

In the Council Chambers of the Showers City Hall on Wednesday, March 23, 2016 at 7:33 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
March 23, 2016

Roll Call: Granger, Sturbaum, Mayer, Sandberg, Ruff, Piedmont-Smith, Chopra, Rollo
Absent: Volan

ROLL CALL
[7:34pm]

Council President Ruff gave the Agenda Summation.

AGENDA SUMMATION
[7:34pm]

It was moved and seconded to approve the Regular Session of March 2, 2016.

APPROVAL OF MINUTES
[7:35pm]

Isabel Piedmont-Smith noted that there were a few non-substantive corrections in the minutes since they were distributed.

March 2, 2016 (Regular Session)

The minutes for the Regular Session of March 2, 2016 were approved by voice vote.

Dave Rollo mentioned that the past February smashed a century of global temperature records by a stunning margin as reported by NASA. He noted that the climate emergency news continued to get worse, and the need for humans to cut carbon emissions continued to grow. He said that the current crisis is unprecedented in the last 60 million years, and that the closest parallel took four thousand years to happen, had more time for life to adapt, and still resulted in mass extinctions. We had made changes in the last century, and we needed to pay more attention.

REPORTS

- COUNCIL MEMBERS
[7:37pm]

Allison Chopra said, "Go, Hoosiers!" on Friday.

Piedmont Smith congratulated the Woman of the Year, Jean Capler and the Lifetime Contribution Award recipient, Flo Davis, from the Women of the Year Luncheon that had been held earlier in that day. She recounted that there had been a brief theatrical presentation directed by Gladys DeVane of important women in Indiana history, including Frances Slocum, Rhoda Coffin, Mae Wright Sewell, Madame CJ Walker, and Marie Goth. She said that it went to show that Hoosier women could do a lot and contributed a great deal to the community. She also mentioned her March constituent meeting which was on the following Saturday from 10-11am in the McCloskey Room of City Hall. She reminded residents that they could chat with her about their concerns, and she would share updates from the City. She reminded everyone that it was always the last Saturday of the month at 10am.

Tim Mayer congratulated IU women's basketball team on their very successful season, despite the fact that they were eliminated early in the tournament. He also congratulated the IU men's basketball for the way they were performing and wished them well. Go, Yogi. There were no reports from the Mayor's office.

- The MAYOR AND CITY OFFICES
- COUNCIL COMMITTEES
[7:40pm]

Sidewalk Committee Report:

Conflict of Interest Disclosure made by Attorney Dan Sherman

Moved and seconded to accept disclosure. Disclosure accepted by voice vote.

Council Committees (*cont'd*)

Dorothy Granger introduced the 2016 Sidewalk Committee Report (attached), its members, and talked about the criteria of the sidewalk project review. She pointed out that the committee did their best to balance the needs of several projects to get them as close to completion as possible, and the projects stayed on their list in following years. Granger noted that the committee was allocated \$300,000, but was asking for a re-appropriation of \$6,000 from the alternative transportation fund (ATF) to come back to the sidewalk fund so they could complete those particular projects. She reminded the council that they had a balance of \$18,855 that they did not spend the previous year for various reasons. The sidewalk committee recommended that \$12,855 of those funds go back to the ATF for North College Street repaving and sidewalk repair. Granger noted that contracts should be in place for the recommended projects by summer, and that if there was more than a 10% variation in the estimated costs, the projects would have to go back to committee for discussion.

Chris Sturbaum added that some of the projects are for planning purposes. He noted that the walk score was important, and it was used to look at how the most people would benefit from the connections that were made.

Rollo thanked Granger for chairing the committee this year, and noted that she did an excellent job. He emphasized that there were many needs in the community, and the matrix of considerations went beyond requests from the public. He also added that many of the areas that were being worked on now were areas that were neglected in the past when they were not a priority. He reminded everyone that passing the buck to the future taxpayers was something that could be avoided.

Granger added that a sidewalk project on North Kinser was being completed, and that it was very exciting to her, because it had been on their list for some time.

Sherman noted some minor corrections in the report that had been made since it went out in the packet.

Council Questions:

Chopra asked if there would be an opportunity to comment, to which Ruff said there would be.

Piedmont-Smith thanked the committee and staff who worked on the projects. She said that she looked at all of the projects that were in District 5, and had a few questions. She asked about the sidewalk on Fairview, that she thought was already approved, wondered why it was on the list. Sherman answered that it was still on the list because it was not completed.

She next asked about South Rogers Street, and noted that it was rated higher than other projects that actually received funding. She said that it was a short bit of missing sidewalk that was used a lot, and wondered why it was not funded. Granger responded that there were a lot of really short projects, and that in their discussions it just wasn't a priority, but if Piedmont-Smith wanted it to be considered for next time she should contact the committee.

Sturbaum added that there was a big drainage issue that made it more expensive and that the sidewalk was complete on the other

side of the street. He said it was a lot of money for a small amount of sidewalk. Piedmont-Smith pointed out that it was right next to Community Kitchen, so it saw a great deal of pedestrian traffic, which she wanted to point out as well.

Piedmont-Smith next asked about a stretch of sidewalk on South Walnut Street south of Winslow, which was number 17 on the list. She noted that there was another, longer piece of sidewalk a bit further south that was funded that she was thankful to see being funded. Piedmont-Smith wondered if the previous section from Pinewood Street to 2942 South Walnut was also due to not having the bang for the buck that the council was looking for. Granger commented that that was a good way of saying it. Sherman added that they started with the largest piece and looked at the smaller pieces for future investment.

Piedmont-Smith finished by thanking everyone for their work and explanations.

