

In the Council Chambers of the Showers City Hall at a meeting held on Wednesday, March 19, 1997 at 7:30 PM with Council President Pizzo presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
MARCH 19, 1997

Roll Call: Banach, Cole, Pizzo, Service, Sabbagh, Sherman, Pierce.
Absent: Mayer and Young.

ROLL CALL

Council President Pizzo gave the Agenda Summation.

AGENDA SUMMATION

The minutes of February 26, 1997 were approved by a voice vote.

APPROVAL OF MINUTES

Banach congratulated Bloomington North and wished them luck as they progress. (BHS North Cougars are headed for the State Finals)

MESSAGES FROM
COUNCILMEMBERS

Cole reported on the recent National League of Cities meeting she attended. Basically the NLC agenda has to do with reducing the deficit, controlling entitlements, transportation planning, restructuring electrical utilities, and additional funding for education. She also attended meetings dealing with funding for the arts and just how well spent that money is.

Service thanked the mayors office for putting together the study and brochure on art as an economic factor. Over \$53 million is spent per year in our community on art. She commented on the "Government is the Problem" billboards and its positioning next to a Joe Camel cigarette ad and the absurdity of two boards.

Sabbagh also applauded BHS North and said that the departure of Michael DeNunzio from the Redevelopment Department is a real loss.

Sherman also thanked DeNunzio for the good job he has done, thanked the mayor for his extension of health care benefits to city employees/domestic partners, the increase of TCI rates for cable TV and he wondered just what we are getting for this rate increase.

Pierce said there will be an increase as of June 1 for cable TV and TCI will be at the next TCC meeting to explain this increase.

Mayor Fernandez also wished BHS North the best of luck in the state finals.

MESSAGES FROM THE
MAYOR
COUNCIL COMMITTEE
REPORTS

Sherman reported on the last meeting of the Solid Waste District Board and gave the most recent tonnages for recycling: The City is sending less tonnage to the landfill, despite recent annexations, and the recyclables levels are up!

It was moved and seconded and approved by a voice vote that the following appointments to Boards and Commission be made:

APPOINTMENTS TO
BOARD AND
COMMISSIONS

Bike & Ped Commission	Mike Gavin *
	Gayle Stuebe

*Reappointment

Sherman and the entire council thanked David Gerbig who has been a member of the commission and who is rotating off for this term.

It was moved and seconded that Ordinance 97-11 be introduced and read by title only. Clerk Williams read the ordinance by title only.

LEGISLATION FOR
SECOND READING/VOTE
ORDINANCE 97-11

It was moved and seconded that Ordinance 97-11 be adopted. The synopsis and committee recommendation of Do-Pass 8-0 was given.

Maureen Friel, Chairman of the Arts Commission, informed the council at last weeks meeting that the commission simply needs more help and more input for

the many tasks they are involved with.

Service said that membership on boards and commissions has varied over the years and that increasing it is simply a response to the demands and needs of the commission.

Cole thanked the mayor for the art survey and expressed her thanks to Maureen for all she has done with the commission and for the arts and all the commissioners for the tremendous job they do.

Friel thanked Dan Sherman for his help with writing the guidelines for the Percentage for the Arts Program.

The ordinance received a roll call vote of Ayes:7, Nays:0

ORDINANCE 97-10

It was moved and seconded that Ordinance 97-10 be introduced and read by title only. Clerk Williams read the ordinance by title only.

It was moved and seconded that Ordinance 97-10 be adopted. The synopsis and committee recommendation of Do-Pass 0-4-4 was given.

Clerk Williams announced that this is a legally advertised public hearing, that adjacent property owners have been notified and we have received 3 letters of objection to this vacation.

