said the Council was not voting on her development proposal at that meeting. She supported the rezoning to help things move toward some similar project.

Ordinance 17-33 (*cont'd*)

Volan said he understood why Granger thought the parking discussion was premature, but he explained that if less land were needed for parking, then less land would need to be conveyed or leased to the eventual developer, which he saw as relevant to the discussion of the rezoning request. He reiterated the concerns he had related to parking, but said he supported the rezone.

Sturbaum said the site was a great location for affordable housing and he liked the cooperation between the various entities involved. He said the parking issue could be resolved gradually. He thought that Volan was probably correct about reduced parking, but that only time would tell. He supported the project in its existing form and planned to support it.

Sandberg said affordable housing projects should be considered differently than regular housing projects and could not therefore be held to the same high standards in terms of parking. She explained why certain individuals might not be able to go without a car. She reaffirmed her support for the initiative. She believed it was not time to talk about parking but rather focus the conversation on great places to live for people with limited means.

Rollo said he appreciated Volan's examination of whether more units could be built in the future. He said the location was great for the planned initiative. He thanked the administration for bringing the idea forward.

Piedmont-Smith said she supported the requested rezone. She requested that her colleagues keep to the topic at hand and ask relevant questions.

Chopra seconded Piedmont-Smith's comments. She hoped the Council would remember her comment when it came to the end of the budget cycle.

Volan said that how the site might be developed was relevant to the question of whether it should be rezoned, as well as to the question of why the Council should hear the matter at only one meeting. He said that one of the rationales for hearing the matter over one meeting was so that SCIHO, a potential developer, might be able to more quickly secure financing for the project. He added that the city tended to provide too much parking and that the housing in question should be classified as work force due to the allotted rent amounts.

Vote on Ordinance 17-33 [7:55 pm]

The motion to adopt Ordinance 17-33 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Volan moved and it was seconded that Ordinance 17-24 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Bolden read the legislation by title and synopsis, giving the Do Pass recommendation of 0-7-1 and other procedural history of the ordinance.

Ordinance 17-24 - To Amend Title 15 of the Bloomington Municipal Code (BMC) Entitled "Vehicles and Traffic" - Re: Deleting BMC Chapter 15.36 (Resident-Only Parking Permits)

It was moved and seconded that Ordinance 17-24 be adopted.

Andrew Cibor, Transportation and Traffic Engineer, provided information about the history of the resident-only parking permit program and explained why the ordinance had been originally proposed. One reason, he noted, was to bring the city into compliance with the U.S. Access Board Accessibility Guidelines. He said that staff had revised the ordinance after receiving feedback from the Council during previous meetings. He briefly summarized the relevant changes, including changes to the name of the program, to eligibility requirements, application and permit fees, and how the program would be administered.

Sturbaum asked for additional detail about the eligibility requirements. Cibor explained who, under the proposed ordinance, would be eligible for permits.

Councilmember Questions:

Volan asked Mr. Cibor to elaborate on aligning the Resident-Only Parking Permits with ADA requirements.

Cibor explained what the ADA Guidelines called for and how the proposed ordinance would bring the city closer to complying with those guidelines.

Volan asked how disabled residents would be served by parking spaces that might be more than a block away from their homes.

Cibor explained that there was a minimum threshold requirement with the ADA, but no maximums, so the city could add more accessible spaces if needed.

Daniel Sherman, Council Attorney, provided clarification on a point of order, explaining that the Council might want to entertain a motion to amend Ordinance 17-24, either by substitution or otherwise.

Volan moved and it was seconded to adopt Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Volan noted the Council had already been discussing the amendment by substitution, but had neglected to formally introduce it.

Volan moved and it was seconded to adopt Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Volan presented the amendment highlighting the grandfather clause, purview of the initial permit decision, timeframe for removal of signage after a permit was revoked, and where revenue from the program would be deposited.

Chopra asked if any reserved spaces were located in council district three.

Cibor said not that he was aware of.

