

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, March 7, 2018 at 6:30pm with Council President Dorothy Granger presiding over the Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
March 7, 2018

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

ROLL CALL  
[6:30pm]

Council President Dorothy Granger gave a summary of the agenda.

AGENDA SUMMATION  
[6:32pm]

Councilmember Susan Sandberg moved and it was seconded to approve the minutes of February 7, 2018. The motion was approved by voice vote.

APPROVAL OF MINUTES [6:32pm]  
February 7, 2018 (Regular Session)

Councilmember Allison Chopra thanked a city employee named Robert who helped her when she had a flat tire.

REPORTS

- COUNCIL MEMBERS  
[6:34pm]

Councilmember Steve Volan thanked Brian Hancock of the Indiana University Student Association for organizing a forum between the City Council and students.

There were no reports from the Mayor or city offices.

- The MAYOR AND CITY OFFICES

There were no reports from Council Committees.

- COUNCIL COMMITTEES

There was no public comment.

- PUBLIC

Sandberg moved and it was seconded to appoint Laura Alford to the Commission on the Status of Children and Youth. The motion was approved by voice vote.

APPOINTMENTS TO BOARDS AND COMMISSIONS  
[6:36pm]

Volan moved and it was seconded to reappoint Eric Dockendorf to the Bloomington Digital Underground Advisory Committee. The motion was approved by voice vote.

Volan moved and it was seconded to appoint Trent Deckard to the Traffic Commission. The motion was approved by voice vote.

Volan moved and it was seconded to appoint Erica Walker, Zoe Need, and Morgan Taylor to the Environmental Commission. The motion was approved by voice vote.

Volan moved and it was seconded that Ordinance 18-01 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 READING AND RESOLUTIONS  
[6:37pm]

Volan moved and it was seconded that Ordinance 18-01 be adopted.

Ordinance 18-01 – To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code (BMC) – Re: Sidewalk Requirements and Sidewalk Variances Set Forth in BMC 20.05.010, 20.05.051, 20.09.130, 20.09.135 & 20.11.020

Jacque Scanlan, Interim Development Services Manager of the Planning and Transportation Department, presented the legislation.

Councilmember Isabel Piedmont-Smith asked why the city would want to negotiate right-of-way acquisition from someone who held a determinate sidewalk variance.

Dan Sherman, Council Attorney, suggested striking section one and revising it before adoption.

Council Questions:

Chopra asked how and why the Council Attorney was making suggestions regarding proposed legislation.

Sherman said his suggestions stemmed from his work as the administrator for the Council Sidewalk Committee.

Chopra asked if his suggestions were at the request of a councilmember.

Sherman said there were two amendments sponsored by a councilmember that stemmed from his comments the previous week.

Chopra asked if his suggestions were prompted by a councilmember or if he brought them forward on his own.

Sherman said he made the suggestions on his own.

Chopra said it seemed unusual to her for an attorney to weigh in on legislation and asked if it was normal.

Sherman said that it was unusual to have the administrator run a program and see its implications for actions in front of the Council.

Chopra asked if it was because of that particular program that Sherman had made suggestions on proposed legislation.

Sherman said that was correct.

Sturbaum said that both of the amendments were supposed to be sponsored by councilmembers and that he had discussed Sherman's proposals, which were based on some of Sturbaum's previous comments.

Volan asked if people who were required to install sidewalks under the home occupation section would be allowed to take the sidewalks out if that section were removed.

Scanlan said she would have to consult with the Legal Department.

Volan wondered if the intent was to allow removal.

Scanlan said the intent was to diminish large-scale up front expenses for people who might be starting businesses from their homes.

Councilmember Chris Sturbaum moved and it was seconded to adopt Amendment 01 to Ordinance 18-01.

Amendment 01 to Ordinance 18-01

Amendment 01 Synopsis: This amendment is sponsored by Councilmember Sturbaum and would delete Section 1 from Ord 18-01. According to Planning and Transportation staff, the primary effect of Section 1 would be to remove the requirement that sidewalks be included in site plans for all new single-family residences to be built on existing legal lots of record on neighborhood streets. The rationale for striking Section 1 (i.e. keeping the sidewalk requirement) is that the department should more carefully explore how the private sector might be enlisted in the effort to install these neighborhood sidewalks before proposing eliminating this existing sidewalk obligation.

Sturbaum explained the amendment to the Council.

Chopra asked staff for a response to the amendment.

Scanlan asked the Council to refrain from passing the amendment.

Sandberg asked if the section was in response to a perceived hardship for homeowners.

Scanlan said yes, in some cases.

Sandberg asked if installing a sidewalk cost approximately five to six thousand dollars.