Lynne Friedmeyer, Planning Department, presented a brief overview of the site and the ROW vacation petition for a 12' paved E-W alley. There were no objections from utilities as long as it was confirmed that easements would exist. The Board of Public Works denied the vacation request and urged the petitioner to request a ROW encroachment request. Friedmeyer showed overhead projections of the changed plan (changed from last weeks committee of the whole meeting) with the improvements that the petitioner had made with traffic flow changes, landscape buffers, and reconfigureing the cut on Walnut. It still does not meet zoning code compliance of a 25' buffer toward the back but it is an improvement from last week. Last week it was asked if the Board of Public Works has to notify the petitioner of their meeting. The BPW is required to place a notice in the newspaper. They are not required to notify any of the petitioners that come before them. The petitioner was not notified of the BPW meeting and the board is not required to do so. She clarified that the land north and south of the alley is leased by Johnson Oil Company, they do not own it. The criteria for vacation has not been met: namely, the possible future need/use for the property that might be necessary; it does not meet the 25' set back requirements; the corridor plan for Walnut St discusses the need for alleys and their importance to the corridor; and, lastly this does not serve an overwhelming public good. She talked about the city having to buy back 5 earlier vacated parcels that had received approvals.

Sherman wondered how the BPW could support an encroachment rather than a vacation.

Don Hastlings, Planning Director, said on one hand that is true, however there are clear adverse impacts and an encroachment would still have to go through the BZA process.

Sherman continued with his question and the discussion with Hastings continued.

Jim Bohrer, representing the petitioner, said that revisions and concessions have been made by the petitioners in response to last weeks meeting. One Walnut St access has been pulled back, a two way has become a one way, addresses

neighbors concerns, a stacked stone wall barrier, plantings and rerouting the traffic patterns will be a major improvement in this plan. Car washes are a permitted use in the BA zone and that is not the issue here, the issue is an alley vacation. He argued that the alley is not being used now and the public benefit is met because when this is a unified development rather than an unused vacant lot and alley, new dollars into the community and help replace some of the tax dollars lost because of Thomson and this will help. This plan allows the parcel to be used in its highest and best possible use, not just for the petitioner but also for the city. Bohrer said that Johnson Oil Co owns the vacant parcel and leases the property on which the Big Foot currently stands.

Randy Lloyd, Public Works Board member was available for questions and said that they would entertain an encroachment proposal on its merits and that option was always available to the petitioner.

Banach asked about the economic benefits of the proposed uses, and Lloyd said that the city sees much higher costs in trying to buy back rights of way than we do in gains from taxes as a result of vacations. Alleys are an integral part of the urban setting and great care has to be taken regarding vacations requests.

Susan Flanney, an adjacent property owner, objected to the car wash, the noise, the light and makes Washington St. a less desirable area for owner occupied houses.

Marilyn Hartman, representing Doug Horn, also a property owner, said that the fact that there is not a common ownership of the property at this time, the notion that the two properties might have a unitary use are not completely clear.

Doug Horn, raised several points, namely the traffic problems that would occur in the southbound turn lane on Walnut St. and how the stacking lane, with 20' per car, could only hold one stacked car. With the new plan, there would be no stacking spaces at all. He also raised property ownership questions and he noted that after checking at the Records Office no options or commercial leases have been recorded for that tract. He discussed other possible outcomes of a vacation if this plan fell through, the vacation would be approved and we would be "stuck" with a vacated alley and a plan that we might not want.

Service did not see what the public gain was with this request for a car wash and the Thomson argument should be saved for other petitioners. A car wash is just not the highest level of use for the area in general. An encroachment can be undone, if the use changes; that is not the case with vacations.

Cole said she would not support the vacation and something needs to be designed to fit in the existing space.

Sabbagh said this should be at the Planning Department level and while giving away public land does not bother him, but what bothers him is zoning issues that he can't consider but has to. We have to follow the code and people have the right to expect us to do that.

Sherman said this is a reasonable use for this land and if the vacation was already approved he would agree to a variance. He said he would support the ordinance.

Banach agreed with Sherman.

The ordinance received a roll call vote of Ayes:2 (Sherman, Banach), Nays:5.
The ordinance failed.

It was moved and seconded that Ordinance 97-12 be introduced and read by title only. Clerk Williams read the ordinance by title only. ORDINANCE 97-12

It was moved and seconded that Ordinance 97-12 be adopted. The synopsis and committee recommendation of Do-Pass 4-4-0 was given.