Public Comment:

Rachid Maida asked if the city constructed sidewalks on its own or contracted them out. He suggested that it may cost less money for the city to do it itself. He also suggested that the city consider using rebar in the sidewalks to decrease the need for repairs. Maida also spoke about the need for proper drainage.

Council Comment:

Chopra commented that she was pleased to see a plan going forward for the students at University School to walk to school safely. She said that she thought it enhanced not only a sense of health but also community and connectivity when students and parents could come together on sidewalks and walk to school safely.

Rollo specifically commented to Mr. Maida that the council would speak with city staff about the construction of the sidewalks.

It was moved and seconded to approve the Sidewalk Committee Report.

The Sidewalk Committee Report was approved by voice vote.

President Ruff called for public comment.

- PUBLIC
[8:08pm]

David Keppel thanked the Council for their work on the TPP, and told them that Joe Varga would be giving a talk at the Monroe County Library the next day.

Kenneth Schafer spoke about the dispatch center.

It was moved and seconded to appoint Beth Kirk to the Commission on the Status of Women.

APPOINTMENTS TO BOARDS AND COMMISSIONS [8:09pm]

The motion was approved by a voice vote.

It was moved and seconded to appoint Wendy Read Wertz and Chris Neggers to the Environmental Commission.

The motion was approved by a voice vote.

It was moved and seconded to appoint Vicky Myers to the Animal Control Commission, and Courtney Stewart to the Commission on Aging.

The motion was approved by a voice vote.

It was moved and seconded that Ordinance 16-02 be introduced and read by title and synopsis. The motion was approved by a voice vote.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Clerk Bolden read the legislation and synopsis, giving the committee recommendation for Amendment 01 of do pass 8-0, and as amended of do pass 6-0-2.

Ordinance 16-02 - To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District – R... 305 East Vermilya Avenue Hist... District (Bloomington Historic Preservation Commission, Petitioner) [8:19pm]

It was moved and seconded that Ordinance 16-02 be adopted.

Bethany Emenheiser, staff for the Historic Preservation Commission (HPC), introduced the legislation. She clarified that the last time the commission voted on the property the vote was unanimous in favor of the designation. She apologized for her error. Emenheiser noted that this property was listed on the state survey as an outstanding property, which was the highest designation. She said the HPC was recommending designation based off of criteria highlighted under architectural worthiness (BMC §8.08.010(e)).

Emenheiser went through some of the unique features of the property, including the fact that most of the street was already under protection with demolition delay. She believed that the property was built in 1962. She gave some background in to the style of the architecture, and said that it was an outstanding example of contemporary style architecture in Bloomington. The property first came to the HPC as a demolition delay case. The property owners have been working with staff to choose windows, doors, and roofing materials.

Council Questions:

Piedmont-Smith noted that there was already work being done on the house, and asked if that was allowed during demolition delay.

Emenheiser responded that the demolition delay was waived because the HPC moved to designate, and that in the interim the owners filed a Certificate of Appropriateness (COA) that allowed staff to treat it as a designated property until or if the council took action.

It was moved and seconded that Amendment 01a be adopted. This amendment was written to clarify language.

Council Comment:

Sturbaum noted that it was a friendly amendment.

It was moved and seconded to approve Amendment 01a. Amendment 01a received a roll call vote of Ayes: 8, Nays: 0

Amendment 01a[8:30pm]

Public Comment:

Jeannine Butler, member of the HPC, spoke in favor of designating the property, and asked the council to vote yes.

Council Comment:

Sturbaum noted that this was an unusual street and property. He said that it might have been due to the depression causing a slowdown of building in the area, and speculated that this property functioned as a home for the builder of the trailer park during the that time. He said that the block showed the economic history of the country in the type of housing that was in existence.

Granger thanked Emenheiser for bringing the rendering of what the house would look like. She noted that she liked it, and was excited to vote yes.

Sandberg stated that she was happy to support this designation based on the information that the petitioners worked closely with the city and the city staff in order to adapt the building, and still allow protection of the unique architecture.

Ordinance 16-02 (cont'd)

The motion to adopt Ordinance 16-02 as amended received a roll call vote of Ayes: 8, Nays: 0

Ordinance 16-02 vote[8:35pm]

It was moved and seconded that Ordinance 16-03 be introduced and read by title and synopsis. Clerk Bolden read the legislation and synopsis, giving the committee recommendation for Amendment 01 of do pass 7-0, and as amended of do pass 1-0-6.

Ordinance 16-03 - To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection to Establish a Historic District - Re: Greater Restaurant Row Historic District (Bloomington Historic Preservation Commission, Petitioner) [8:38pm]

It was moved and seconded that Ordinance 16-03 be adopted.

Emenheiser gave the presentation to establish the Greater Restaurant Row Historic District. She noted that the area met five of the nine criteria for establishment as a historic district under the BMC §8.08.010(e). She said that there were both individual locally designated and surveyed properties in the district.

Emenheiser showed both the original map and the proposed new map, which excluded Trinity Church. She said that although the church acts as a buffer into the historic district, the BHC did not want to start designating churches. She then went through several properties individually, and explored how they supported the need for designating the district.

Council Questions:

Sturbaum asked Emenheiser to run her video of the proposed district, so that the council could get a feel for the ambiance of restaurant row and the connection of the buildings.

It was moved and seconded that Amendment 01 be adopted. This amendment was written to clarify language. Amendment 01 received a roll call vote of Ayes: 8, Nays: 0

Amendment 01[8:55pm]

It was moved and seconded that Amendment 02 be adopted. This amendment was written to exclude Trinity Episcopal Church from the proposed Greater Restaurant Row Historic District.

Council Comment:

Chopra mentioned that the council received correspondence from the Reverend Charles Dupree of Trinity Church supporting the amendment.

