In the Council Chambers of the Showers City Hall on Wednesday, February 19, 2014 at 7:30 pm with Council President Darryl Neher presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
February 19, 2014

Roll Call: Ruff, Sturbaum, Sandberg, Granger, Neher, Mayer, Rollo, Volan, Spechler
Absent: None

ROLL CALL

Council President Neher gave the Agenda Summation

AGENDA SUMMATION

The minutes for the Special Session of January 22, 2014 were approved by a voice vote.

APPROVAL OF MINUTES

REPORTS

- COUNCIL MEMBERS

Chris Sturbaum stated a sure sign of spring was that his dog had found the first skunk of the season.

Susan Sandberg noted that potholes could be reported on the city's website with a service entitled *uReport* a prominent feature of the city's homepage. She urged people to use that to help the city find potholes to be filled.

Sandberg noted that the Bowl for Kid's Sake fundraiser for Big Brothers Big Sisters would be occurring soon, and urged folks to support teams.

Sandberg said that she would like the council to accept her Disclosure of Conflict of Interest because she and her family owned a house in the Matlock Heights area, a topic of legislation for the evening.

Sandberg – Dislosure of Conflict of Interest form.

It was moved and seconded that the council accept Sandberg's Disclosure of Conflict of Interest form. The disclosure was accepted with a voice vote.

Tim Mayer noted that he had skunks in his neighborhood, too.

He noted that Sandberg was wearing a "Demolition Team" headgear creation from a former Bowl for Kid's Sake team.

He also noted that the Fire Department and Police Department had recently held ceremonies to honor their members.

Marty Spechler thanked the public works department employees for clearing the streets, adding that they had been cleared very promptly.

- The MAYOR AND CITY OFFICES

There were no reports from the mayor or other city offices at this meeting.

- COUNCIL COMMITTEES

There were no reports from council committees at this meeting.

- PUBLIC

Glenn Carter noted his continued advocacy for the homeless and asked that people attend a brainstorming session for the Ubuntu Shelter group at the library. He said some people do not have the option of just immediately abstaining from their addictions in order to access the existing shelters because they would suffer from serious withdrawal issues. He said Ubuntu was trying to brainstorm for the creation of a low barrier shelter that would take the place of the Interfaith Winter Shelter when it closed on April 1st.

APPOINTMENTS TO BOARDS AND COMMISSIONS

It was moved and seconded that Jo Throckmorton be appointed to the Board of Zoning Appeals.

The appointment was approved by a voice vote.

LEGISLATION FOR SECOND READING

It was moved and seconded that Resolution 14-02 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 9-0. It was moved and seconded that Resolution 14-02 be adopted.

Lisa Abbott, Director of the Housing and Neighborhood Development Department, explained the allocation process for the distribution of the Community Development Block Grant funds under Title 1 of the Housing and Community Development Act of 1974 (as amended). She said the primary objective was to develop viable urban communities by providing decent housing, a suitable living environment, and expanded economic opportunities for low to moderate income people. She said as an Entitlement Community under HUD guidelines, the city received an annual allocation, but since the actual amount was not known for the year, the committee used an estimate of $861,656 with an additional $92,991 of reallocated funds.

Abbott reviewed the guidelines for the allocation of the funds. She noted citizens were involved in the extensive process of reviewing applications, attending hearings and making the following recommendations:

Community Kitchen	$25,000
Hoosier Hills Food Bank	$25,000
MCUM – Child Care	$24,500
Middle Way House – Emergency Services	$25,000
Stepping Stones	$25,000
Bloomington Housing Authority	
Crestmont Interior Renovations	$50,000
HAND	
Home Modification for Accessible Living	$20,000
MCUM	
Energy efficiency & roof replacement	$64,708
LifeDesigns	
Replacement of window units	$59,000
Amethyst House	
Renovation of 416 W. 4th	$20,000
Public Works	
Rockport Road Reconstruction	$392,991
HAND	
Stormwater Improvements	$50,000
Administration of Housing and	
Neighborhood Development Department	$173,448
Unspent CDBG Funds	$92,991

Abbott said she had been asked to provide more information about the Rockport Road project, and said there would be roadway and pedestrian improvements along Rockport Road between Graham Drive and Countryside Lane. She said it was discussed in the Transportation Committee (with representatives from planning, engineering, mayor's office, legal, and parks and recreation departments) and the sidewalk option was chosen over the sidepath option. She said the typography of this area made a sidepath more complicated, and there were other alternative transportation options in that area. She thanked her staff, Bob Woolford and Marilyn Patterson, for their extensive and timely work on this issue.

