



**COMMITTEE OF THE WHOLE SESSION
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL OF
BLOOMINGTON, ILLINOIS
MONDAY, August 15, 2016; 5:30 P.M.**

1. Call to Order

The Council convened in Committee of the Whole Session in the Council Chambers, City Hall Building, at 5:30 p.m., Monday, August 15, 2016. Mayor Renner called the meeting to order and directed the City Clerk to call the roll.

2. Roll Call

Aldermen: Kevin Lower, David Sage (arrived 5:33 PM), Mboka Mwilambwe, Amelia Buragas, Joni Painter, Karen Schmidt, Diana Hauman and Jim Fruin.

Staff Present: David Hales, City Manager; Steve Rasmussen, Assistant City Manager; Jeffrey Jurgens, Corporation Counsel; Cherry Lawson, City Clerk; Jim Karch, Public Service Director; Tom Dabareiner, Plan/Code Enforcement Director; Austin Grammer, Economic Development Coordinator; Kenneth Bays; Assistant Chief of Police; Scott Sprouls, Director of Information Services; and other City staff were present.

Alderman Absent: Scott Black.

3. Public Comment

Mayor Renner opened the meeting to receive Public Comment. The following individuals provided comments during the meeting.

Alton Franklin
Bruce Meeks

4. Consideration of approving the Committee of the Whole Meeting Minutes of June 20, 2016.

Motion by Alderman , second by Alderman Schmidt, that the minutes of the Committee of the Whole Meeting of March 21, 2016 be dispensed with and approved as printed.

Mayor Renner directed the Clerk to call the roll which resulted in the following:

Ayes: Aldermen Lower, Mwilambwe, Buragas, Painter, Schmidt, Black, Hauman and Fruin.

Nays: None.

Motion carried. (viva voce)

6. Discussion of an Ordinance Amending Chapter 6 of the Bloomington City Code to Provide for Video Gaming Licensing.

Mayor Renner gave a brief overview. In July 2009, the State legislature adopted the Video Gaming Act, which permitted video gaming within the State of Illinois. In July 2012, the City amended its code to allow video gaming in Bloomington. The proposed ordinance required the licensing of gaming establishments and provides for a \$500.00 fee per video gaming terminal (VGT). The terminal fees funds were to be directed toward payment of police and firefighter pensions. Council could direct the fees to be deposited directly into the General Fund. Licensed veteran's establishments (e.g., VFW and American Legion) were exempted.

As of December 2015, there were fifty-nine (59) video gaming establishments in the City, with a total of 253 VGT's. Total profits paid exceeded \$4,900,000. The average establishment profit was approximately \$83,800. The average per terminal income for calendar year 2015 was approximately \$19,500.

In December, 2015, the First District Appellate Court upheld a similar home-rule ordinance regulating video gaming and charging \$1,000 per terminal licensing fee. *See Accel Entertainment Gaming, LLC v. Village of Elmwood Park*, 2015 IL (1st) 143822. The Court found that the Ordinance was a valid use of the municipality's home-rule powers in that it promoted the health, safety and general welfare of residents.

Council may choose to adopt a \$200 per terminal fee as an alternative to the \$500 fee proposed in the ordinance. This would be equivalent to the per terminal fee charged by the Town of Normal (Town).

Jim Jordan, Liquor Commissioner, stated the fees were to offset legal costs. January through May 2016 found fewer VGT's, yet the income from same was over \$6.2 million. Only the liquor industry could have VGT's. Same must be able to pour and serve, such as a tavern, restaurant or a combination.

Alderman Schmidt questioned the validity of \$1.5 million gaming tax collected by the City in the last four (4) years and what account received the funds. Commissioner Jordan stated the State of Illinois (State) received thirty percent (30%) of earnings from gaming. Each municipality received five percent (5%) from the State. Mayor Renner stated the funds were placed in the General Fund.

Alderman Schmidt questioned changes in Police requirements since adding VGT's to

liquor establishments. George Boyle, Assistant Corporate Counsel, cited a case where the courts legally endorsed the idea that it was foreseeable that the addition of gaming would cause increased use of Police enforcement and increased cost to a municipality.