Amendment 02 received a roll call vote of Ayes: 8, Nays: 0

Amendment 02[8:57pm]

It was moved and seconded that Amendment 03 be adopted. This amendment was written to exclude Kirkwood Manor from the proposed Greater Restaurant Row Historic District.

Piedmont-Smith stated that she and her co-sponsors did not want to imply that they felt the building was unworthy of historical protection, but that they did not feel that it belonged in the historic district designation.

Chopra added that the cultural significance criteria for the historic district was an additional reason why she felt Kirkwood Manor should not be included.

Piedmont-Smith added that she believed the five criterion that the HPC used for the district could be applied to Kirkwood Manor on its own. She said that as a layperson, the size and location of Kirkwood Manor made it so that it did not belong with the other properties.

Council Questions:

Sandberg asked about HPC or staff reactions to the amendment.

Emenheiser responded that the property owner applied for individual designation and the hearing for that would be April 14, 2016. She also noted that there was another property in the proposed district that was individually designated, and that it was possible to be both. She noted that the changes to the building were similar to others in the district.

Sturbaum asked for the Sanborn maps to be put up again. He then spoke about how the industry has helped to preserve the neighborhood of that era. He asked if Emenheiser felt the property was connected strongly to the neighborhood based on the evidence in the maps.

Emenheiser replied that she did, which is why she included it in the historic district. She acknowledged that it was on Kirkwood, but said that it felt more like it was a part of Fourth Street.

Sturbaum asked for more information about buffering and the importance of other houses to the entrance to restaurant row.

Emenheiser talked about the need to protect the core of a zone by providing a buffer zone to prevent encroachment by incompatible structures.

Sturbaum stated that the video did not show what he wanted to see, and that it did not show what happened if you started to chip away at the supporting structures, how you started to lose the beauty of the district.

Ruff asked how designating the property individually would detract from the designation of restaurant row.

Piedmont-Smith suggested that was a question better asked of staff, although she would be happy to have it protected separately, and not as part of the district.

Ruff asked for clarification as to why the property owner would object to being part of the historic district designation, but not individual designation. He also asked for clarification as to why others would object to the individual designation, but not the historic district designation.

Chopra responded that the criteria for protection would be different. Piedmont-Smith clarified by saying the design guidelines would be different.

Ruff then asked if it would be a stress to the design guidelines for restaurant row to make them also fit this building. Chopra responded that she thought so.

Patty Mulvihill, staff attorney, responded that the design guidelines could be modified to single out specific buildings. She noted that staff could not speak as to why the owner would prefer to be a stand-alone property as opposed to part of the larger district.

Michael Carmin spoke on behalf of the petitioner. He argued that the need to carve out special design guidelines supported removing the property from the historic district. He also referred to a report from the HPC published in 2012 that referred to Kirkwood Corridor as being separate from Restaurant Row.

Mayer asked staff if the HPC was ready to go forward with designation of the building was not part of restaurant row. He asked the petitioner if they were willing to go forward.

Ordinance 16-03 (cont'd)

Emenheiser reiterated that the HPC thought it fit in the criteria for the district, but that if the amendment passed they were prepared to follow through on the application from the petitioner for designation.

Carmin responded that the petition will not be withdrawn.

Sturbaum asked whether designating Kirkwood Manor individually or as part of the district made a stronger case, since it was not listed on the SHAARD.

Emenheiser responded that it would fit in well with the district, but would get designated either way.

Sturbaum argued that he thought the application from petitioners would be stronger as part of the district, and asked staff if they agreed.

Emenheiser agreed that stand-alone properties tend to be rated higher, and noted that Kirkwood Manor had already been identified as a property that they were going to petition the state to add.

Mulvihill added that council could set the basis by which it wanted to set the standard for rating a property, and that they did not have to follow the state. She said that there was more than enough legal basis for establishing the property as a stand-alone designation. She finished by saying that from a legal perspective the council could do it either way.

Chopra said that Mulvihill answered her question about the SHAARD designation, and asked her again if it really mattered.

Mulvihill said that the HPC could recommend and the council could designate.

Chopra then asked if the individual designation depended on the current petitioner, or if staff or the HPC could pursue the designation without them.

Mulvihill confirmed that in this case it could happen without the petitioner's consent.

Granger added that she thought that the property at 114 Grant would act as a fine anchor for the district, and she liked the smooth lines of the district as it would be drawn with the amendment.

Public Comment:

David Keppel asked if it would not make sense to delay both actions for three weeks.

Duncan Campbell from the HPC stressed that the thing that bound the district together was that many of the properties were altered residences turned into restaurants, and that was the key rationale for including Kirkwood Manor. He said that the goal was to protect all of the buildings in that area.

Ruff asked if it would have been included if it was not a restaurant.

Campbell replied that it was what tied it to the district, although it was also a significant building.

Ruff pointed out that the use of the building as a restaurant was ephemeral, and that designating it as part of the district might not be appropriate.

Campbell responded by saying that the primary goal of the HPC was to protect the building.

Michael Carmin spoke and said that they never objected to designation, but always thought the building warranted individual consideration. He also said that Mr. Ruff's comments about the

possibility of the restaurant leaving being a concern is why they wanted an individual designation.

Ordinance 16-03 (cont'd)

Jeannine Butler said that this property raised some of the same questions that the Vermilya property raised as to whether it was worthy of a stand-alone designation. She suggested that if Kirkwood Manor was worthy of designation as a stand-alone property, it was worthy of designation within the district.

Jeff Goldin from the HPC spoke about the importance of maintaining a buffer for the district and retaining the flavor of the neighborhood. He said that use was secondary.