Volan asked if Abbott's illustrative slides were available to council, and she said she would send them. Volan said he would like them copied at once so that he could view them during the meeting. Abbott gave him her copies; they were subsequently copied for all.

Spechler asked if the projects funded last year were successfully completed. Abbott said that the social service funding was spent, but that the physical improvement projects were not complete. She said that allocation funds did not come to the city until August of each year. Spechler asked if she reviewed projects so that they would be completed in a reasonable time. Abbot said Patterson and Woolford continually monitored projects and produced documentation of inspections for payments.

Resolution 14-02 *(cont'd)*

Public Comments:
Toby Strout said since 1987she had been listening and presenting before the CDBG committee. She added that she had nothing but gratitude for the work of the committee. She thanked the committee for their consideration of lifesaving services, and thanked the council.

Larry Jacobs, board member of the Monroe County United Ministries, said the preschool served 60-90 preschoolers from low income families. He said that MCUM preschool was the oldest day care center in the city and dated from the 1930s. He thanked the committee and the council.

Council comments:
Sandberg said she was a longstanding member of the team that reviewed many social services project applications. She said this was an excellent process, and added that the committee did their work assessing community need to determine the best use of the funds. She said this job was not an easy thing to do as there were so many outstanding social service organizations in need. She noted the Jack Hopkins Committee was soon starting their process allocating local tax dollars rather than federal funds.

Spechler talked about his recent visit to MCUM and said he was impressed with the leadership and volunteers for the preschool and food bank. He said it was orderly and well kept, and noted that MCUM would not be where it was without the help of the faith communities through the years. He said it was an example of where government and community have come together to do a wonderful job.

Rollo thanked Abbott for checking on the Rockport Road sidewalk vs. sidepath issue. He said he was satisfied that it was a worthy project for the area.

Mayer thanked staff and the citizen volunteers who helped with the decision making.

Resolution 14-02 received a roll call vote of Ayes: 9, Nays: 0

Ordinance 14-01 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish Local Historic Designation of a "Conservation District" - Re: Matlock Heights Conservation District (Bloomington Historic Preservation Commission, Petitioner

It was moved and seconded that Ordinance 14-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of do pass 6-0-3. It was moved and seconded that Ordinance 14-01 be adopted.

Nancy Hiestand, Program Director in HAND and staff to the Historic Preservation Commission (HPC), described the district by showing a map of the area and noted the outstanding, notable, contributing and non-contributing properties in the area. She noted that it would be the first mid-century District listed in the state of Indiana as well as the first for Bloomington. Hiestand gave the history of the Matlock Farm and the development of the area as post WWII housing for families featuring ranch style homes. She said this is the history of 'us' – the first aesthetic that is us, and grew up with us. She outlined the development standards particular to this district, curvilinear streets, use of limestone, lack of alleys, wide expanses for yards, and family style back yards. She outlined the ranch styles, the developers and their influence in the area, and their naming the streets in the area after their families.

Abbott spoke about the process of the district remaining a conservation district or elevating to a historic district. She noted the recent update of the BMC Title 8:

> **08.08.010 – Establishment of historic districts and conservation districts.**
> (b) (3) The conservation district may continue past the three (3) year term, thereby avoiding the designation of a historic district, if a majority of property owners in the district object to the Commission, in writing, to the elevation to a historic district. Said objections must be received by the Commission not earlier than one hundred days or later than sixty days before the third anniversary of the adoption of the conservation district.

Abbott outlined the procedure for this process. She said a ballot would be mailed and tracked to make sure that every property owner would have the opportunity to vote. She said that all the resources of HAND would be dedicated to making sure that every property owner would have a say in this process.

Hiestand noted a question from a previous discussion about the closest dedicated mid-century modern neighborhood to Indiana. She said she called the National Trust Forum and was informed that there were districts such as this in Scottsdale, AZ; Phoenix, AZ; Houston, TX; Tulsa, OK; and Tucson, AZ.

Abbott noted a question from the previous discussion about the history of the important figures that lived in Matlock Heights. She said that the neighborhood association had been encouraged to apply to the HAND Department for a Small and Simple Grant that could be used to produce a neighborhood history. She said the department would work with them to create a history and publish it.

