

**City Council Regular Business Meeting
Monday, April 26, 2021 - 6:00 p.m.
Bloomington Civic Plaza
Council Chambers/WebEx
1800 W. Old Shakopee Road
Bloomington, MN 55431**

- 1. CALL TO ORDER – 6:00pm** Mayor Busse called the meeting to order at 6:00pm.

All Councilmembers, City Attorney Melissa Manderschied, Council Secretary Denise Christenson, and members of staff were present via WebEx. City Manager Jamie Verbrugge, Assistant City Manager Kris Wilson, and Mayor Tim Busse were in attendance in the Council Chambers.

Official Council attendance and all votes were taken via roll call:

Present: Councilmembers J. Carter, N. Coulter, P. Martin, S. Nelson,
D. Lowman (left at 11:13pm)

Absent: Councilmember J. Baloga

- 2. PLEDGE OF ALLEGIANCE** Mayor Busse led the audience in the pledge of allegiance to the flag.

- 3. Approval of Agenda** Motion by Mayor Busse, seconded by Martin to approve the agenda as listed. Motion carried 6-0.

- 4. PUBLIC COMMENT**

- 4.1 Response to Prior Meeting's Public Comments** City Manager Verbrugge provided responses from last week's public comment questions. His responses are found in the meeting attachments document at the end of the full agenda packet.

Mayor Busse responded to comments made by resident Natalie Marose at the last City Council meeting. Clarified points that were misrepresented or misinterpreted. Written response can be read in the meeting attachments document at the end of the full agenda packet.

- 4.2 Public Comment Period** Mayor Busse opened the public comment period at 6:21pm.

Sally Ness:

Spoke against Council's decision for the conversion therapy ban ordinance. Asked Council to revisit the vote. Asked for more information on COVID care options.

Carol Kramer:

Recapped arguments made at the last City Council meeting related to conversion therapy. Feels the Council's decision to pass the ban ignored the arguments in favor of conversion therapy. Asked Council to reconsider the ordinance and revote on the conversion therapy item from last week.

Lisa McIntyre:

Asked Council to uphold the decisions Council made in October related to the Penn Lake Townhomes, as this item is coming before Council on May 3rd. Asked if anything has been done related to expanding the notice radius and longer periods.

Mayor Busse closed the public comment period at 6:32pm.

5. INTRODUCTORY

- 5.1 **Proclamation - Arbor Day** Mayor read proclamation declaring April 30, 2021 to be Arbor Day in the city of Bloomington.

6. CONSENT BUSINESS

- 6.1 **Approve First Amendment to Agreement with CNH Architects, Inc.** Motion by Carter, seconded by Martin to approve the First Amendment to the Professional Services Agreement with CNH Architects, Inc. to extend the term through August 27, 2023. Motion carried 6-0.
- 6.2 **Approve Services Agreement with Musco Sports Lighting, LLC** Motion by Carter, seconded by Martin to approve Services Agreement with Musco Sports Lighting, LLC for providing new sports lighting at Dred Scott Ballfields. Motion carried 6-0.
- 6.3 **Approval of City Council Meeting Minutes** Motion by Carter, seconded by Martin to approve the minutes of the March 15, 2021 City Council regular business meeting as presented. Motion carried 6-0.

7. HEARINGS, RESOLUTIONS, AND ORDINANCES

- 7.1 **Public Hearing: Tobacco Retail Licenses and Flavored Tobacco Ordinance** Public Health Administrator Dr. Nick Kelley presented the item. The City Council is asked to adopt an ordinance prohibiting the sale of flavored tobacco products and prohibiting the issuance of new licenses for the sale of tobacco within the City of Bloomington.

Mayor Busse opened the public hearing at 7:09pm.

Mohammad Alhataba:

Spoke in opposition of the proposed ordinance.

Karen Nordstrom:
Spoke in favor of the proposed ordinance.

Steve Anderson:
Asked the Council to table the vote in order to have more time to discuss with Board of Health and come up with an alternate plan.

Bruce Nustad:
Asked for more time for additional engagement efforts with licensed retailers.

Nathan Torrey:
Spoke in opposition to the proposed ordinance. Asked for age-verified businesses to continue selling flavored tobacco.

Dan Erickson:
Spoke in opposition of the proposed ordinance.

Li Schardin:
Spoke in favor of the proposed ordinance.

Lance Klatt:
Asked Council to table the vote in order to have more time to discuss with Board of Health and come up with an alternate plan.

Eric Li:
Spoke on behalf of the Minnesota Youth Council in favor of the proposed ordinance.

Russ Burnison:
Spoke in opposition of the proposed ordinance.

John Dixon:
Spoke in opposition of the proposed ordinance and asked for more factual information to be presented to the City Council before making a decision.

Naomi Sheldon:
Spoke in favor of the proposed ordinance.

Eugene Nickols:
Spoke in favor of the proposed ordinance.

Jackie Siewert:
Spoke in favor of the proposed ordinance.