Alderman Lower questioned the number of violations for established and new facilities within the last year. Commissioner Jordan stated sanctions were brought against one (1) establishment and others were being reviewed. Alderman Lower stated smaller businesses may have only one (1) or two (2) VGT's. A fee may cause them to go out of business. Tracking the costs to the City would be best before adding fees. He was not in favor of supporting an Ordinance at this time.

Alderman Black questioned where the funds would go if this became an Ordinance. The proposed ordinance, Sec. 58, outlined fees would be paid to the Police and Fire Personnel Pensions yet statements had been made that the fees would go to the General Fund. Jeff Jurgens, Corporate Counsel, stated the funds from the taxes received from the State went into the General Fund. The Ordinance proposal suggested one option, the Pension plans. Alderman Black stated he favored a \$200 fee instead of the \$500 fee. He preferred the effective date for the fees to be Fiscal Year 2018. He was in favor of fees paying the Pension plans as suggested in Sec. 58.

Alderman Hauman questioned whether the City should entertain the fees and how this would affect the City's reputation. She questioned putting a cap on the number of available VGT's in the City. Mr. Boyle stated the Video Gaming Act gives the power to municipalities to decide not to have any VGT's. The court, in the case cited earlier, said the power to have none implied the power to limit/cap the VGT's. Alderman Hauman stated she was in favor of putting the funds into Mental Health, Addiction, Parks and Recs, in addition to the direct or indirect costs if the fees were passed.

Alderman Mwilambwe questioned the City's need for extra funds. Commissioner Jordan stated the intent was for the fees to offset legal costs. He cited Chapter 6, Alcoholic Beverages: Section 4B, Creation of New License – Findings: Item 14 “No license shall be created for, maintained by, an establishment whose primary or major focus is video gaming”. Monitoring compliance with the code, attorney fees, court fees, settlements, etc. had to be paid.

Alderman Fruin questioned the need to differentiate fees between the various business types with VGT's. Government had added taxes to small businesses making it difficult to remain solvent. The new income from VGT's had saved some small businesses. Commissioner Jordan stated it was not about creating new revenue but trying to unburden the taxpayers from covering these legal costs. Equipment and resources cost more every year for Police protection.

Alderman Painter suggested exempting all fraternal organizations along with the Veterans organizations.

Mayor Renner asked for a consensus for moving forward on the ordinance.

Aldermen Lower, Sage, Mwilambwe, Buragas, Painter, Schmidt, Black, Hauman and Fruin were not in favor of supporting an Ordinance at this time.

Mayor Renner noted the consensus of Council not to act on the ordinance.

7. Discussion on the proposed Contract between the City of Bloomington and VenuWorks – Coliseum.

Jeff Jurgens, Corporation Counsel, gave a brief overview. The Contract had been posted online and copies distributed for a week. He introduced Curtis Webb, Executive Director, US Cellular Coliseum (USCC) and asked for questions/comments.

Alderman Black questioned having a disclaimer with the Flash Reports noting that the numbers did not include all taxes, etc. Mr. Jurgens stated that would be worked on.

Alderman Lower stated he wished VenuWorks every advantage to be successful and profitable as the USCC management.

8. Discussion and direction on the Annual Criterium Bike Race and related issues regarding City sponsorship.

Steve Rasmussen, Assistant City Manager, gave a brief overview. The Annual Criterium Bike Race (Crit) planners would like to 1.) increase the open liquor area, which would be brought before the Liquor Commission with an appropriate ordinance; and 2.) make this a City sponsored event. There was no policy on City sponsorship. A policy draft would be brought to Council addressing non-City sponsored and City sponsored events keeping it revenue neutral. He noted that Special Events were not a budgeted item, but costs, such as overtime and moving of barricades, were covered by each department handling the events. A proposal would address recouping some funds for non-City sponsored events that would then be used for any City sponsored events. Sponsoring an event could bring Economic Development to the City. It would assist one of the Strategic Goals to make the Downtown a destination.

Alderman Schmidt stated Matt Hawkins, Sports Commission member, had been involved in analyzing economic thresholds for events. Mr. Hawkins stated it was estimated, with approximately 250 racers, the economic impact would be \$121,000. Alderman Schmidt stated this was the fourth (4th) year for the Crit. The past three (3) years had been successful with approximately 300 racers participating from around the country. The race had a good reputation. The goal was to make the Downtown a destination with this event as it had been in the 1980's.