Abbott read from the design guideline booklet that the guidelines indicated:

> It may become necessary to revise sections of these guidelines because of state enabling legislation if the majority of the property owners in the MHCD do not object in writing to the elevation of the MHCD to a full historic district within the required time frame under the State law, (approximately three years from the date the MHCD is created by ordinance), the design guidelines will need to be revised. In this event the MHDG subcommittee will continue to prioritize flexible review for issues relating to aging in place, sustainability and alternative energy sources.

Neher asked Patty Mulvihill, Assistant City Attorney, about the process. Since it was the first designation that the council had considered since the elevation of the Prospect Hill and McDoel Gardens neighborhoods, and since the language 'conservation district' was not mentioned in state code, he asked her to speak to the difference between our code and the state code. He also asked her to elaborate on the process of elevation or non-elevation.

Mulvihill said state code established a two tiered level for designation, one before full historic district, which was not labeled, and then the full historic district. She said that the city labeled the initial phase as a 'conservation' district, the same as Indiana Landmarks (a private statewide historic preservation organization) and other cities and towns do. She explained the two-tiered process, and added that if a majority of property owners did not object in writing in that given time frame, the area would elevate to a full historic district. She added that if that happened, a working committee would work to revise design guidelines to reflect a full historic district.

Neher asked about the role of council. Mulvihill said that previously, the district could not elevate to full historic automatically but required council action. Neher asked if under the new process, the sole council action was to create the conservation district planned in this ordinance. Mulvihill said it was.

Ruff noted that, after hearing from the public on this issue, he might offer an amendment to exclude the single property at 201 Matlock Road from the district. He said he was not certain that it would happen, but wanted the council members to know of the possibility.

Rollo asked if the homeowners would have an idea of what the design criteria would be under full historic designation before the three year period was over. Mulvihill said they would have a general sense of what would require a Certificate of Approval. She said the people in this neighborhood knew the differences between the conservation and

historic designation. She said the specific written guidelines would not be written unless the elevation occurred.

Rollo asked if there was a problem with homeowners being able to understand and evaluate what a historic elevation would mean. He said he was concerned that this was an automatic process unless people objected, but they might not know exactly what they were objecting to.

Mulvihill said the ordinance and statute were clear as to what would be regulated under historic and conservation districts, and that guidelines were just to get people to what the statute required. She said the particulars regarding materials used or removed might not be known specifically, but the general broad scope was understood.

Rollo expressed concern that there were guidelines that were yet to be determined for a full historic district on door configurations, shutters, and forward facing garages, and yet people would not know of them until after the district was elevated.

Mulvihill said she believed the neighborhood understood the repercussions of not having a majority vote, the repercussions of what an elevation would mean and the understanding of what the two differences were. She said that the neighbors could probably assuage his concern.

Rollo asked Hiestand if the three areas he mentioned were potential criteria.

Hiestand said the neighborhood association had determined that they did not want to have a full historic designation at this time, and realized that they would have a chance to vote on this issue in three years. She added that a full historic district would attempt to preserve exterior details which are significant to the mid-century modern style. She said that types of windows, doors, and additions to the structures would be reviewed at that time.

Abbott noted that the vote on this issue would not be the end of the city's relationship with the Matlock Heights Neighborhood Association.

Rollo asked why the criteria could not be developed before the three year deadline so that the neighborhood would know what the criteria meant before they voted for or against full elevation.

Hiestand said it would be difficult, and that most people involved understood what the full historic district meant. She said in the months before the vote there would be discussions about the criteria. She said it was premature to set out the criteria now.

Volan said the city was in the midst of three neighborhoods being considered for some kind of preservation: Matlock Heights, University Courts, and Garden Hill. He stated that Garden Hill residents said they were having problems because the words that they were being asked to vote on were either poorly composed or not explicit enough. Volan asked why the specifics of these districts and the elevations were not written in a booklet.

Hiestand said the process was described in law. Volan noted that the law had been misinterpreted in the past. He said the neighborhood immediately affected by the law, Garden Hill, did not know at the time of the establishment of their conservation district that it could automatically elevate, and that there should be text from the city explaining the situation. Hiestand said her public information session included this process. Volan asked why the design guidelines were in writing but the method for adopting them wasn't in writing.

Abbott said the method for adoption of the guidelines was outlined in Title 8 of the Bloomington Municipal Code. She said that the guidelines had a different purpose from the code language. Hiestand said the process could and was explained in other ways rather than in the design guidelines.

Sturbaum noted that the Garden Hill district was developed before the law was reinterpreted. He said that the vote was at the three year period, either to elevate or not.