Jenny Southern said that she had been a patron at all of the restaurants in the district, including Soma and Laughing Planet in Kirkwood Manor. She said that the area was distinctly Bloomington. She said that she would have made the district bigger, and thought that having the manor as part of the district was a good thing.

Council Comment:

Sturbaum said that they owed the people who have cared for these houses for decades an apology. He said that they may not have communicated as well as they should have with owners, and let them be full partners in the process. He also urged the owners to cooperate and become part of the district, because it accomplished the same goals and saved everyone a great deal of time.

Piedmont-Smith thanked everyone in the audience for their patience. She said that it seemed that the end result would be the same. But she believed that the council should take into account the wishes of the property owners. She said that the city asked a lot of property owners, and that in this case it seemed that the owners were willing to have a designation, but they wanted it to be separate. So she wanted to support that. She said that in the end, she believed that they all valued the preservation of that part of Bloomington and the character that it lent to Bloomington.

Sturbaum jokingly added that he thought it was a sign of the apocalypse that Mike Carmin was proposing a historic designation and he didn't really know what that meant. But it made Sturbaum happy, and he urged the council to listen to the HPC who were experts.

Ruff shared that he did not consider Mr. Carmin to be a non-community-minded mercenary that some might have taken that last comment to suggest, nor did he think Councilmember Sturbaum meant it that way. He thought that Piedmont-Smith phrased her last comments very well. He understood why the property was included in the district, but he thought it was the job of the council to step back and take a larger view of the subject in the interests of everyone. He said that deference to the property owner, when the community goal would be met, was important. He thanked the sponsors, Chopra, Piedmont-Smith, and Granger, because he felt that it was an investment in the larger community and the credibility of historic preservation.

Amendment 03 received a roll call vote of Ayes: 5, Nays: 3

Amendment 03[9:50pm]

It was moved and seconded that Amendment 04 be adopted. This amendment was written to exclude 212 South Grant from the proposed Greater Restaurant Row Historic District.

Ordinance 16-03 (cont'd)

Chopra said that she wanted to have a larger discussion about the property being included in the district, and had received correspondence from the property owner that she thought warranted further discussion.

Council Questions:

Rollo asked why Chopra thought this property did not deserve to be part of the designation.

Chopra responded that it was not architecturally significant, and that she did not think it flowed with the rest of the district.

Ruff asked if there were any circumstances in which Chopra envisioned this property as a stand-alone designation.

Chopra said she did not.

Sandberg asked for clarification. She said she did not know enough from the amendment form who the owners were, how the building was being used, or anything else about the property.

Chopra said that she wanted this to be a discussion about the property and to have questions at another time.

Ruff responded that it was the appropriate time for the discussion and questions.

Emenheiser spoke and said that the property was represented by Jim Regester. She noted that the property was in receivership, along with an additional block, which might have been part of the reason for asking for the property to be removed from the district. She said that it was listed as contributing in the survey, and that she had a typo on the screen which listed it as non-contributing. She said that the property acts as a buffer into the entry of the district.

Ruff asked if there was a significant difference between this property and the last property discussed in the previous amendment in terms of its ability to provide a buffer zone.

Emenheiser said that this property was on the survey so it would be protected under demolition delay, but it would not be locally protected.

Piedmont-Smith noted that in the staff report and in the text of the ordinance the property was listed as non-contributing.

Mulvihill stated that she did not have the ordinance in front of her, but that they were checking their notes.

Piedmont-Smith noted that it was a significant factor in the debate, and that the text of the ordinance would have to be changed.

Ruff asked staff to lay out the implications if there had been a mistake made.

Mulvihill said that she could not speak to the amendment itself. She also said that if there was an error, there would need to be an amendment to the ordinance to relocate to the structure to the correct section of the ordinance.

Piedmont-Smith asked Mulvihill what receivership meant, and if it meant the property was more likely to be torn down.

Mulvihill said that she thought it meant that the current owners were having trouble taking care of the property, and somebody else has stepped in. She also said that having one parcel of property designated may detract some buyers, but that it would not prevent all sales in the future.

Piedmont-Smith said that she thought that it meant that the owner would be less able to tear down all of the buildings on their property.

Mulvihill replied that it was still possible, although it was extremely unlikely.

Rollo asked about the historic significance of the building.

Emenheiser responded that it was slightly altered, and confirmed that there was an error in the ordinance listing.

Rollo asked if it was locally protected.

Emenheiser responded that it was on the survey and could be protected under demolition delay, but that it probably did not meet the standards of the HPC for stand-alone designation.

Mulvihill agreed that it did not meet the standards of the HPC for stand-alone designation, and that if it was not included in the district it would probably be approved for demolition if a request was made. She added that it would impact the buffer zone previously discussed.

Sandberg asked if it was being used as office space or if it was all residential.

Emenheiser replied that it was all apartments.

Sandberg added that the property acted as an important buffer for the district.

Piedmont-Smith made a motion to table Amendment 04, the as yet to be written Amendment 05, and consideration of the ordinance as a whole as amended until the next regular session in anticipation of conflict of the 10:30pm rule. She pointed out that there were many members of the public in the audience due to Resolution 16-03 which had yet to be introduced.

Ruff asked for a show of hands to see if anyone other than Mr. Register or his representative wanted to speak to the current amendment under consideration. He said that he thought they were close to winding things up.

Piedmont-Smith reminded President Ruff that she made a motion. The motion was seconded.

Rollo asked for clarification on the schedule on April 6, 2016.

Chopra said that she thought postponing action was a good idea for a variety of reasons, including a flawed ordinance.

Ruff asked staff if the ordinance problem had been cleared up.

Sherman responded that he had written an amendment to fix the error that listed a contributing property as non-contributing.