Abby Schnorr:
Spoke in favor of the proposed ordinance.

Edward Cooper:
Asked for clarity on the transfer of licenses and to vote against the ordinance and to not penalize the good and responsible retailers.

Joe O'Connor:

Feels this issue should be handled at a State level. Spoke in opposition of the ordinance.

Madelena Morgan:

Spoke in favor of protecting the youth from flavored tobacco, but believes this ordinance will not protect the youth and will hurt local businesses.

Dustin Doppman:

Spoke in opposition of the proposed ordinance.

Angie Griffith:

Spoke in opposition of the proposed ordinance.

Joseph Berg:

Spoke in opposition of the proposed ordinance.

Dan Deseranno:

Spoke in opposition of the proposed ordinance.

Darian Whittet:

Spoke in favor of the proposed ordinance.

Jesse Griffith:

Asked for an amendment to the proposed ordinance with an exemption only for 21 and up stores.

Thomas Kottke:

Spoke in favor of the proposed ordinance.

Stefan Bailis:

Asked Council to table the vote in order to get more information.

Cap O'Rourke:

Spoke in opposition of the proposed ordinance.

Motion by Coulter, seconded by Carter to close the public hearing. Motion carried 6-0.

Lowman and Coulter asked for information on the process for how cessation products effect the ordinance.

Lowman expressed concern with the impacts of the businesses and would like to ensure there is adequate, reasonable timeframe for the ordinance to take effect.

Martin said it makes sense to dramatically reduce the products, advertising, and availability, but feels there should be a distinction between most of the businesses and the adult-only locations.

Coulter said he is concerned with the idea of a carve-out for adult-only locations

but is in favor of anything that will help protect youth. Said he is supportive of the ordinance being proposed tonight.

Carter spoke in full support of the proposed ordinance.

Nelson asked if there is data to support a full ban versus an under 21 ban. Feels there should have been more involvement with the businesses prior to the creation for the ordinance.

Mayor Busse suggested moving forward with a ban of flavored tobacco, and have additional discussion for how licensing is handled.

Lowman suggested giving businesses more time, but will support what's written today.

Martin said he'd like to have additional discussion on the adult-only businesses.

Carter said she is not in favor of a 21+ exemption, but is open to talking more on licensing. Said she is willing to move forward with how the ordinance is written today.

Coulter said he is comfortable with the ordinance as-is, and is not comfortable with a carve-out for 21+ shops. Suggested having staff come back with other suggestions on the other pieces besides the flavored tobacco ban.

Mayor Busse suggested giving retailers until June 30, 2022 to work to compliance.

City Attorney Melissa Manderschied offered language for a motion.

Motion by Carter, seconded by Lowman to approve Ordinance No. 2021-5 amending Chapter 14 of the City Code to prohibit the sale of flavored tobacco and prohibit the issuance of new licenses to sell tobacco within the City of Bloomington, with a change to the following sections of the ordinance printed in the agenda: Section 14.437 F2 of the City Code with date June 1, 2021 would be changed to June 30, 2022 and Section 4 of ordinance would read sections 1 and 3 of the ordinance would be effective June 30, 2022.

Lowman asked for an amendment to carve out the entities where their primary business is just selling tobacco, to June 30, 2023. No second was made for this amendment.

Motion carried 4-2, opposed by Martin and Nelson.

Manderschied clarified that the goal of the motion was to make the effective date for flavored tobacco provision as January 1, 2022 and the effective date of the license as June 30, 2022. Manderschied suggested bringing the summary publication back at the next City Council meeting.

Motion by Martin, seconded by Carter to table the resolution of summary publication to the May 3rd City Council meeting. Motion carried 6-0.

7.2 Public Hearing: Adoption By Reference Ordinance

City Attorney Melissa Manderschied presented the item. The City Council is asked to adopt an ordinance amending Chapter 1 of the Bloomington City Code to authorize adoption of other laws, codes, and regulations by reference. Some sections of the code currently adopt certain provisions of another legal entity's regulations, laws, and rules. This ordinance makes it clear that any adoption by reference intends to adopt the most current version of said regulation, law, or rule unless expressly stated otherwise. Adoption of this ordinance avoids the need to state "as amended" or "as amended from time to time" after each referenced law, regulation, or rule.

Mayor Busse opened the public hearing at 10:04pm.

Motion by Lowman, seconded by Martin to close the public hearing. Motion carried 6-0.

Motion by Lowman, seconded by Martin to adopt Ordinance No. 2021-6 AMENDING CHAPTER 1 OF THE CITY CODE RELATING TO ADOPTION BY REFERENCE. Motion carried 6-0.

Motion by Lowman, seconded by Martin to adopt Resolution No. 2021-63 directing summary publication of ordinance no. 2021-6 amending Chapter 1 of the City Code relating to adoption by reference. Motion carried 6-0.

7.3 Public Hearing: Ordinance – Landscape and Tree Preservation Updates

Planner Shawn James presented the item. This is a City Code Amendment to move Landscape/Screening and Tree Preservation sections from Chapter 19 to Chapter 21, with minor updates.