Jeff Stone, Co-Chair of the Housing Trust Fund Board, addressed the proposed amendment that will be considered by the council, namely that one half of the funds will be set aside for permanent affordability and the other half would be for projects that would be affordable for at least 10 years. The amendment also includes a requirement that assurances as well as penalties and disincentives be used to ensure compliance with the specified period of affordability.

It was moved and seconded that Amendment #1 be considered by the council. Service read the amendment (as explained by Stone) in its entirety.

Melanie Green was pleased that the amendment has been agreed upon by compromise and she thought that it would be good for this program. This program can work in conjunction with other programs, like Housing Solutions and the Land Trust, HUD and Habitat. Money and resources are difficult to keep and hoped that this board could effectively fill in where there are gaps in the current programs.

Toby Strout supported the compromise amendment but directed her comments to the Housing Trust Fund Board and the importance of the council keeping a strong oversight of the board activities. She expressed concern about the board maintaining the permanent affordability and said that until the board knew the council would not support this ordinance without this amendment because the focus of the original ordinance called for permanent affordability. Her concern is that the board itself was trying to undermine the purpose of the board as constituted by the council/ordinance.

Eleanor Morton also supported the amendment and said she was concerned that the board seemed to be focusing on home ownership exclusively as there are a lot of older people who need housing but do not want the responsibilities of home ownership.

Tim Henke also supported the amendment saying that it accomplishes the goal of home ownership, and that the ordinance is intended to state the minimum standards and the boards own programs should strive to get the maximum affordability out of every dollar that is given out.

Service asked if the reversion of the set aside for the non profit after a year is automatic. Doris Sims said it is automatic. Service reviewed the original ordinance process and the permanent affordability was definitely a "sticky" issue. The council determined that they wanted something that would keep the housing stock available and there was concern that the board had gone in what could only be described as the opposite direction.

Cole supported the amendment acknowledging that a board that the council created was going to make decisions, and those debates are healthy and very much a part of the democratic process in working toward a consensus.

Sabbagh said the use of public funds always has connecting strings attached, he hoped for a better compromise, but this will get affordable housing out there, and it may be necessary to amend this in the future.

Pizzo reminded everyone that the board has met regularly, this issue was discussed along with conflict of interest concerns and he denied that this board was trying to undermine the intention of the council/board. Permanent

affordability was discussed and there was concern that it might limit the leveraging of funds, it was just discussed - no vote was ever taken - and it was tabled over and over again. All of this was done in good faith and in an attempt to satisfy the purpose of the fund.

The amendment received a roll call vote of Ayes:7, Nays:0.

Sherman gave a brief history of the trust fund concept, the COIT advance that funded it originally, that perhaps the council would designate additional funds each year and now here we are with this same money, no additional funds have been appropriated and maybe it was a mistake. Maybe we need to consider this at budget time and he vowed to bring it up when that time arrives.

Pizzo said it is hard to leverage the funds locally. He has talked with state legislators but so far there is no new legislation to address this ongoing need.

The ordinance, as amended, received a roll call vote of Ayes:7, Nays:0.

It was moved and seconded that the following legislation be introduced and read by title only by the Clerk for First Reading. Clerk Williams read the legislation by title only.

LEGISLATION FOR FIRST
READING
ORDINANCE 97-13

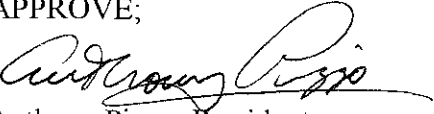
Ordinance 97-13 To Amend Title 20 of the BMC Entitled," Zoning" (Defining and Regulating "Brewpubs and Breweries").

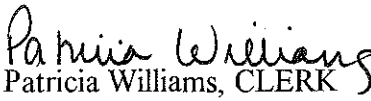
There were no comments from the public.
The meeting adjourned at 9:50 pm

PUBLIC COMMENTS
ADJOURNMENT

APPROVE;

ATTEST;


Anthony Pizzo, President
Bloomington Common Council


Patricia Williams, CLERK
City of Bloomington