The motion to table Amendment 04, the as yet to be written Amendment 05, and consideration of the ordinance as a whole as amended until the next regular session in anticipation of conflict of the 10:30pm rule received a roll call vote of Ayes: 2, Nays: 6.

Public Comment:

Jim Register, the court appointed receiver for the property, spoke in favor of the amendment. He discussed the lack of notice to himself, and that the proposed district included a parking lot that all of his properties used.

David Keppel urged the council to reject the amendment because of the need for buffers.

David Jurkiewicz, counsel for the receivership, spoke and said that he thought the error in listing the property as non-contributing instead of contributing impaired their ability to properly prepare for presentation to the council.

Rachid Maldi spoke again and said that he was torn as to what he thought the council should do in regards of this amendment.

Duncan Campbell spoke again and said that this property was a critical piece as a boundary for the district. He apologized to Mr. Regester for not notifying him, but said that it was a key location that needed to be in the district. Ordinance 16-03 (cont'd)

Ruff asked the Council Attorney if the error of listing the property incorrectly impacting the presentation to the council could undermine any council action.

Sherman replied that he would go back to the SHAARD, and that the city could correct the ordinance that evening.

Ruff asked for clarification as to whether it would create a legal issue.

Sherman replied that he did not have a good answer, but that he thought the council could proceed with some comfort that they would survive a legal challenge.

Ruff then asked staff if he thought it was fair to the property owners.

Mulvihill responded that she did not think that it was unfair. She said that under the ordinance they were required to give notice through publication in the paper, and to all property owners and adjacent property owners on the tax roll, which is what they did. They did not have notice of the receivership, which is why they did not give them notice. She reminded the council that legislative action did not require individual notice. She further added that because the council could decide to change the rating themselves, it did not make the change from non-contributing to contributing a fatal flaw in the legislation. She finished by asking council, if they chose to table the amendment, to take it up at the same time they reviewed Kirkwood Manor.

Chopra asked about the parking lot next to the property in the amendment, and whether it was identified specifically in the ordinance.

Mulvihill explained how parcels were identified in ordinances.

Rollo asked about the property owners intentions towards the structure if the amendment were granted.

Jim Regester replied that his current plans were merely to maintain the property, but he could not speak for any subsequent buyers of the property.

Piedmont-Smith asked staff what they found out about the parking lot.

Emenheiser responded that they found out that the lot was in the district. She added that she also sent notice to the tenants in the property as well.

Piedmont-Smith asked what the impact the parking lot had on the district.

Mulvihill responded that new construction on that parcel would require a certificate of appropriateness.

Chopra asked Emenheiser what would be appropriate as far as new construction went.

Emenheiser responded that the design guidelines would be done with owner input, and would fit the context and scale of the district.

Rollo asked for clarification as to what a buffer meant in terms of a historic district.

Mulvihill defined it as a protection, and gave an example.

Rollo asked why the house across the street was not included as a Ordinance 16-03 (cont'd) buffer.

Emenheiser responded that there had been so many alterations to the structure that it no longer acted as a buffer to the zone in the same way as 212 did.

Chopra asked if the fact that if 212 was not included would then allow a developer to fully develop a larger parcel ever discussed in the committee.

Emenheiser responded that it was.

Rollo asked how far the Fourth Street Festival Extended, and if it included the property under discussion.

Staff was not certain about how far it reached on Grant Street.

Council Comment:

Piedmont-Smith said that she thought the argument in favor of a buffer was very compelling. The property was one of several in receivership, and there was no interest in pursuing a stand-alone designation. She thought that its status as one of several properties owned by one entity put it at greater risk of being sold and razed to put in student housing, which would be out of character with the rest of the district.

Sandberg spoke about the importance of respecting the property owners, but also spoke about the importance of protecting historical properties and the importance of buffer zones. She emphasized that she meant no disrespect at all to Mr. Regester, whom she knew did incredible work in the community, but she thought it was important to include the property in the area.

Granger also spoke about the importance of buffers, and said that she would not support the amendment.

Ruff added that he solidly agreed with inclusion of the building in the district for the reasons discussed, and he thought the risk of a large building was a threat to the district. He noted that he was very uncomfortable with the statements that the property owner and representatives made about how they thought the property was designated, but he did not know how to change things.

Sturbaum clarified that the property was listed in the SHAARD, and was searchable by any research. He said that it was important as a buffer.

Ruff finished by saying that there was no way they could have known all of the arguments the owners would have brought forth.

Piedmont-Smith pointed out that the amendment was proposed and distributed after the meeting began, so she did not see that the council had infringed on their right to contest their inclusion in the district.

Amendment 04 received a roll call vote of Ayes: 3, Nays: 5

Amendment 04 [10:58pm]

It was moved and seconded that Amendment 05 be adopted. This amendment was written to change the rating of 212 South Grant from non-contributing to contributing to reflect its status on the SHAARD.

Public Comment:

David Jurkiewicz for the receivership spoke again. He said that he thought this was a material difference between non-contributing and contributing and impaired the receiver’s ability to present his case. He hoped that maybe down the road they would be able to appeal his case.

Ordinance 16-03 (cont’d)

Council Comment:

Piedmont-Smith commented that she appreciated that this was a complicated ordinance, and that staff was busy, but she also noted that she was very disappointed that a mistake made it this far.

Amendment 05 received a roll call vote of Ayes: 8, Nays: 0

Amendment 05 [11:00pm]

Council Comment:

Sturbaum said that they were just doing this for the public and thanked everyone for being there.

Mayer thanked the HPC and their staff for the work they had done to get them to that point.

Chopra commented that she was excited to vote yes on this ordinance, and she recognized how important restaurant row was to the community.