Council Questions:

Ordinance 17-24 (*cont'd*)

Granger asked if changing Parking Enforcement Manager to Transportation Traffic Engineer and placing excess revenue in the alternative transportation fund were similar to other permit programs.

Cibor responded that that was his understanding.

Rollo asked if the fee adjustments were included in the amendment.

Volan explained where those fee adjustments were located.

Piedmont-Smith asked why the amendment by substitution proposed by the administration would provide that revenue from the program would be deposited into the general fund.

Cibor responded that was what the existing code called for and the administration simply did not propose any changes. He said he was not necessarily opposed to depositing the revenue in a different fund.

Piedmont-Smith inquired if the money would be better placed in the general fund in order to pay for the staff who would be taking applications and conducting enforcement.

Cibor responded that one could make a case for either fund, but noted that by placing the money in the general fund it could cover expenses that range across departments.

Piedmont-Smith asked Cibor if parking enforcement was paid for through the alternative transportation fund.

Cibor said he believed some funding did come from that fund, but was not clear on exact details.

Volan suggested Blickensdorf could answer.

Blickensdorf clarified that funding was split based on division and that the new amendment would align the code with the current practice in the controller's office.

Sturbaum asked for a review of the history of the ordinance and its original intent.

Cibor responded that the ordinance's original purpose was to protect neighborhoods from losing character due to a lack of off-street parking for disabled residents.

Sturbaum commented that the background information was helpful to know when considering the grandfather clause.

Piedmont-Smith asked why Volan's proposed amendment included a change regarding who would make permit decisions from the Parking Enforcement Manager to the Transportation Traffic Engineer.

Volan explained that the program had been around for decades and was unique. He noted that very few of the permits existed, and thought that if the decision of whether to issue the permits were moved to Parking Enforcement, the permits might become more ubiquitous. He said he did not want to normalize the programs, but rather, the permits should be issued with particular deliberation.

Granger asked if Parking Enforcement would handle all other permits.

Volan affirmed that was the case.

Piedmont-Smith asked Cibor if he saw any downsides to permit decisions being the responsibility of his office.

Cibor responded that it was currently his responsibility to review the applications and he was comfortable with this process. But he also noted that Parking Enforcement assisted him with the paper work and many other steps, making him feel that his role might be unnecessary. He would prefer for the program to transfer to the Parking Enforcement Office.

Ordinance 17-24 (*cont'd*)

Sandberg asked Volan if he would be willing to consider a friendly amendment after hearing from Cibor.

Volan responded that he took Cibor's statements to heart, but pointed to the unusual nature of the permit. He said that only 19 such permits existed and thought the city should be continue to be jealous of issuing them. He asked Mr. Cibor what the acceptance rate currently was.

Cibor responded that it was probably around fifty-fifty.

Volan stated he was ambivalent about an amendment but cited the process that led him to believe that the Planning and Transportation department would be best suited to handle the unique permit program.

Piedmont-Smith asked for clarification regarding the "in good standing" language in the grandfather clause.

Volan responded that language referred to someone having no tickets or abuse of the system on record.

Clerk Nicole Bolden noted that would be a difference from the residential neighborhood permits, which did not have such a requirement listed in Bloomington code.

Piedmont-Smith asked Volan if a parking ticket for a resident that did not apply to the space in question would put that resident out of good standing.

Volan said that good standing was undefined in the amendment's current form, but his intent was to allow individuals that currently had permits, but who might not qualify under the new requirements because they were not disabled, to keep their permits.

Sturbaum clarified that jaywalking tickets or a parking ticket would not apply to the clause. He suggested that someone would not qualify under the grandfather clause if that person had stopped paying for the pass previously.

Sandberg asked Volan if he would be willing to have Parking Enforcement be responsible for the permits but able to seek help from the Planning and Transportation if there were any doubts or questions.

Volan responded that would put the decision in the Parking Enforcement Manager's hands. He said that if the Council felt better about that person making the decision, he would recommend an amendment.

Sturbaum pointed out that the language in the clause would allow the Transportation Traffic Engineer to designate another office or individual.

Volan agreed that this was the case, stating that the Transportation and Traffic Engineer could designate the Parking Enforcement Manager.