Alderman Lower stated he was in favor of the event. He would like to see the City bring back other past events including Bloomington Gold's Corvette Show and the Air show to stimulate the City's economy.

Alderman Buragas stated she supported the City taking additional steps to try to support this event. Alderman Fruin expressed his support.

Alderman Black expressed his support. He questioned whether the policy would assist in the marketing of these events. Mr. Rasmussen stated the event would do the major portion of marketing, advertising itself as a City sponsored event. The City could advertise on the website as a City sponsored event. Alderman Black questioned policy guidelines for Food Trucks at events. Mr. Rasmussen stated the policy draft would consider that.

Aldermen Sage, Mwilambwe and Painter expressed their support. Alderman Painter stated the Downtown businesses, such as CrossRoads, expressed their gratitude for the people shopping while attending the events.

Mr. Rasmussen stated staff would work on a policy draft to bring back for discussion.

9. Discussion, and direction on whether an ordinance should be drafted banning the use of electronic cigarettes at locations within the City where smoking is otherwise prohibited by the Smoke Free Illinois Act.

Alderman Hauman gave a brief overview. Effective January 1, 2008, the Smoke Free Illinois Act (Act) went into effect prohibiting smoking in public buildings. Same defines smoking as “the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.” Smoking did not include “smoking that is associated with a native recognized religious ceremony, ritual, or activity by American Indians that was in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a.”

E-cigarettes and similar alternative nicotine products were battery-operated and designed to deliver nicotine with flavorings and other chemicals to users in vapor instead of smoke. These devices were not directly covered by the Act. Legislation had been introduced to both define electronic cigarettes and prohibit them the same as other smoking devices. Under the legislation, an electronic cigarette would be defined, in part, as “any electronically actuated device which in operation causes the user to exhale any smoke, vapor, or other substance other than those produced by unenhanced human exhalation.” The FDA was starting to regulate electronic cigarettes.

If there was Council support to utilize the City’s home-rule powers to prohibit the use of electronic cigarettes within the City’s public buildings, staff would recommend adding language to the Code that defined electronic cigarettes and then provide that no person shall smoke or use any e-cigarette in any place where smoking was prohibited pursuant to the Act, as amended. In addition, some communities had carved out exceptions for theatrical performances and Council may consider such an exception. The proposed legislation contained such an exemption.

Alderman Black expressed his support.

Alderman Sage stated he preferred that business owners make the decision to prohibit for their establishment rather than the City.

Mayor Renner stated the fifty (50) states had determined this to be a health issue, not a market issue.

Alderman Lower stated he preferred that business owners make the decision rather than the City. For City-owned establishments, such as the US Cellular Coliseum (USCC), he approved adding the ban.

Alderman Schmidt questioned whether this would cause the smoke shops to go out of business. Alderman Hauman stated those businesses were dedicated to the sale of such.

Alderman Buragas questioned research of other community's experience with this issue. Jeff Jurgens, Corporation Counsel, stated the Council memo cites other communities which had taken this action. Should Council decide to ban such, the easier way to do so would be to add language to the code to define electronic cigarettes and then provide that no person shall smoke or use any e-cigarette in any place where smoking was prohibited pursuant to the Act. The few exemptions that exist would continue. The Ordinance could be crafted according to what Council decided to do.

Alderman Mwilambwe stated his preference was to ban within City-owned facilities, as these were within Council's control, to test the policy for reaction.

Mayor Renner outlined three (3) options for consensus: 1.) Prohibition in public places as outlined in the draft ordinance; 2.) Prohibit in City-owned property; and 3.) No prohibition.

Aldermen Fruin, Hauman, Buragas stated their preference was option one (1).

Alderman Black stated his preference was option one (1) or two (2).

Aldermen Schmidt, Painter, Mwilambwe, Sage and Lower stated their preference was option two (2).

Mayor Renner stated the consensus was for the Ordinance to address City-owned property to prohibit e-cigarettes.