Ruff also recognized the HPC and staff for moving quickly to protect the area once it fell off the SHAARD, and also for convening a meeting quickly to reconsider boundary discussion.

The motion to adopt Ordinance 16-03 as amended received a roll call vote of Ayes: 8, Nays: 0

Ordinance 16-03 vote [11:04pm]

It was moved and seconded that Resolution 16-03 be introduced and read by title and synopsis. Clerk Bolden read the legislation and synopsis. There was no committee recommendation.

Resolution 16-03 – Opposing Governor Pence’s Actions to Withhold Support from Syrian Refugees and Welcoming Syrian Refugees to our State and our Community. [11:05pm]

It was moved and seconded that Resolution 16-03 be adopted.

Piedmont-Smith read from the memo that was sent out in the council packet, which is attached to these minutes.

Denisa Jashari spoke as one of the drafters of the resolution. Her words were as follows:

“Good evening!

My name is Denisa Jashari and I am one of the drafters of Resolution 16-03: Opposing Governor Pence's Actions to Withhold Support From Syrian Refugees and Welcoming Syrian Refugees to Our State and Our Community.

As an Albanian immigrant who has been living in this country since 2000, I feel particularly close to the Syrian refugee crisis. My family moved to the US following internal political, social, and economic turmoil in our home country, but our journey was far from onerous. After all, who would vote to turn us away? Our “whiteness” and our coming from a place we claimed belongs firmly within Europe protected us from the more pernicious and xenophobic rhetoric and violence immigrants and refugees from other parts of the world have faced and continue to face.

And yet, historically speaking, we know that time and time again, migrant populations fleeing wars and instability have been looked upon with suspicion, if not outright rejection, by US citizens, media, and politicians. A poll conducted by Gallup’s American Institute of Public Opinion in January 1939 reveals that at that time, two-thirds of Americans polled indicated that they would NOT take in 10,000 German Jewish refugee children. This poll took place well AFTER the Kristallnacht, or anti-Jewish pogroms in Nazi controlled areas. What’s worse, In June of that same year, the SS St. Lewis, a ship carrying Jewish

refugees, was turned AWAY in Florida, only to face concentration camps and extermination in Nazi Germany. So why am I bringing up the past? After all, have we not learned anything from these dark moments in US history? The authors of the book *Refugees in an Age of Genocide* claim that TODAY "refugees from Nazism are now widely and popularly perceived as genuine, but at the time German, Austrian, and Czechoslovakian Jews were treated with ambivalence and outright hostility" and even some sympathy. Although the historical context of Jewish refugees and that of today's Syrian population is different, there are stark similarities and lessons to be drawn. Our present moment requires that we think critically about our past. When politicians call for patrolling Muslim neighborhoods, when Mosques, such as the one in Plainfield Indiana, get vandalized, when Muslim children and women face threats and violent attacks, we know that it is time to stand up. In fact, it's long overdue.

Centuries of US and other Western countries imperialist interventions into the Middle East have contributed to producing a large body of Orientalist discourses, images, and ideas about the people of the Middle East, and about Muslims in particular. More recently, the moral panic generated by US politicians and the media regarding the possible threat of security that supposedly the presence of Syrian refugees would bring, has generated a consensus for governing through fear. This production of fear has debilitating impacts on vulnerable populations such as the Syrian refugees, and on the functioning of democracy at large. The production of fear depends on churning up or re-inventing harmful stereotypes about certain populations that are labeled as "dangerous," "threatening," "uncivilized," or otherwise "too different from "us." Stereotypes about threatening "others" dominate US discourse on migration, refugees, and foreign and domestic policy. This in turn fuels funding for further militarization and constricting state budgets on education, healthcare, and other social services. This discourse converts Syrians, Muslims, or historical "others" into scapegoats for bigger societal issues.

The production of fear, and governing through fear and intimidation stifle nuanced and critical public discussions, limit freedom of expression, and produce conformity in the citizenry. Such forms of rule target innocent populations, erode our humanity, and threaten the productive functioning of a democratic society. As this resolution suggests, we must not trade our humanity for the false notion of security. It is our duty to welcome Syrian refugees to our state and to ensure their safe transition. And I hope you will support us in our efforts to do so.

I now leave you with a section from a poem called "Home" by Warsan Shire, a Kenyan-born Somali poet, writer and educator based in London.

'I want to go home,
but home is the mouth of a shark
home is the barrel of the gun
and no one would leave home
unless home chased you to the shore
unless home told you
to quicken your legs
leave your clothes behind
crawl through the desert
wade through the oceans
drown
save
be hunger
beg
forget pride
your survival is more important
no one leaves home until home is a sweaty voice in your ear
saying-
leave,
run away from me now
I don't know what I've become
but I know that anywhere
is safer than here' "

Amanda Lanzillo, another drafter, spoke next. Her words are as follows:

"My name is Amanda Lanzillo and I am very pleased to be here today to speak about the current Syrian refugee crisis and its position within American political and media rhetoric. The United Nations Commission on Refugees estimates that as of this month close to 5 million Syrian

Resolution 16-03 (cont'd)

refugees have been registered in Egypt, Iraq, Jordan, Lebanon, Turkey and North Africa. This, of course, does not include internally displaced people, estimated at 6.5 million, who have been forced to flee their homes in Syria but have not been able to afford to leave the country.

Before discussing our collective responsibility to these individuals we should note why they have fled: The Syrian Civil War began in Spring 2011, when the regime of Bashar al-Assad violently suppressed peaceful citizen protestors who demanded democratic reforms. The conflict devolved into a Civil War between the Assad regime and opposition forces, that escalated as foreign powers began to intervene on either side. In 2013, the Islamic State, or DAESH, became a prominent combatant in the conflict, fighting the government but also terrorizing local anti-Assad forces and civilians who opposed its brutal rule. By summer 2014, DAESH controlled approximately 1/3 of Syrian territory.