Volan said there was no precedent in state law as to how notice was to be given for the votes. He said it then devolved to the city as to how to do this. He reiterated that he asked why it should not be noted that the design guidelines were temporary and could change in three years.

Abbott noted that page 34-35 of the guidelines stated that it might become necessary to change the guidelines due to changes in state enabling legislation. She noted that the guidelines had been revised since the last meeting of the council.

Dan Sherman, Council Attorney/Administrator, noted that the council was not approving guidelines; they were given to the council as an example of what the residents had been working on. They would be revised by the Historic Preservation Commission. He noted that Section 4 of the Ordinance outlined the procedure of what would happen in three years, and described the process of elevation.

Neher noted again that the council was not voting on design guidelines, but the establishment of the conservation district.

Spechler asked if solar panels on roofs would be allowed in this district should it become an historic district. Abbott noted that a part was added to the design guidelines that the Matlock Heights Design Guidelines subcommittee would continue to prioritize flexible review for issues relating to aging in place, sustainability and alternative energy sources. She said her experience was that owners were eager to maintain the historic integrity of the structure while looking to these items.

Sturbaum was asked to address this question as a member of the Historic Preservation Commission. He said as a conservation district the photovoltaic cells could be installed; with a full district the guidelines could be written differently, but also could include them in a design compatible way.

Rollo asked if anyone had been denied the ability to install photovoltaic cells. Hiestand said no one had. She said that the Historic Preservation Commission recommended the flush style of photovoltaic, and added that the Elm Heights district had the most extensive guideline for these devices.

Spechler confirmed with Abbott that the Matlock Heights neighborhood wanted only a conservation district, not a historic district, and that they understood what the historic district would require. Abbott said that was the case. He said it was a contradiction to him to endorse a request that was not being made, to put them on a path to something they did not want, especially without knowing the final design guidelines.

Abbott said that one should not assume the inevitability of the historic district, especially with this neighborhood. She said she had little concern about the polling of this group concerning their desires on this issue. She noted that the request came from the neighborhood and that they were aware of the three year mark and what they needed to do at that time.

Volan asked about the language just added to the guideline document about what would be considered if an elevation to full historic district would eventuate. Hiestand said that the language was developed in response to council members Rollo and Mayer's concerns about being sensitive to aging in place, positioning of ramps, and photovoltaics would be addressed in new guidelines.

Neher asked Mulvihill for verification that the design guidelines were not to be approved by the council. She affirmed that statement. Neher asked if guidelines, even after they were in place, could be changed by the District. Mulvihill said there was a procedure for modifying the guidelines. Neher asked if the goal was that the district understood the possibility of elevation, and that the newest statement referred to was a public statement of intent. Mulvihill said the new language was created because she understood that the council wanted a clear cut, stand alone acknowledgment of aging in place and sustainability in the guidelines. She noted that the neighborhood association had agreed to this new language.

Rollo wanted to clarify that guideline revisions would require 60% of property owners to approve the changes.

Volan asked to see the revised copy of the Matlock Heights design guidelines.

Public Comment:

Carol Darling, 400 Glendora Drive, Secretary for the Matlock Heights Neighborhood Association, read a letter from Julie Williams, land owner of a property on Martha Street:

> My name is Julie Williams. My parents, Dr. Ralph Taraba and Dorothy Taraba, built our family home at 2300 Martha Street in Matlock Heights in 1960. My brother Joe and I were raised in that home, and played in the wooded ravine behind the house. My parents and brother have passed away, but I continue to own the home and cherish the leafy surroundings that make Martha Street feel like a quiet respite from the traffic and activity along the bypass. My family and I live in Carmel, so we rent the Martha Street home to a responsible young couple with a toddler and one on the way.
>
> I wish to preserve the private and serene nature of Martha Street and Matlock Heights as well as the mid-century modern architectural style of the neighborhood. Martha Street is separated a bit from the rest of the neighborhood by the lovely ravine, so I am particularly concerned about the properties that border the bypass. The homes along Martha Street that border the bypass have been single family homes for over 55 years. With the deaths of the original homeowners, these properties are at risk for commercial development.
>
> That small strip of land along the 46 bypass between Walnut Street and Martha Street is the gateway to Indiana University – and our community -- for people coming from the north or west. How does Bloomington want to present itself to these parents, students and guests? I hope to think the Bloomington I know would cherish and preserve the unique personality of a neighborhood like Matlock Heights, to show that we value character over new commercial development. I also believe that Bloomington understands the value of trees and residential green space. Any need for additional commercialization could surely be done in existing business properties that are underutilized or need to be updated.
>
> I fully support defining Matlock Heights and the area between Martha Street, 37 and the bypass as a conservation district. I understand this means that the existing homes are protected against being torn down or moved, and any new home must be built in keeping with the mid-century modern look of the neighborhood. I also understand that the current resident homeowners and original residents also are supportive of this designation.
>
> I hope you will vote to support these long standing residents in our effort to keep Bloomington beautiful and unique. Sincerely, Julie Williams, owner 2300 Martha Street.