10. Discussion and direction on the City's Mission, Vision and Values statement

Alderman Hauman gave a brief overview. At the November 10, 2014 Council Retreat, review and revision of the City's Mission, Vision and Values (MVV) statement had begun. In January 2015, a working group consisting of Council members, City staff and Bloomington 101 graduates met to continue the work. The group decided the MVV statement should be brief and apply to Council, staff and citizens. Same was discussed at a Committee of the Whole meeting in June 2015. The proposed draft was presented to Council for review.

Alderman Schmidt questioned the handout origin for Core Values Draft dated June 2016. Nora Dukowitz, Communications Manager, stated David Hales, City Manager, asked for same to be distributed to Council.

Alderman Black stated he was fine with the Draft Mission and Draft Values but do not favor the verbiage of the Draft Vision.

Alderman Sage questioned having each department devise their own MVV statement. He was fine with the draft as is. Alderman Hauman stated a suggestion had been made to have each department determine what each value looked like for their department. Alderman Sage stated this could be used as a foundational framework.

Alderman Lower stated the MVV should be more retroactive.

Alderman Fruin was in favor of the draft. Alderman Mwilambwe was in favor of the draft and encouraged expediency in adopting.

Alderman Painter questioned how to keep the statement front and center in people's minds. Alderman Hauman stated that the words within the statement should be used when reflecting on decisions made within Council.

Mayor Renner questioned next steps. Steve Rasmussen, Assistant City Manager, stated that the direction was to accept the MVV and keep it front and center. Mayor Renner stated this was not a formal vote.

11. Presentation, discussion, and direction of an Ordinance Adding Article XII to Chapter 38, Amending Section 3.2.9 of Chapter 24 of the Bloomington City Code and amending Chapter 5 of the Manual of Practice, Making Complete Street Practices a Routine Consideration for Transportation Projects as an Opportunity to Improve Public Streets for Pedestrians, Bicyclists, and Transit Users Regardless of Age or Ability.

Steve Rasmussen, Assistant City Manager, stated Council direction was needed for the request to amend the City code to add a Complete Streets Policy.

Jim Karch, Public Service Director, gave a brief overview. Complete Streets were avenues, boulevards, roads and drives with room for every traveler to safely arrive at their desired destination. While these streets allowed for adequate automobile usage, they provided people with a choice to walk, cycle, and use public transit. Complete Streets policies and laws required each street be reviewed for potential multimodal usage at the time of new construction, resurfacing or reconstruction.

The Illinois General Assembly adopted a Complete Streets policy in 2007 in the form of Illinois Public Act 095-0665 -- 'Illinois Complete Streets Law'. This particular law articulated that "bicycle and pedestrian ways shall be given full consideration in the planning and development of transportation facilities, including the incorporation of such ways into State plans and programs."

No additional work for planners, architects, and engineers was foreseen in this plan; however, the type of work would change. Under this policy, these professionals would be required to use their knowledge, skills and ability to design roads and have an integrated road network that safely and efficiently benefited all users, motorized or non-motorized. In order to evaluate the City's progress towards the implementation of a comprehensive Complete Streets policy, the City would prepare an annual report detailing the following: 1.) Total on-street bicycle routes and lanes miles; 2.) Total off-street paths and trails miles; 3.) Linear feet of pedestrian accommodations; 4.) ADA-compliant curb ramps numbers; and 5.) Annual crash data and comparisons to benchmarks.

Sidewalks were paramount to consider in crafting a pragmatic Complete Streets policy. Staff was recommending certain amendments to the Manual of Practice (MOP) and associated ordinances for sidewalks.

Both the City's Bicycle Master Plan and Sidewalk Master Plan would be consulted in the implementation of this ordinance. In applying the policy, Public Works would analyze its street projects in conjunction with these plans. Where a Complete Streets review suggested a major deviation from one of these plans, the plan would be brought before Council for amendment. The regional transit system and road network relied significantly on the Town of Normal (Town). The Town had been a partner in the process of crafting the City's plan. The two municipalities aspired to mirror one another for the most practical, cohesive Complete Streets plan.

Alderman Schmidt questioned the financial impact. Mr. Karch stated the financial impact was not beyond what had been approved. Council had already approved the Bicycle and Sidewalk Master Plans. Alderman Schmidt questioned if the Complete Streets cost would affect completing an entire area needing infrastructure repair. Mr. Karch stated the multimodal would be used at the time of new construction, resurfacing or reconstruction not pavement patching or point repairs, etc.

