

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, September 13, 2023 at 6:30pm, Council President Sue Sgambelluri presided over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
September 13, 2023

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Kate Rosenbarger, Dave Rollo, Susan Sandberg, Sue Sgambelluri, Jim Sims, Stephen Volan
Councilmembers present via Zoom: none
Councilmembers absent: Ron Smith

ROLL CALL [6:30pm]

Council Vice President Isabel Piedmont-Smith gave a land and labor acknowledgement and Council President Sue Sgambelluri summarized the agenda.

AGENDA SUMMATION
[6:30pm]

Rollo moved and Sims seconded to approve the minutes of December 07, 2022. The motion was approved by voice vote.

APPROVAL OF MINUTES
[6:33pm]
• December 07, 2022
(Regular Session)

Rosenbarger said it was brought to her attention that amongst residents, police officers were ignoring the no turn on red signs and turning right on red. She urged drivers to abide by the rules, especially public servants.

REPORTS [6:34pm]
• COUNCIL MEMBERS

Piedmont-Smith mentioned that she, Rosenbarger, and Flaherty were at the Local Progress national convening and would report the following week.

Sandberg noted her and Rollo's upcoming joint constituent meeting.

Volan spoke about an incident the previous year when a Black graduate student, Moses Barrio, Jr., left the Student Recreation Center parking lot and tried to pay the \$3 fee with cash, but only cards were accepted. The attendant allowed Barrio to leave and told him to return with a card. The attendant also called Indiana University police who violently confronted and arrested Barrio in his apartment parking lot. Volan questioned the attendant's and police officer's decisions and behavior. He commented that the confrontation was not necessary, especially over a \$3.00 charge. There was a lawsuit and settlement on the incident.

There were no reports from the mayor and city offices.

• The MAYOR AND CITY
OFFICES [6:38pm]

There were no reports from council committees.

• COUNCIL
COMMITTEES
[6:39pm]

Daryl Ruble spoke in favor of police and against abortion.

• PUBLIC [6:39pm]

Carole Canfield commented against replacing parking lots for apartment buildings and accessible parking spaces.

Alex Goodlad discussed the PRIDE parade, street closures, against not allowing tents in public parks, the unhoused population, and having a winter shelter.

Susan Brackney spoke about the Bloomington gateway at Millers Showers park and against the proposed monolith.

There were no appointments to boards and commissions.

APPOINTMENTS TO
BOARDS AND
COMMISSIONS [6:58pm]

LEGISLATION FOR
SECOND READING AND
RESOLUTIONS [6:59pm]

Rollo moved and Piedmont-Smith seconded that Ordinance 23-21 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Nicole Bolden read the legislation by title and synopsis.

Ordinance 23-21- To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic," Re: Amending Section 15.32.150 to Remove the Four Hour Limit on All Accessible Spaces [6:59pm]

Rollo moved and Piedmont-Smith seconded that Ordinance 23-21 be adopted.

Audrey Brittingham, Assistant City Attorney, presented the legislation and stated that having a time limit on accessible parking spaces, while there was no limit for other spaces, was disparate and inequitable. The legislation rectified that inequity.

Council questions:

Public comment:

There were no council questions.

Carole Canfield spoke in favor of Ordinance 23-21.

Council comments:

There were no council comments.

The vote to adopt Ordinance 23-21 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 0.

Vote to adopt [7:02pm]

Rollo moved and Piedmont-Smith seconded that Ordinance 23-20 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Ordinance 23-20 - To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks, and Storm Sewers," Re: Establishing a New Section 12.04.130, Entitled "Obstructing the right-of-way" [7:02pm]

Rollo moved and Piedmont-Smith seconded that Ordinance 23-20 be adopted.

Michael Rouker, City Attorney, presented the legislation which was based on Indianapolis' ordinances and was unanimously endorsed by the Board of Public Works (BPW). He explained rights of way and obstructions. He noted that police could not assist with removal of obstructions without a more specific section in city code. He provided an example and said how a right of way was considered obstructed. The city first gave members of the public an opportunity to remove the obstruction.

Council questions:

Sims asked about scooters as obstructions.

Rouker said scooters were covered under far more explicit policies. The city had placed sixty eight corrals for parking, and notices of violations were sent to scooter companies. There were three temporary, part time employees monitoring, and remedying, violations. In January there would be two full time employees monitoring.

Sims asked how the legislation applied all around town.

Rouker stated that it applied to all city right of ways.

Piedmont-Smith noted that scooter enforcement by the city had begun five years after arriving to Bloomington. She asked about continued violations by scooter users and why that was not prioritized over something like an unhoued individual blocking a sidewalk.

Rouker responded that neither should be prioritized. The city needed a mechanism in place to remove obstructions if needed. He clarified that the monitoring and remedying of scooter violations was new, and should help alleviate the obstruction by scooters.

Piedmont-Smith asked what prompted the legislation and how often there were obstructions that were not scooters.

Rouker said that it was discovered that the city could not remove an obstruction because it was not covered in code. It was against the American

with Disabilities Act (ADA) to have obstructions, like a table, on a city right of way. He did not have exact numbers on scooter obstructions versus other types of obstructions.