Darling said that Waldron and Martha Fritz, the people who bought the land and originally platted it visited Bloomington in September, 2013. She said Mr. Fritz was pleased that the neighborhood had the look he envisioned. She noted the pictures she brought to the council meeting of the homes that were built at that time, and noted that the neighbors were proud of the history of the area and wanted to preserve it.

Sharon Yarber, 2310 N. Fritz Drive, said she bought her house in May 2010. She noted the council concern about the process and the elevation to a full historic district. She said the neighbors were very well aware of the process and procedures and were an active group that had had many and thorough discussions about the move to a conservation district. She said they were an informed community and were prepared to be a

conservation district. She added that near the time of a full elevation, the democratic association would have a discussion and decide what to do at that time.

Jan Sorby said she supported the neighbors of Matlock Heights and asked the council to do the same. She said that she had worked with Bloomington Restoration in featuring this neighborhood on an historic tour and that these mid-century modern homes told the story of that era. She said this designation was worthy, and hoped the map would be accepted as it had been presented to the council. She noted the long work, public meetings and plenty of previous opportunity to change the boundaries before what she called the last minute. She called that possible action a 'spot variance' and said it was not a good way to set up the city and was not a good precedent.

Jenny Southern spoke on behalf of the Council of Neighborhood Associations (CONA), a group that supported living in cities. She said that the Matlock Heights group was coming as adults and owners of property to ask for this designation. She said that in three years, they would be the ones to rewrite guidelines for an elevated district, should that occur. She said that this would enable them to strengthen the guidelines. She said that CONA supported this effort.

Richard Darling, 400 Glendora, spoke of the history of the area, the historic and social factors at work at the end of WWII. He said the war years saw no development, and reminded people of the field of tiny green trailers that GI's lived in while they went to school at IU. He said those forces combined to result in suburbia with the help of Walter Fritz and Gilbert Swain who bought and plotted the affordable and expandable homes in Matlock Heights. He noted that they named the streets in the area, Glendora, Martha, Fritz, Gilbert, after their family members. He added that the story was indicative of the need for preservation of the area.

Anne McDaniel, 2243 N Martha Street, reiterated statements from earlier speakers about preservation of the fragile areas of the neighborhood. She said the area was worth preserving and contributed to the quality of life in Bloomington.

Amy Hamburg-Mead, 444 Glendora Drive, said she and her husband had recently purchased their home after looking in other areas of Bloomington. She said they were attracted to the well built, limestone homes that were not cookie-cutter in nature. She said they were also struck by the stable nature of the neighborhood and noted that the seller of their home still lived in the neighborhood. She asked for the council to pass this Ordinance.

Kelly Bangs, 201 E. Gilbert Drive, said her family had been well informed of all the neighborhood meetings and activities from the day they moved into their home. She said she was confident that the neighbors had been well informed throughout the process, and noted that only one or two objections had arisen late in the process. She wanted the council to know that the neighbors were involved, were knowledgeable, and that nothing was being forced upon them. She noted that property values in other neighborhoods with this distinction had gone up, and believed that 'spot allowances' would devalue this area and was a slippery slope. She asked the council to not compromise Bloomington's integrity and to please support the residents.

John Lawrence, member of CONA and the Bryan Park Neighborhood Association, said that the idea of chipping away part of the plan was disheartening to the neighbors and to other neighborhoods who support this plan. He said the long process should be respected and protected.

Ordinance 14-01 *(cont'd)*

Dirk Brewer, 201 East SR 45/46 Bypass, showed an aerial photo of his home and asked that the council take note of his neighbors as being the businesses McDonalds', Ace Car Rental, Denny's Restaurant, Days' Inn, and Clean Machine Car Wash. He submitted one of the form letters that he said were sent to the council. He said his five points were:

- There was nothing historical about his house, architecturally or otherwise.
- His house was not in Matlock Heights.
- His house was contiguous to commercial property.
- He did not want his house designated historical.
- The forms and petitions lacked full disclosure and were outdated so they probably didn't reflect current neighborhood support. He said 16 property owners were present at the meeting. He said 30 property owners may not understand.