Mayor Busse opened the public hearing at 10:22pm.

Motion by Coulter, seconded by Lowman to close the public hearing. Motion carried 6-0.

Motion by Coulter, seconded by Lowman, in Case PL2021-29, to adopt Ordinance No. 2021-7 and associated changes to the *Landscaping and Screening Policies and Procedures* document as attached to the staff report to make minor amendments to Chapters 10, 18, 19, 21, and 22 of the City Code and to move the Landscaping and Screening and Tree Preservation Sections from Chapter 19 to Chapter 21. Motion carried 6-0.

Motion by Coulter, seconded by Lowman, in Case PL2021-29, to adopt Resolution No. 2021-64 authorizing summary publication of the ordinance attached to the staff report. Motion carried 6-0.

Motion by Busse, seconded by Coulter to adjust agenda to take item 7.6 before item 7.4.

7.6 Resolution: Minnesota Investment Fund (MIF)

Port Authority Administrator Schane Rudlang presented the item. The City Council is requested to adopt a resolution approving the submission of the MIF loan

application resolution – SICK, Inc.

application for SICK and authorizing the Mayor and City Manager to sign any subsequent agreements pertaining to the loan. The required business credit check has been conducted by Baker Tilly, the City’s financial advisor. Baker Tilly indicates that Sick Inc., has a clean record with regard to legal and financial activity and nothing in the company’s history indicates a default is likely. Staff will submit the application to DEED within the next week. Once the application is reviewed, DEED will be able to award up to a \$1,000,000 loan to SICK to assist with an expansion and creation and retention of jobs in Bloomington. The loan will be forgiven if SICK meets the job creation goals set out in the application.

After DEED has awarded funds, approval of this resolution will allow the City manager and Mayor to sign the grant agreement with DEED establishing the terms and conditions of the loan to SICK. A loan agreement will also need to be signed between the City and SICK to establish the basis for public assistance along with the specific terms and conditions of the loan.

Mayor Busse opened the public hearing at 10:33pm.

Motion by Lowman, seconded by Martin to close the public hearing. Motion carried 6-0.

Motion by Lowman, seconded by Martin to adopt Resolution no. 2021-67 approving submission of the Minnesota Investment Fund application for the SICK Product & Competence Center Americas, LLC. project. Motion carried 6-0.

7.4 Ordinance to Implement Ranked Choice Voting for Municipal Elections (Not a Public Hearing)

Assistant City Manager Kris Wilson presented the item. The Council is asked to move adoption of its preferred version of an ordinance to implement ranked choice voting for municipal elections. Two versions of the proposed ordinance are attached. Option A requires that all votes for write-in candidates be tabulated individually. Option B of the ordinance requires write-in candidates who wish to have votes for them tabulated individually to file a written request with the chief election official at least 7 days prior to Election Day.

Motion by Lowman, seconded by Carter to approve Ordinance no. 2021-8 (Option A) amending Chapter 3 of the City Code relating to the Ranked-Choice voting method. Motion carried 6-0.

Motion by Lowman, seconded by Carter to approve Resolution no. 2021-65 to approve the summary of publication. Motion carried 6-0.

7.5 Resolution: Establish Rules Committee

City Manager Verbrugge presented the item, explaining that the new Rules establish a Rules Committee as a standing committee of three councilmembers each serving a two year-term that rotates. The agenda packet includes the proposed rotation through the year 2028.

Motion by Martin, seconded by Coulter to approve Resolution No. 2021-66 establishing a Rules Committee as a standing committee comprised of three councilmembers, each serving a two-year term, with a rotating schedule as

presented. Motion carried 6-0.

7.6 Resolution: Minnesota Investment Fund (MIF) Application Resolution – SICK, Inc. Action taken after item 7.3.

8. ORGANIZATIONAL BUSINESS

8.1 Racial Equity Strategic Planning Committee Update Motion by Martin, seconded by Carter to extend adjournment time to 11:15pm. Motion carried 6-0.

Racial Equity Coordinator Faith Jackson presented the item. The presentation is the first in a series of progress reports. Staff will review the committee's composition, purpose, and timeline and then facilitate a discussion regarding contingencies and expected outcomes. Explained the purpose and goals of the newly ignited Racial Equity Strategic Planning Committee (RESPC).

No action was taken by City Council.

8.2 Earned Sick & Safe Leave - Process for Developing Ordinance Item continued to May 3rd City Council meeting.

8.3 Legislative Update Item continued to May 3rd City Council meeting.

8.4 City Council Policy/Issue Updates Coulter said Minnesota will keep all eight congressional districts by 89 people. Thanked last year's Human Rights Commission for the work they did on the census.

9. ADJOURNMENT Motion by Martin, seconded by Carter to adjourn the meeting. Motion carried 5-0.

Mayor Busse adjourned the meeting at 11:14pm.

Denise Christenson
Council Secretary

Denise M Christenson
5/24/2021