Alderman Buragas stated a Complete Streets ordinance did not compel action but that consideration would be given to the plan. She questioned the language referring to Complete Streets mentioned in the comprehensive plan "Bring It On Bloomington". Mr. Karch stated that was another plan that would be consulted when initiating street projects. Alderman Buragas noted the comprehensive plan stated the City shall adopt a Complete Streets policy. She questioned whether language for an ordinance would be circulated to Council before placing on an Agenda. Mr. Karch replied affirmatively. Alderman Buragas stated she would be producing two (2) proposed resolutions to consider with the Complete Streets ordinance: 1.) Instruct the City Manager to include funding for a Traffic Engineer in the next Fiscal Year budget; and 2.) Make changes in transparency with resident input in the street design process.

Alderman Fruin questioned the sidewalk policy to increase the width if the existing sidewalk was narrow. Mr. Karch stated the standard was now five (5) feet compared to the prior four (4) foot standard. New sidewalks would meet the five (5) foot standard. Repairing small sections would remain the same size as it was. Alderman Fruin expressed his support and appreciated the plan to mirror the Town with the Complete Streets plan.

Alderman Mwilambwe expressed his support. He questioned sidewalks and damage from heavy equipment. Mr. Karch stated when sidewalks were laid with six (6) inches in thickness, same was more resistant to damage from construction equipment.

Alderman Black commended Mr. Karch and staff on the progress being made in upgrading streets and sidewalks. Same lent to safety and accessibility for citizens.

Alderman Sage questioned whether there was anything in Complete Streets that would impact implementation of the upcoming Five (5) Year Capital Improvement Plan (CIP). Mr. Karch stated no, unless Council passed a policy that would affect it. Mr. Karch stated the multimodal would be used at the time of new construction, resurfacing or reconstruction.

Alderman Sage questioned having a Federal program to direct what the City was doing since Complete Streets would not affect the Street, Bicycle and Sidewalk Master Plans. Mr. Karch stated Council did not have to pass the Complete Streets ordinance. Alderman Sage questioned the financial impact. Mr. Karch stated any changes, such as the thickness of a sidewalk, had been outlined in the Master Plans which Council had passed. The ordinance would implement these sooner. This was the next step as Council feedback was supportive of the multimodal accommodations.

Alderman Lower stated he was not in favor of the ordinance. He cited Federal government involvement, expense, increasing size of streets, and the percentage of residents utilizing the additional accommodations. He stated he would like to see the City decide on a case by case basis if additional accommodations were needed and if residents desired to have them done. He stated this process would cut back on existing property.

Alderman Buragas stated this was not the adoption of a Federal program. This was the adoption of a philosophy. Complete Streets philosophy stated that when the City was building/designing streets, more than moving traffic from point A to point B as quickly as possible was considered. Same would look at the streets impact on the community, the residents who lived there, other people who used the street such as pedestrians, bicycles and transit. This was not a program to adopt or sign up for. The philosophy of Complete Streets called for the cessation of overbuilding our infrastructure.

Alderman Black questioned next steps. The questions most often asked of him were about getting the Constitution Trail to more neighborhoods. He stated there should not be a monopoly of the roads for just cars. This ordinance was a step in that direction.

Alderman Hauman questioned whether this would lead, serve and uplift the City. Mr. Karch replied affirmatively.

Mayor Renner questioned if Council wanted to direct staff to move forward with text amendments to Chapters 38 and 24 and amendments to Chapter 5 of the Manual of Practice.

Alderman Lower stated he was not in favor.

Aldermen Sage, Mwilambwe, Buragas, Painter, Schmidt, Black, Hauman and Fruin favored moving forward with a draft of the ordinance.

12. Adjournment

Motion by Alderman Schmidt, seconded by Alderman Fruin, to adjourn Committee as a Whole Session. Time: 8:01 p.m.

Motion carried. (viva voce)

CITY OF BLOOMINGTON

ATTEST

Tari Renner, Mayor

Cherry L. Lawson, City Clerk