He added that he had helped his neighbor who rented an adjacent house, and knew the Mrs. Williams who had owned the property previously.

It was moved and seconded that Amendment #2 to Ordinance 14-01 be adopted.

Amendment #2
This amendment is sponsored by Council member Ruff and would remove one property located on East SR 45/46 at the western-most edge of the proposed Matlock Heights Conservation District. This amendment is intended to address the objection of a property owner without causing a major disturbance to the district as a whole.

Ruff said this was a difficult issue for him and having spent two decades there he had many feelings for the neighborhood. He said that the question for him was the additional value to the district with inclusion of the property at 201 East SR 45/46 Bypass. He said that this property would add to the integrity and overall goal of the district, but asked:

> *"Does that amount of additional value rise above the level that is required to justify the limitations that it puts on the existing and reasonably expected rights and wishes of the current property owner?"*

He said the balance or weighting of these wishes was important. He said the lots in the district contributed to the integrity of the district and there were no other objections. He said the fact that the lot in question was the most outlying structure and that the owner objected to the district indicated that this request needed to be weighted in the overall consideration of the legislation.

Ruff addressed the notion of tinkering or making changes at the last minute saying that the local process was not like the 'fast track authority' of the congressional process. He said the council meetings were the times when the council members received and reviewed information in great and careful detail in order to make decisions.

Ruff said one of his concerns was the possibility of one of the properties to become commercially zoned. He noted Julie Williams' letter and her concern about the risk of commercial development.

He said the comprehensive land use plan designated this area as urban residential and 'neighborhood conservation.' He said that the term meant preserving the adjacent residential neighborhood character, not commercial, and was the number one overriding consideration for planning or considering a petition to rezone the property. He noted his conversation with Tom Micuda, Planning Director, where Micuda said the Planning staff would oppose a rezone of this property.

Ruff noted houses to the east of this area were residential adjacent to other residential lots. He said that they each, in turn, would not be able to be zoned commercial for that reason, and so Ruff disclaimed the idea that the commercial zoning would have a domino effect down the road.

Ruff noted that not every property contributed to the integrity and protection of the proposed district. He also noted that the William's house was actually closer to the commercial property than the property that was proposed to be excluded.

Ruff said he would like to see the Brewer property included in the conservation district, but that it was not his responsibility to vote on what he would like, but rather what he felt was fair and best balanced the competing interests in this issue. He said the property owner's desires weighed in, and that to include his property in the district added

only marginal additional protection to the other homes. He said the arguments to the overall value to the district did not outweigh the necessity to consider the rights and wishes of the current property owner. He said he would have rejected the exclusion if it were any where else in the district.

Spechler asked Ruff which houses would be excluded under his amendment. Ruff noted it was just one at the southwest corner. Spechler asked if it was the one where Mr. Brewer lived. Ruff said it was, and that Brewer also owned another house immediately to the north on Martha Street which Brewer did not object to having included in the conservation district. Ruff reiterated that this was the only structure that he would consider excluding from the proposed district. Spechler asked about a storage shed and three homes along the 45/46 bypass and what Ruff knew about the preferences of those property owners. Ruff said he believed that these structures to the east were more important to the district, and that he would not support their exclusion from the district.

Volan and Ruff clarified the boundaries of the district if the Brewer property were excluded from the conservation district.
Volan asked which person or group of people decided what the proposed borders would be of the conservation district. Hiestand said the Historic Preservation Commission had the consulting agency, Bloomington Restoration, Inc. (IBRI), conduct a survey which included a door-to-door study with photographs and descriptions of each resource. She said the map was drawn up with that data in mind, and that it was purveyed at every public information meeting and the designation hearing held by the Commission. Volan pressed to find out who drew the boundaries for the district: the BRI representative, the staff or the neighborhood representative.

Lisa Abbott said that when BRI was hired to do the survey they drew the borders with the plat of the area based on what they found in their study.

Spechler said he was mostly concerned about the storage shed and the two single family homes along the 45/46 bypass. He asked staff if they were the same kind of modern ranch houses that were highlighted in the rest of the presentation of Matlock Heights. Abbott said that they were also highlighted in the presentation, and were indicative of the structures in the rest of the district. Hiestand said, upon re-showing pictures, that they were similar to the ranch houses in the rest of Matlock Heights.

Rollo, referring to the house in the southwest corner, asked if it had been significantly modified. Hiestand said the garage had been converted to living space, but it could be easily modified back to the original configuration as it still had the original form and materials.