Amendment 01 to Ordinance 18-01  
(cont'd)

Scanlan said the cost, based on a 60-foot frontage with ideal conditions (which was not typical), was about two to three thousand dollars.

Piedmont-Smith asked how many items on the Council Sidewalk Committee priority list fell into the category of single-family infill development on neighborhood streets.

Sherman said about 40% of the priority list included projects on neighborhood streets.

Scanlan said there were 24 lots and nine half lots.

Piedmont-Smith asked how many of those lots were in the Bryan Park neighborhood.

Scanlan said eight or nine.

Sturbaum asked if the ideal was to grant determinate variances to people rather than force them to build a sidewalk.

Scanlan said the existing regulations had become more cumbersome. She said that staff felt it was appropriate to exempt that type of development.

Sturbaum asked if the amendment was a cleaner way to maintain the determinate variance.

Scanlan said they were not getting rid of determinate sidewalk variances.

Volan asked if local roads and neighborhood streets were the same thing.

Scanlan said they were.

Volan asked if granting the amendment would mean that the Alternative Transportation standards would apply to all site plans.

Scanlan said it would.

Volan asked if the ordinance was meant to exempt local roads from having put in sidewalks for the occasional house without sidewalks.

Scanlan said that was correct.

Volan said he did not understand the problem the amendment was meant to correct.

Sturbaum said the point of easing the criteria was to reduce the burden on citizens.

Councilmember Andy Ruff asked if the city would be able to use a pedestrian easement for any other purpose.

Scanlan said that she did not think so.

Piedmont-Smith asked how a property owner could obtain a determinate variance.

Scanlan said owners would have to pay a \$100 fee, meet with a city planner, write a petitioner's statement, notify the neighbors, and make an appearance at a public hearing. She said that if the variance was granted the owners would then have to record the agreement at the county recorder's office.

Piedmont-Smith asked if they had to go to the Board of Zoning Appeals (BZA) or if it could be the Hearing Officer.

Scanlan said that it could be the Hearing Officer.

Sandberg asked if there were standards for the sidewalks that were required to be installed.

Scanlan said historically the installations were somewhat piecemeal. She said the requirements were for a five foot sidewalk and a five-foot tree planting area, but they were not all standard.

Piedmont-Smith asked if it was always better to have a sidewalk than to not have a sidewalk. She gave an example where trees would have to be removed on a quiet, dead-end street in order to install a sidewalk.

Sturbaum said he could see maintaining those trees. He believed the city should ask for a determinate variance rather than not asking for them anymore.

Volan asked how Sturbaum's second amendment would be impacted if Amendment 01 was not approved and wondered why he did not prepare them together.

Sturbaum said the second amendment clarified the difference between the amendments and applied more broadly than Amendment 01.

Volan asked if there was a higher standard for getting a permanent waiver versus a determinate waiver.

Scanlan said that both required a public hearing with either the BZA or the Hearing Officer.

Volan asked why anyone would apply for a determinate waiver instead of a permanent one if one did not want to build a sidewalk.

Scanlan said that decision was made after discussions with staff and based on the characteristics of the lot.

Volan asked who authored the amendments.

Sherman said that he suggested the amendment, and Rollo offered to sponsor. Sherman said he thought the legislation was good from a planning perspective but questioned whether it was a good idea from a transportation perspective.

Chopra asked staff to clarify how the legislation was beneficial to everyone.

Scanlan said the legislation had been discussed for a couple of years. She said the Planning and Transportation Department had numerous conversations about the changes to the UDO.

Sandberg asked if Amendment 03 was compatible with Amendment 01 and Amendment 02.

Granger said Amendment 03 was not related to Amendment 02 at all. She said if Amendment 01 did not pass the proposal was to require someone to build a sidewalk if there was a sidewalk on either side of the lot.

Sturbaum read the synopsis for Amendment 01 to staff and asked if it was accurate.

Scanlan said that it was accurate.

Piedmont-Smith asked for clarification of an earlier statement that the legislation had been presented to the Bicycle and Pedestrian Safety Commission.

Scanlan noted that the Commission did not have a quorum on the night it was presented, so it did not issue an official response. She said that those in attendance were in support of the legislation.

Piedmont-Smith asked when its next meeting was.

Scanlan said that she would check and get back to the Council.

Piedmont-Smith asked when it was taken to the commission.

Scanlan said it was presented to the commission in December and had not been discussed at the next meeting.

Ruff asked why staff objected to the amendment.

Scanlan said that they did not think the requirement was necessary and that the cost burden on the homeowner was excessive in relation to community value. She noted that variances were not guaranteed and asking citizens to go through the process to get one was not worth the effort it entailed.