Piedmont-Smith said that, in the past, the Council had meant for designee to refer to an individual in the same department.

Sherman clarified that the Council was creating intent, and the language would not have to be rewritten unless that intent was not followed, in which case the issue could be revisited in the future.

Cibor explained that the previous provision did not designate a specific person, but the proposed language did.

Sturbaum said that the Council was expressing its intent that the decision on permits remain in the Planning and Transportation department.

Ordinance 17-24 (*cont'd*)
Public Comment:

Jim Blickensdorf noted concerns he had with the city complying with ADA Guidelines, as well concerns with the existing permit program. He shared thoughts on the proposed amendments, as well as his opinion that the permit should have to be renewed annually.

Council Comment:

Ruff asked to what extent Volan's proposed amendment left the existing program intact.

Volan answered that the proposed amendment protected current residents and users of the program that did not have a handicapped placard. He said it was his understanding that the Council originally opposed the elimination of the program to protect such residents.

Sturbaum commented that the original intent was to look at problems that old neighborhoods had in terms of parking. He said that the Council had rejected eliminating the program entirely. But he viewed the amendment by substitution as a hard-edged elimination of the program, as only those people with permanent disabilities would be eligible for a permit, which he viewed as a very high standard. He stated his support for the grandfather clause and for the overall objective of tightening up the number of permits.

Granger stated that she did not like the amendment by substitution. She said adding signage made a lot of sense, as did having revenue go into the same fund as other programs. She said she was not supportive of replacing the Parking Enforcement Manager with the Transportation and Traffic Engineer. Despite some misgivings, she said she would support it.

Piedmont-Smith stated she shared the concerns of the administration and Blickensdorf about following thought on the city's commitment to the ADA Guidelines. She viewed the grandfathering of existing permit holders as an impediment to meeting that commitment. Therefore she stated that she would not support the amendment to the Amendment by Substitution.

Volan stated that parking was an important concern for his district. He said that parking was also a difficult issue and that it was common for people to disagree on how it should be handled. He understood the irony in his emphatic remarks on reducing parking during discussion on Ordinance 17-33. He viewed the grandfather clause as an essential part of the body's ability to approve the amendment by substitution. Although that clause might affect very few people, Volan believed it was important to have a conversation about because several key principles were involved. He understood that his ask was large but he hoped that the Council would support the amendment regardless, as so few residents would be affected.

Sandberg announced that she had been informed that the designee could not be from another department so she asked Volan if he was willing to hear from the Council Attorney on that issue.

Sherman stated that Piedmont-Smith had been correct on the issue with the wording of designee. Sherman pointed out that one could designate work within that person's department but would not be able to do so within another department. He stated that wording could be adjusted to mitigate this issue.

Volan stated that his proposal would only apply to the issuance and revocation of permits but that the Parking Enforcement Manager could still oversee any other issue.

Cibor clarified that a permit could only be revoked through the Board of Public Works.

Volan clarified that he had misinterpreted the title and that Cibor was correct.

Ordinance 17-24 (*cont'd*)

Chopra asked how many current permit holders would survive the proposed review process.

Cibor estimated that, assuming the grandfather provision was not in place, possibly half of the permit holders would still qualify for a permit due to a physical disability. He stated that number might be higher but that information was not previously requested.

Ruff commented that the amendment forged a reasonable compromise. He complimented Volan for working on the initiative. He confirmed his support.

Chopra stated that she would be passing during the vote because she did not feel strongly about the issue and it did not directly affect her district.

Sandberg affirmed her support as she felt the amendment did a good job of supporting the current permit holders and also did not serve as an impediment for tightening up parking in the future.

Volan thanked Blickensdorf and the Parking Commission for taking up the issue on short notice. He also extended his gratitude to Cibor for his help on the amendment. He thanked Stacy Jane Rhoads, Deputy Council Attorney, for her help in drafting the amendment and catching legal loopholes.

The motion to adopt Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 received a roll call vote of Ayes: 6, Nays: 1 (Piedmont-Smith), Abstain: 2 (Chopra, Sims).