Ordinance 23-20 (cont'd)

Council questions:

Piedmont-Smith asked how many times in the last year there had been an obstruction on a city right of way, where the individual did not remove the obstruction when asked to do so.

Rouker was only aware of one single incident, but there could have been many more. He said the main point was to have something in code that allowed the city to clear right of ways. Staff looked at other cities' policies.

Rollo asked about trash and recycling bins blocking sidewalks.

Rouker said Ordinance 23-20 could address that violation. He commented on enforcement and the difficulty in keeping all city right of ways completely clear of obstructions. He gave examples.

Rosenbarger discussed the abundant feedback from the community about the ongoing problem of bins blocking sidewalks. She asked if a fiscal impact statement had been done. She noted how important it was to enforce that all sidewalks be clear at all times.

Rouker responded that areas that were more remote tended to not be reported to the city. The city was more readily made aware of obstructions in the downtown. He said council could work with the administration to have sufficient staff to enforce clear sidewalks.

Flaherty asked if there was a fiscal impact statement.

Rouker understood that Ordinance 23-20 would not have a fiscal impact.

Flaherty asked about the process if someone called the city about bins blocking a sidewalk.

Rouker said the first step was to contact the person to remove the obstruction. The next step would be to have staff remove the obstruction, and was typically Public Works staff.

Volan asked if the city required that bins be placed on the sidewalk.

Rouker stated that he did not immediately know and would research it. There was additional discussion on bins, sidewalks, and obstructions.

Sgambelluri asked for clarification on why current regulations were not sufficient and Ordinance 23-20 was needed.

Rouker clarified that the purpose was to more specifically state when a right of way was obstructed.

Flaherty recalled that, in late 2020, unhoused individuals in Seminary Park moved their possessions closer to College Avenue, further away from the city's right of way, but the city eventually removed their possessions. He asked how the city was legally allowed to do that.

Rouker was aware of what Flaherty was referencing but was not sure how the right of way was involved in those events.

Flaherty asked if it was correct that there was nothing in city code that authorized the city to remove all obstructions in right of ways.

Rouker discussed types of obstructions including commerce, restaurant encroachment for sidewalk seating, and things like fences.

Rosenbarger noted the difference between removing a bin versus a person. She asked for clarification on the difference of enforcement in those cases.

Rouker said there was discretion by the enforcement official, but any municipal violation had to include information on how to appeal. For community members without an address, staff would provide the notice to police in case they were able to locate the individual.

Sims was concerned with the perception of the legislation targeting the unhoused population. He asked about a violation turning into an arrest.

Rouker reiterated that the goal was to have the right of way be clear for all to use.

Ordinance 23-20 (cont'd)

Council questions:

Piedmont-Smith noted the Indianapolis ordinance, Article V, Protections for the Homeless. There was concern that Ordinance 23-20 focused on the unhoused population.

Rouker understood the concern. The ordinance specified when a city right of way was obstructed, but also when it was not and individuals were in compliance. There was not a section in city code focused on protections for the unhoused.

Rollo asked about the term "storage."

Rouker said it was more permanent and gave examples. He said that the legislation was not a loitering ordinance and did not pertain to people.

Sandberg commented that perhaps Ordinance 23-20 was not fully ready for adoption that evening. She said the proposed mechanism was how to humanely address the unhoused population like working with social services. She asked how it would be addressed when an unhoused person refused to unblock a sidewalk.

Rouker said staff always welcomed discussion with council on how to address that situation. There were always rare circumstances where violations escalated.

Volan discussed construction companies that blocked sidewalks.

Rouker described the process of permitting for construction companies.

There was discussion on construction company violations.

Pauly Tarricone, Tim Dwyer, Nicholas Angelos, Soha Vora, Abhinav Kotaru, Kemal Perdana, Josh Montagne, and Sydney Zulich spoke against Ordinance 23-20 because it targeted the unhoused population. They expressed the need for a solutions-based approach.

Public comment:

Talisha Coppock and Jen Pearl supported Ordinance 23-20.

Christopher Emge urged council to table the legislation for additional work.

Flaherty referenced an article about the unhoused population at Seminary Park. He asked if a court order was obtained when the city removed individual's possessions from the park.

Council comments:

Rouker said no court order was attained.

Rosenbarger asked if the removal of possessions at Seminary Park was illegal.

Rouker stated that he was not in a position to comment on that.

Rosenbarger asked what would happen to the removed items.

Rouker explained notice requirements, and said the belongings were stored for at least thirty days, but there were times that the items were not picked up. It was part of the policy of closure of encampments.

Rosenbarger said it was ideal to add that to Ordinance 23-20. She also proposed adding that the legislation did not apply to humans.

Rouker supported adding the language on storage of belongings, and also that the legislation did not apply to humans.

Piedmont-Smith asked if there was a policy that the city could not clear an encampment unless there were beds available at local shelters.

Rouker confirmed that was correct; staff checked with social service partners first. The city had no authority over private property.