The conflict has directly claimed the lives of a quarter of a million people, and nearly a million more have been wounded. It has lowered Syrian life expectancy by twenty years.

Syrian refugees have no option but to flee. Becoming a refugee, fleeing the only place you've ever known to undertake a dangerous journey to a land where you know no one and may not speak the language is not a decision taken by people with other options. And yet, American political rhetoric, and the rhetoric of Governor Mike Pence in particular, depicts Syrian refugees as a security concern, as a group of people who want to come here not because their lives in their home country have been destroyed, but because they wish to hurt us.

This could not be further from the truth. Even if one of the combatants from the civil war hoped to enter the United States under false pretenses, he or she would face approximately two years of UN and US Department of Homeland Security examinations and background checks. Even the majority of individuals who meet US and international refugee qualifications are not admitted to this country. This fiscal year, the US will accept 10,000 Syrian refugees. This is a miniscule figure compared to the number of people fleeing Syria. Canada pledged to accept more than twice this number within a similar period of time, and even this greatly pales in comparison to the number of refugees who have fled to countries neighboring Syria. The 10,000 refugees that the US will accept are mostly women and children, and they are only a tiny drop in the bucket of the larger refugee crisis.

The current Republican front runner for President of the United States has suggested that we should not accept Muslim refugees, immigrants, and even visitors to the United States "until we can figure out what is going on over there." Leaving aside the numerous constitutional and logical problems with this statement, we know quite well what is going on in Syria. We know that Syrian refugees have no choice but to flee, that their lives and livelihoods have been destroyed by DAESH and the other military forces in their homeland, and that they are seeking a better life for their families.

We must extend Hoosier Hospitality to Syrian immigrants. Not only must we accept Syrian immigrants who are sent to Indiana, we must ensure that they have the opportunity to live a full life here. Mike Pence's proposal to deprive Syrian refugees of services is both illegal and morally callous. According to the recent injunction, Mike Pence's proposal to deprive Syrian refugees of government services violates the due process clause of the 14th Amendment. Moreover, it does greater harm to people who have already suffered the violence of one of the most destructive Civil Wars of this century."

Last, Julia Strzeszkowski, another drafter, spoke to the council. Her words and descriptions of her slides are as follows:

"Hi everyone, I am Julia. I'll briefly discuss the petition for injunctive relief filed by the ACLU of Indiana against the Governor. One aim of this resolution is to oppose the Governor's decision to withhold reimbursement from Exodus Refugee Immigration, INC. for providing social service programs to refugees fleeing Syria. These include specifically "cultural integration training, job skills training, and adult English language training." I'll give a timeline of events and a bit of background about the case and explain the Court's rationale for deciding to grant injunctive relief. I'll also conclude our presentation with a few facts about the economic benefits of refugees.

*slide Here is the timeline for recent events regarding Syrian refugees in Indiana. After the Paris attacks in November, the governor said he would suspend Syrian refugee resettlement in Indiana. One family originally to be resettled in Indiana was instead resettled in Connecticut, but since the Governor's order, at least one family from Syria has been resettled in Indiana.

In November the ACLU of Indiana filed suit against the governor for his decision to try to bar refugee resettlement in Indiana. Throughout litigation and the filing process, the exact aims of the Governor became clear. He cannot block the resettlement of refugees per se—because regardless of his directive, a family was resettled here anyway—so instead will not reimburse federal dollars to agencies like Exodus for social service programs, like adult English lessons and cultural integration training.

Through the State Plan determined in accordance with the Refugee Act of 1980, Indiana receives grants from the federal government to provide services to refugees. These include SNAP, Medicaid, TANF, school assistance, and the aforementioned social service programs provided by agencies, like Exodus. The state will continue to provide funds for refugees to receive SNAP, Medicaid, TANF and other school/job assistance. However, the opinion writes, "Such services... are not the same as the social services provided by Exodus, and as such, are not an adequate substitute for the employment and language training Exodus's clients' need." If Exodus cannot receive reimbursement for these programs, then it will have to divert funds away from other programs, which will hurt the agency and other families.

The Court granted preliminary injunctive relief, ruling that denying the reimbursement of these social programs to only Syrian refugees poses an irreparable financial harm on Exodus and is discrimination based on national origin.

Discrimination cases are decided via the 14 Amendment. *slide , which says "nor shall any state deprive any person of life, liberty, or property, without due process of law; **nor deny to any person within its jurisdiction the equal protection of the laws.**"

The opinion reads, "It is treating refugees who originate from Syria differently than those from other countries. If this is not national origin discrimination, the Court does not know what is."

When deciding cases of discrimination using the 14th Amendment, strict scrutiny applies, which basically means you need a pretty good reason to do so.

The government cites security for its citizens as the reason for discrimination. The state hopes that by not funding these specific programs, agencies will be deterred from resettling Syrian refugees in Indiana. That has not happened—and will not happen. Since the state government does not have the power to decide who can be resettled in the United States and where, agencies will continue to resettle refugees regardless of the Governor's wishes. By denying funding for social service programs like language training, the state is not furthering any security interests. Rather, it is engaging in unfair and unjustified discrimination.

Moreover, refugees are the single most thoroughly vetted group of immigrants coming into this country. As the opinion states, the vetting "process includes the collection of information from the refugees, security screenings at the direction of the Department of State and the Department of Homeland Security, and health screenings. The approval process for refugees through PRM usually takes eighteen to twenty-four months. ... Former Secretary of Homeland Security Janet Napolitano ... attests that all refugees 'who have been admitted to the United States have passed through the highest levels of scrutiny from a law enforcement and national security perspective,'."