Vote to adopt Amendment 1 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 [8:58 pm]

Sturbaum moved and it was seconded to adopt Amendment 2 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Amendment 2 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Sturbaum explained his reasons for proposing the amendment, which including allowing residents who were aging in place to have an opportunity to apply for a permit. He talked about the unique problems faced by aging neighborhoods without adequate parking. He objected to throwing out the permit program entirely because he believed it would leave out those who need help getting to their homes. He said he wanted Bloomington to exceed the ADA Guidelines through keeping the intent of the program in place.

Council Questions:

Rollo asked if evaluating a person to see if the person had a significant disability would be at the discretion of the Transportation and Traffic Engineer. He asked what would be required to determine the extent of the issue.

Sturbaum responded that common sense could be used to answer those questions.

Rollo pointed out that permits could be arbitrarily administered depending on who was administering them.

Sturbaum responded that if a person was denied a permit wrongfully the person could seek help at the Board of Public Works.

Ordinance 17-24 (*cont'd*)

Sims said he did not believe that vagueness and the law fit well together. He stated that criteria should be used to determine the scope of the program.

Sturbaum read part of the amendment that described the conditions that would need to be met to receive a permit.

Chopra asked for comment on the legal advisability of the amendment.

Barbara McKinney, Human Rights Director/Attorney, stated that the amendment was likely defensible, however she had issues with the term aging. She found aging to be a vague word as it could theoretically apply to all people. She understood the intent of the word but was concerned that it was not defined.

Chopra asked how a staff member in Planning and Transportation would be in a position to judge someone's physical difficulties.

McKinney responded that such a position would involve a lot of responsibility, especially if placed in a department where such areas of concern were not areas of expertise for that department.

Chopra clarified whether a permanent disability placard was given by a physician, and if that physician was more qualified to make decisions on the subject of disabilities.

McKinney said that was correct. She added that there was a contingency in the ordinance stating that if extenuating circumstances existed where no permanent disability placard was present, constituents could go to the Board of Public Works instead of a member of staff.

Chopra asked if, in light of this information, the discussion of the amendment was rendered moot.

McKinney stated the only difference between the amendment and the original text was that the amendment granted staff the power to decide whether or not constituents with extenuating circumstances could receive a permit, whereas the original ordinance granted that decision to the Board of Public Works.

Chopra asked if anyone in the city should have the power to say that someone else was or was not experiencing physical difficulty associated with aging.

McKinney stated that the exception was added to the text based on responses at previous council meetings, but if the Council decided it wanted to remove the exception she would be willing to change the text.

Piedmont-Smith suggested adding language to clarify Sturbaum's proposed amendment.

Sherman stated it was not possible to amend an amendment to an amendment. He said the council would need to pass on Amendment 2 and introduce a new amendment at a later date.

Volan asked whether Sturbaum's proposed amendment was already encompassed by the amendment by substitution. He asked Sturbaum to clarify his intent for the amendment.

Sturbaum stated his intent was to create the possibility for such permit decisions to be made at a lower level than the Board of Public Works. He noted he liked Piedmont-Smith's proposal of adding language related to verification by a medical professional.

Volan asked if the phrase, "difficulties associated with ageing" was intended to mean, "people over sixty".

Sturbaum pointed out that people broke down at different ages and setting a threshold would therefore not be effective or proper.

Ordinance 17-24 (*cont'd*)

Sims asked what criteria would be used to determine if a person received a permit and who would make the decision.

Sturbaum suggested language could be added to expand upon the exact criteria needed, but reiterated that many people who had difficulties that fell short of a permanent physical disability should be able to ask for a permit.

Rollo expressed concerns that the employee forced to make such decisions might experience abuse at the hands of the public. He stated he would prefer to have the process be public where applicants could be vetted by a semi-judicial board.

Sturbaum said that some people might be uncomfortable going to the Board of Public Works for a simple permit request. He added that he believed the current ordinance was stacked against the individuals in question.