Ruff asked if staff concerns were for the homeowner while Council concerns were geared more toward the long term effects.

Scanlan said the city was trying to make the leap from the up-front costs to the end goals of the city. She noted that the city did not have the funds to install sidewalks on every street and wanted to balance the impacts of the law on the citizens.

Amendment 01 to Ordinance 18-01  
(cont'd)

Sturbaum said that not passing the amendment would be waiving any responsibility of a developer to put in a sidewalk. He said the amendment was an attempt to maintain commitments for future sidewalks that should have been built when the houses were built.

Council Comment:

Chopra said that she would not support the amendment. She said she trusted the administration's assessment and experience. She said she was willing to forgo a few patches of sidewalk.

Ruff said he appreciated the careful consideration that staff brought to the issue. He said that he appreciated the counsel of the Council Attorney and thought it was appropriate for him to have weighed in on the issue. He said he would follow the guidance of staff on the issue.

Volan said it was a complex problem. He said the discussion highlighted the logic of the merger of Planning and Transportation. He said that he had trouble supporting the amendment. He said he would prefer Amendment 03.

Sandberg said that it was a tough decision and she would vote no on the amendment.

Councilmember Jim Sims said that it was a difficult decision and he did not support the amendment.

Piedmont-Smith said that a determinate sidewalk variance was problematic because it was unclear when and why it could be called in. She said she understood Sturbaum's concerns. She stressed that it was important to enforce construction standards for all sidewalks even if the amendment did not pass. She encouraged staff to work on that issue. She said the burdens outweighed the benefits of the amendment and she would not vote for it.

The motion received a roll call vote of Ayes: 0, Nays: 6, Abstain: 2 (Sturbaum, Granger) FAILED.

Vote on Amendment 01 to  
Ordinance 18-01 [8:01pm]

Sturbaum said that he withdrew Amendment 02.

Granger moved and it was seconded to adopt Amendment 03 to Ordinance 18-01.

Amendment 03 to Ordinance 18-01

Amendment 03 Synopsis: This amendment is sponsored by Councilmember Granger. It would amend Section 1 to continue to require the installation of sidewalks for single family residences built on existing lots of records on neighborhood streets in those instances where there are pedestrian facilities adjacent to that lot.

Granger explained the amendment to the Council.

Amendment 03 to Ordinance 18-01  
(cont'd)

Scanlan said that staff did not have any objections to the amendment.

Volan asked if the picture of 1610 West 7<sup>th</sup> Street was the best illustration of the proposed change.

Council Questions:

Scanlan and Granger agreed that it was.

Chopra asked why Granger thought it was important to bring the amendment.

Granger said it would mitigate the "sidewalk to nowhere" and thought it would encourage others in neighborhoods to follow suit.

Volan asked how many other properties would fall under the proposed amendment.

Scanlan said that she was not certain, but of eleven projects the previous year, two would have been impacted by the amendment.

Chopra said she supported the amendment.

Council Comment:

Sims said that he supported the amendment.

The motion adopt Amendment 03 to Ordinance 18-01 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Vote on Amendment 03 to  
Ordinance 18-01 [8:07pm]

The motion to adopt Ordinance 18-01 as amended received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Vote on Ordinance 18-01 as  
amended [8:08pm]

#### LEGISLATION FOR FIRST READING

Volan moved and it was seconded that Ordinance 18-04 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 18-04 – To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code (BMC) - Re: Amending Fencing and Wall Standards and Some Related Definitions Set Forth in BMC 20.05.046(d) and BMC 20.11.020

Volan moved and it was seconded that Ordinance 18-06 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 18-06 – To Amend Title 16 of the Bloomington Municipal Code Entitled "Residential Rental Unit and Lodging Establishment Inspection Program" - Re: Repeal of Chapters 16.06 (Public Health and Safety), 16.07 (Smoke Detectors), 16.08 (Carbon Monoxide Detectors), and 16.09 (Fire Extinguishers)

Chopra moved and it was seconded to cancel the Internal Work Session scheduled for Friday, March 9, 2018. The motion was approved by voice vote.

COUNCIL SCHEDULE [8:10pm]

Chopra moved and it was seconded to hold a Committee of the Whole on March 21, 2018 and a Special Session on March 28, 2018. The motion was approved by voice vote.

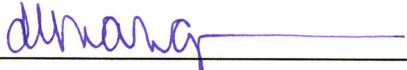
The meeting was adjourned at 8:20pm.

ADJOURNMENT

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this  
18<sup>th</sup> day of April, 2018.

APPROVE:

ATTEST:



Dorothy Granger, PRESIDENT  
Bloomington Common Council



Nicole Bolden, CLERK  
City of Bloomington