Neher, noting the method used for drawing the district map, and noting Ruff's reasons for excluding one property, asked why that property was needed to maintain the integrity of the map. Hiestand said it was part of the original plat and was built during the same era as the rest of Matlock Heights. She said that when the districts were studied, consistency and expression of an era were taken into consideration. She asked why it should not be included as it was consistent. She said the idea was to form an edge to the district to prevent future changes that would be inappropriate to the area. She noted that under a conservation district the house would have to be reviewed to be demolished and rebuilt to make sure the new building would be consistent with the rest of the district. She said that not allowing a two story colonial or a large house would be part of the protection of the district under the conservation designation. She said it was a contributing property by the survey.

Amendment #2 to Ordinance 14-01 *(cont'd)*

Volan asked if there was any point at which the Garden Hill conservation district was established where the neighbors were in dispute about inclusions of one house or another. Hiestand said there was, and that also the Garden Hill district had more complex zoning issues to deal with. Volan said BRI also did a survey there, and there was dispute about one house's inclusion. Hiestand said that public hearings on that conservation district included discussion on the draft map. She said the Historic Preservation Commission adopted a map, their duty by law, and forwarded it to the council.

Public comment on the Amendment

Public comment:

Carol Darling said she was really concerned about chipping away the district boundaries and asked why Mr. Brewer wanted the house taken out of the Matlock Heights Conservation Plan.

Dirk Brewer said he wouldn't mind if his house was included in the conservation district, but didn't want it included in a full historic district. He said he didn't want the added layers of scrutiny and regulations on what he could do with his property. He said that his property was platted before Matlock Heights was platted, and that this fact was stated in one of the Historic Preservation Commission's publications, and that the city statements on that issue were evasive. He said that his property and some on the south side of Martha Street were surveyed and were not a part of the Matlock Heights plat.

Ruff said that if Mr. Brewer did not object to the house being put in a conservation district he wanted to withdraw his amendment.

Motion to withdraw the amendment.

It was moved and seconded to accept Ruff's withdrawal of the amendment.

Rollo asked if the withdrawal was on the basis of the assurance that whoever lived in the neighborhood in three years would not vote to elevate the district to Historic status. Ruff said that he chose to focus on the task at hand: creating a conservation district. He added that his motivation for bringing forth the amendment was balancing between the interest and rights of a property owner and that of the district. He said that since the owner did not mind being in the district, his original motivation was not valid.

Volan said the council should discuss the change of the collective city's reading of state law. He said he didn't think it was correct to say that the adoption of the ordinance at this meeting would create a conservation district, but that it would create an historic district. He added that it was up to the neighbors of Matlock Heights to make it a conservation district three years from then. He said the council did not have control over what happened after the legislation was passed.

Ruff said that technically the council knew what they were doing with this ordinance, understanding that the conservation district might become an historic district in three years, but the possibility no longer outweighed the interest of the district of having the property be part of the district.

Volan then asked the staff for their opinion on his previous assumption. Patty Mulvihill, Assistant City Attorney, said she would not classify the vote on this legislation in that manner. She said the conservation district would only become an historic district under statute if they failed to object to it within a specific time frame.

Volan asked if that answer did not presume a certain vote by the property owners in three years. She said the correct statement under the

law would be that the conservation district would be established by this legislation, not historic district.

Amendment #2 *(cont'd)*

It was moved and seconded to withdraw Amendment #2 to Ordinance 14-01.
The motion to withdraw the amendment received a roll call vote of Ayes: 7, Nays: 1 (Volan).
Note: Susan Sandberg did not attend this portion of the meeting or participate in the deliberation for this item as noted above.

Motion to withdraw Amendment #2 to Ordinance 14-01.

Council comments:
Rollo said he had no objections to voting to establish this conservation district, but that once it was established, it would be permanent. He said it would be subject to different processes, and it was important for the neighbors to understand that it would become a full historic district unless a majority of the property owners objected. He said he was uncomfortable with the guidelines that would be used as the vote for historic status would be held before any guidelines for the historic district would be determined. He said he was concerned about the lack of clarity of guidelines with this new type of district – mid century ranch homes. He thanked the staff for trying to resolve a potential conflict between historic features, aesthetic and modifications for sustainability.