Piedmont-Smith agreed with Sturbaum about the intimidating nature of going before the Board of Public Works to discuss personal disabilities. She added that she supported the amendment but had asked the staff to draw up a new amendment that added that the physical condition would have to be verified by a doctor.

Volan asked Sturbaum his thoughts on Piedmont-Smith's addition.

Sturbaum appreciated the addition and said it added professionalism to the analysis of the application.

Chopra stated that the amendment was bizarre. She said that handicap tags and decals existed so that constituents would not need to go through processes like the one being discussed.

Piedmont-Smith stated she looked at the requirements for a handicap decal in Indiana. She read out loud that those requirements included using a wheelchair, walker, braces, or crutches, amongst other requirements. She said that she could imagine many other conditions, omitted from the list, which would make it difficult for someone to walk any great distance. She used the example of someone walking with a cane, who, according to Indiana Law, would not qualify for a handicap decal.

Rollo asked Cibor if he felt he was in a good position to make a judgement about physical disabilities associated with aging.

Cibor responded that he would be uncomfortable making the decision as it was currently outlined in Sturbaum's proposed Amendment 2, but that he might feel more comfortable with other amendments being drafted. He said that the more criteria added the better in terms of his decision-making process.

Sims asked McKinney if the City was prepared, from a medical confidentiality perspective, to handle these permit requests.

McKinney responded that while most documents the city dealt with were a matter of public record, medical information would remain private, only visible to applicable parties.

Sims added he was concerned about FMLA and HIPAA regulations and the security of such documents.

McKinney added that under the ADA all medical information received should be kept securely and confidentially, shown only to those on a need-to-know basis.

Ordinance 17-24 (*cont'd*)

Chopra asked Cibor if his department was equipped and ready to deal with those types of requirements.

Cibor said they were not, although he worked with the Legal and Human Resources departments when necessary.

Chopra asked if he dealt with HIPAA regulations.

Cibor said no.

Sturbaum pointed out that medical records would be more secure going through Cibor's office than through the Board of Public Works. Confidentially, he said, could easily be established.

Piedmont-Smith asked Sturbaum if he would withdraw Amendment 2 and vote instead on Amendment 3 with the additional language that the physical difficulties must be verified by a medical doctor.

Sturbaum withdrew his motion to adopt Amendment 2 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 without objection.

Amendment 3 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24

Piedmont-Smith moved and it was seconded to adopt Amendment 3 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24.

Rollo and Sherman clarified a correction on the amendment form.

Public Comment:

Jim Blickensdorf voiced concerns with the amendment and shared additional thoughts on the permit program.

Council Comment:

Piedmont-Smith said she voted against the previous amendment due to her concerns about ADA compliance. In terms of the present amendment, she felt the question at hand was an issue of how intimidating and off-putting the process of application and appeal should be. She added that the program was being inclusive and facilitating public space to those who need it, therefore expanding the current ADA requirements.

Sturbaum stated that the fear of abuse should not dissuade his peers from voting favorably for the amendment. In all the years of the permit program, he said, very few individuals tried to abuse the system.

Chopra stated she was against the amendment. She said the wording was fuzzy, which was the opposite of what good city code should be. If there was a discrepancy, she said, then it should be assigned to the appropriate hands. She stated that no one in Cibor's department should be evaluating someone's medical condition combined with that person's age. She said that she was not aware of the histories and complexities of handicap requirements but that she strongly believed there was a reason behind their specificity. She viewed the overlap between the requirements for a handicap placard and this permit as a redundancy.

Rollo stated that he believed the Council had originally been asked to reevaluate Ordinance 17-24 because it was a burden on staff members. He believed that asking a department to evaluate someone's physical condition was a great burden to staff whereas asking the Board of Public Works would be more optimal.

Ordinance 17-24 (*cont'd*)

Ruff agreed that the amendment felt imprecise or fuzzy and that made him uneasy. Based on past history, he stated, the proposal should not increase the number of permits. He asked what doctor would not write a statement saying that someone was experiencing difficulties. He agreed with Sturbaum and Piedmont-Smith that some individuals might find it intimidating to go before the Board of Public Works.