I will conclude by very quickly touching upon the economic benefits of refugees to their host communities.

A study published by Chmura Economics & Analytics looked at the impact of refugees in the Cleveland area. The study concludes that while \$4.8

million was spent on refugees in 2012, the positive impact on the community was \$48 million, which is a multiplier of 10. This means for every dollar Cleveland spent on resettling and supporting refugees, it received \$10 in return. Refugee resettlement also encouraged 650 jobs.

Resolution 16-03 (cont'd)

As the report says, "Research supports evidence that refugees are highly motivated and wish to give back to their host country. Refugees are more likely to be entrepreneurial and enjoy higher rates of successful business ventures compared to natives."

Similarly in 2014, the Refugee Studies Center at the University of Oxford published a study looking at refugees' impact in Uganda. It found that refugees aren't a burden economically, but actually increase the economies of host countries by spending. It writes, "One of the most visible ways in which refugees directly contribute to the Ugandan host economy is by exercising their purchasing power. Refugees are regular customers for Ugandan businesses, both in Kampala and the settlement areas.... Refugees contribute to the host economy of Uganda not only through buying and selling, but also by creating employment." This graph shows refugees' employment, which is often via other refugees. And this graph shows that a good percentage of refugees are employing other people in their communities, including non-refugees from the host country.

So, with that, we'll conclude our presentation and answer any questions you have. Thank you everyone for being here and to the Council for considering this resolution."

Public Comment:

David Keppel spoke in favor of the resolution.

Rashid Maidi spoke again and said that he was very disappointed with our Governor.

Purnima Bose thanked the council and the young women who spoke. Asked the council to support the resolution.

Dana Khabbaz, an IU student of Syrian background spoke and said that it could have been her. She recognized the privilege of her place, and spoke in favor of the resolution.

Kathleen De Onis thanked those who made the resolution possible, and said that she was there to strongly support the resolution.

Natalie Levin spoke in favor of the resolution.

Council Questions:

Rollo asked what the drafters would do if the resolution passed that evening.

Jashari spoke about the various outreach programs that the women were involved in and planning.

Rollo asked them to come back, because Bloomington was a good community, and they would not have to wait four or five hours to speak.

Strzeszkowski added that one of their goals was to expand their outreach to the community, so they would keep looking to be in public spaces.

Council Comment:

Piedmont-Smith thought that the article from that day's newspaper covering the attacks in Brussels contained some quotes that applied well to the resolution. She read the comments, and finished by saying that we needed to meet hatred and fear with love.

Sandberg said that it was humbling and a privilege to have the resolution brought to them by such intelligent and hardworking students at Indiana University. She noted that we were all blessed to live in a community that was anchored by an institution of higher learning. She addressed the criticism that the council faced when they brought forward resolutions such as this one. She stated that the council takes the work very seriously, and viewed speaking to world events as doing the work of the city. She said that it was a well-written piece, and spoke highly of council staff in its production.

Resolution 16-03 (cont'd)

Granger added that she was boggled when people said that what happened out in the world did not matter in the city. She said that we were all connected, all human, and she was proud of the students who brought it forward, her colleagues, and all who stayed.

Sturbaum said that sometimes our Governor made us embarrassed and sometimes he made us ashamed. He said that we should live up to the ideas and promise of America. He thanked them for bringing the resolution forward.

Mayer said that the council brings forward issues that have city, state, national, or international impact. He said that he has always supported doing so, and it had been part of the council culture since the late sixties. He thanked the sponsors and all of those who helped to put the resolution together. He thought that it was important to discuss and get out to other people. He referred to an article in the New York Times, and said that Bloomington is more flexible than the town featured in the article.

Rollo thanked the students for their presentation and everyone for staying. He said that seeing people come out in support of the resolution made him feel happiness and strength. He said that he supported the resolution, and he felt a responsibility as an American to hold our government responsible for the part we have played in the ongoing crisis.

Chopra said that she was going to vote yes on the motion, and that she was going to dedicate that vote to her intelligent, beautiful sister-in-law, Suzanne Zoheri Chopra, whom she loved very much.

Ruff added that he found it easy to slip into feelings of despair over the state of the world. He thought that things like the resolution gave him hope for the future. He agreed with Piedmont-Smith that the answer to the fear and ugliness was love and understanding and acceptance. He was thrilled that the community and his colleagues put together this action over fear, blame and prejudice.

The motion to adopt Resolution 16-03 received a roll call vote of Ayes: 8, Nays: 0

Resolution 16-03 vote [12:08am]

LEGISLATION FOR FIRST READING

Appropriation Ordinance 16-02 – Additional Appropriation for Bloomington Transportation Corporation for 2016 (For New Transit Buses, Hardware/Software, and a Truck)

Appropriation Ordinance 16-02
[12:09am]

Ordinance 16-04 - To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code - Re: Amending 20.09.230 ("Demolition and Demolition Delay") and 20.11.020 ("Defined Words") to Expedite the Review of Partial Demolition Requests for "Contributing" Structures in Residential Zoning Districts

Ordinance 16-04
[12:10]

There were no comments in this segment of the meeting.

ADDITIONAL PUBLIC COMMENT

It was moved and seconded to reschedule the Internal Work Session of March 24, 2016 at 12:00pm to April 1, 2016 at 12:00pm.

COUNCIL SCHEDULE [12:11am]

The motion was approved by a voice vote.

The meeting was adjourned at 12:13am.

ADJOURNMENT

APPROVE:

ATTEST:


Andy Ruff, PRESIDENT
Bloomington Common Council


Nicole Bolden, CLERK
City of Bloomington