There was additional discussion on clearing encampments, the period of time items were placed in right of ways in order to be considered an obstruction, and enforcement.

Flaherty could not support Ordinance 23-20. He believed there needed to be more work on alternative solutions. The discussion highlighted some concerns including disparate situations of people and bins. He provided reasons supporting his concerns. He commented that the city might not have had authority to remove property from Seminary Park in December 2020 and January 2021. He could support something like protections for the homeless; there needed to be safe parking spaces for those sheltering in their car, access to bathrooms, trash, basic safety, storage, and safe outdoor spaces for those sheltering in tents. It was possible that individuals were unwilling to go to a shelter or there was not enough space. People in vulnerable situations tended to become victims which the city should not exacerbate. Bloomington could look to other cities that were addressing the problems. Flaherty referenced Ordinance 21-06 attempted to address protections for the unhoused, but it did not pass at council's meeting.

Ordinance 23-20 (cont'd)

Council comments:

Piedmont-Smith opposed Ordinance 23-20 and believed the city should invest in solutions to homelessness. The city contributed to the Heading Home program which was good but not sufficient when there were many individuals attempting to just survive in the city. The legislation was not about ADA accessibility because if it were, then scooters and other obstacles would have been addressed. She believed that the legislation further criminalized being homeless.

Rosenbarger would vote against Ordinance 23-20. She noted the discussion on where people were allowed to sleep if they were not able to do so in public parks. She agreed that safe spaces could be done, and were successful in other cities. It included access to bathrooms, security, and more.

Sandberg supported tabling Ordinance 23-20 and suggested that the administration work on addressing the concerns. She believed that the administration would not have brought forward the legislation if it was not needed. She disagreed that the legislation was about law enforcement. It was a humane effort to build community. She would have appreciated having the Committee of the Whole to have addressed some concerns.

Volan attested to his experience with scooters and parking corrals. He could not end his scooter session without parking in a corral. Obstacles like scooters were given space, via the parking corrals, in city right of ways but the same space was not given to individuals who had no recourse. He discussed the scope of policies and reasons why legislation was drafted. There had only been one instance where an individual had not removed an obstacle after being asked to do so. He regularly saw bins left out for days and the city did not consistently enforce removals. He commented on enforcement, right of ways, blocked sidewalks by construction companies, and the city budget and council's authority. He expressed concerns on the term "storage" and that those with appropriate permits were seemingly allowed to block sidewalks. He discussed potential council actions.

Sims did not see value in referencing Ordinance 21-06. If there was a vote that evening, then he would vote against Ordinance 23-20. He commented on the opportunity to compromise. There were legitimate issues with obstructing the public right of way. He said that it was easy to want solution-based policies, but felt he had not heard any that evening. He did not believe that the intent was to give the police a mechanism to criminalize the unhoused population. Sims discussed a recent protest at the Monroe County courthouse. He was concerned about unintended consequences resulting from Ordinance 23-20. He had heard concerns from community members including a possible racial component to the legislation.

Rollo thanked everyone for the discussion. He would not make a motion to table but would abstain. He understood peoples' concerns but said there

were some good aspects in the legislation. He believed that pedestrians were undervalued relative to vehicles and bikes. Stop signs and crosswalks were removed in the city.

Ordinance 23-20 (cont'd)

Council comments:

Sgambelluri expressed concerns and preferred to table Ordinance 23-20 in order for the administration to address the concerns. She agreed that a solution-based effort was imperative and appreciated the city's contributions to the Heading Home program, and other programs like the Jack Hopkins Social Services Fund (JHSSF). There were long term and real time challenges. She agreed with concerns about scooters and bins blocking sidewalks. She would vote in favor of Ordinance 23-20.

Flaherty clarified that the long term solutions, like Heading Home, did not address immediate needs like where an unhoused individual could legally sleep, have security and safety, store their belongings, use the restroom, and throw out trash. Long term solutions and interim, non-permanent solutions were needed. He noted that solutions in the failed Ordinance 21-06 were interim solutions dealing with pragmatic tragedy of unhoused individuals not having basic safety and more. He reiterated the need for safe spaces with access to bathrooms, and more, were crucial.

The motion to adopt Ordinance 23-20 received a roll call vote of Ayes: 2 (Sandberg, Sgambelluri), Nays: 5 (Flaherty, Piedmont-Smith, Rosenbarger, Sims, Volan), Abstain: 1 (Rollo). FAILED

Vote to adopt Ordinance 23-20 [9:02pm]

There was no legislation for first reading.

LEGISLATION FOR FIRST READING [9:02pm]

Christopher Emge commented on the Special Committee on Council Processes.

ADDITIONAL PUBLIC COMMENT [9:02pm]

Lucas reviewed the upcoming council schedule.

COUNCIL SCHEDULE [9:03pm]

Sgambelluri adjourned the meeting without objection.

ADJOURNMENT [9:06pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this ____ day of _____, 2024.

APPROVE:

ATTEST:

Isabel Piedmont-Smith, PRESIDENT
Bloomington Common Council

Nicole Bolden, CLERK
City of Bloomington