Rollo provided a theoretical example of how the number of permits could increase. He agreed with Ruff that it would likely be easy for applicants to receive a doctor's signature with or without a serious problem.

Volan stated that if a request was rejected then the petitioner could appeal through the Board of Public Works. In his opinion, the amendment simply kept the applicant from having to go to the Board of Public Works to apply. He doubted that there would be an increase in the number of permits. He stated that Chopra made a good point about fuzzy law. On the other hand, he said, there was some code in the city that gave discretion to entities or groups. In the present case, he felt there was just enough specification in the amendment to earn his support.

Sturbaum stated that the ordinance had been fuzzy for thirty years, and that it was time to clean it up. Even though it was not as straightforward, the city had not been previously inundated with requests.

Sandberg affirmed her support for any measures taken by the city to address what she felt would become a more critical issue. She believed the permit would not apply to those looking to cheat the system or with temporary aches and pains, but rather would help those exceptional cases who needed some assistance.

Sims stated that he had asked for more clarification and, with Amendment 3, that clarification had been added. He stated it was unfair to assume that everyone had access to medical care. He was pleased with the compromise to create a more defined approach and felt confident supporting the amendment.

Vote to adopt Amendment 3 to Amendment 01
[9:51 pm]

The motion to adopt Amendment 3 to Amendment 01 (an Amendment by Substitution) to Ordinance 17-24 received a roll call vote of Ayes: 7, Nays: 2 (Chopra, Rollo), Abstain: 0.

Council Comment:

Ruff stated that a way to make the older urban neighborhoods more appealing for people to live in, for owner occupants in particular, would be to institute a neighborhood zone parking program. He did not view the residential private permit program as fundamentally different from the neighborhood zone parking program. Therefore, it would be difficult for him to oppose one and not the other. He supported initiatives to make older core neighborhoods more inviting and livable for potential residents. He appreciated the work and thought put into the initiatives by all staff members.

Granger stated she was not sure whether she supported the amendment by substitution. While she recognized the intent was to make Bloomington more ADA compliant, she felt the reality was that the program fundamentally changed the private parking program. She hated to see the loss of the program.

Sturbaum pointed out that some Bloomington neighborhoods were laid out before vehicles, and did have peculiarities for the Council to address. Although the issue might affect few people, Sturbaum said, it was of tantamount importance to those individuals. He understood where Cibor was coming from in his request, but Sturbaum did not want to get rid of the program completely. He viewed the amendment by substitution as the solution to the issue. He admired those who contributed to the process.

Ordinance 17-24 (*cont'd*)

Volan commented that it was not good parking policy on the whole, but it was good enough. He said that it provided opportunities to make better parking policy. He added that the city was not losing the neighborhood parking program, just renaming it. He stated that the Council needed to either rename the phrase amendment by substitution or at the very least label such amendments as A, B, or C for the sake of clarity. He thanked staff members for their help in the process.

The motion to adopt Amendment 01 as amended (an Amendment by Substitution) to Ordinance 17-24 received a roll call vote of Ayes: 6, Nays: 2 (Ruff, Granger), Abstain: 1 (Chopra).

Vote to adopt Amendment 01 as amended (an Amendment by Substitution) to Ordinance 17-24
[10:02 pm]

The motion to adopt Ordinance 17-24 as amended received a roll call vote of Ayes: 8, Nays: 0, Abstain: 1 (Chopra).

Vote to adopt Ordinance 17-24 as amended
[10:04 pm]

Sherman spoke about the upcoming schedule.

COUNCIL SCHEDULE

Piedmont-Smith moved and it was seconded to hold a special session of the Council before the Committee of the Whole on August 30, 2017. The motion was approved by voice vote.

Vote to hold a special session of the Council
[10:07 pm]

The meeting was adjourned at 10:07 pm.

ADJOURNMENT

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 1st day of September, 2017.

APPROVE:

Susan Sandberg, PRESIDENT
Bloomington Common Council

ATTEST:

Nicole Bolden, CLERK
City of Bloomington