FINAL VOTE ON Ordinance 14-01

Sturbaum noted that the neighborhood had full knowledge of what was involved. He said the change from the way an elevation had been previously done was that there was a higher threshold for the vote to continue the conservation district. He said the neighbors knew what they needed to do. He said he was confident that the guidelines would be developed by the majority, and that this was not really complicated. He said that the edges of a district needed to be held as that's where threats would occur. He said secure borders were important.
He said that these types of votes were not always unanimous, and that preservation of areas had to be done by vote and not by volunteering to preserve areas. He said the law originated when the country wanted to protect landmarks rather than tear them down. He said the entire neighborhood was a landmark of value in the community. He said he would vote to protect the value of this neighborhood and community.

Volan noted his practice of addressing the chair of the council rather than the staff, council members or the public. He said that by doing so, he was taking away any notion of personal business rather than public business and was separating out personality issues.

He recounted that at the committee hearing on this legislation he said that part of the history of sprawl was the history of racism. He said that he added two articles to support his statements on his webpage for notes on his council statements, *volan.org/council*. He acknowledged that racism was not the case here.

He said he originally didn't think that this district was worthy of preservation and hadn't paid attention to it because it wasn't in his district. He thanked the staff for persuading him otherwise. He noted that the district preceded the kind of sprawl based in racism by at least a decade, but it could, however, suffer from ageism regarding students. He noted that he experienced that people thought that students were 'kids' and that one of the motives for this legislation was to prevent economic fallout from the presence of so many young adults, otherwise known as 'student rental.' He said there were neighborhood associations in his district that formed for those reasons, but it still bothered him to hear from one of the Matlock Heights neighbors about separatism. He cited other actions of the city and neighbors that were part of this same attitude.

He said there were two issues on the table: the historic nature of the neighborhood and the process by which it was decided to codify the

FINAL VOTE ON Ordinance 14-01 *(cont'd)*

change in policy toward that neighborhood. He said he now agreed with the historic value, but the decision in legislation was another matter. He said this process had been cast into doubt by the previous misinterpretation of the law. He also noted there was insufficient state law on how the determination was made.

He said his questions about process had been questioned as if it was a question on the merit of the proposal, and he noted he did not appreciate that perspective. He said that it was presumptuous to assume that people in the future would understand what happened at this meeting. He cited the neighbors in Garden Hill who had the rules 'changed on them in the middle of the game' and were scrambling to understand the process, and that his questions were targeted to that. He said that the merit of the neighborhood had nothing to do with the process by which decisions were made.

He said he was eager to hear other council comments.

Spechler said he would be voting for the conservation district. He said he had questions about the pocket of the homes on Martha Street and so he visited the area. He said the ravine near the street fully leafed out would make this area visually separated from the rest of the neighborhood. He noted the storage structure and several family homes on the 45/46 Bypass that he felt did not resemble the rest of the homes in the proposed district, noting that the other homes on Martha Street did resemble the rest of the Matlock Heights homes. He said that there was another property owner who opposed this conservation district, but that the person rented his property and did not live in the area.

He said he preferred that this area close to the bypass be developed with multifamily dwellings. He said this would fill the broader interest of the city, and it wouldn't impact the neighborhood. He said that the conservation district would protect structures from demolition, but would not protect the area from student rentals. He said that without more multifamily housing, the city would experience more rental houses for students and others which he said were not looked on with favor.

He said the broader issue was about boxing out development of more multifamily housing which he said was needed.

He said he would abstain because the resolution, especially with the arbitrary nature of the map development, bothered him. He said Rollo's objection about the timeline in development of the guidelines was well taken. He wished the Matlock Heights neighbors luck with the project.

Ruff thanked the council for allowing him to explain his position on the amendment. He added that he had tremendous respect and appreciation for the hard work and commitment of the neighborhood to see this through. He thanked the staff for their work, also.

He said he felt the western border made sense, and was part of a cohesive set of homes. He said that the borders were not actually established yet and that the 'chipping away' argument was one that he did not agree with. He noted that one property may not meet the threshold value of importance that would lead one to overrule the property owner's wishes and rights.

He ended by saying "Viva la Matlock Heights!"

Granger reiterated her previous statements of whole hearted support for this conservation designation. She said the work was extensive and exhausting, and that it was a great way to maintain the unique character of the neighborhood.

Mayer said he appreciated Dick Darling's observations regarding the post World War II development. He noted similar post WWII infill development on the east side and said the homes were built rapidly to accommodate people coming back from the military.

He said he also appreciated the comment that the style of the home

mattered far less than the community of Matlock Heights, and added that it spoke highly of the issue.

He thanked the neighbors for their hard work getting to this point, and added thanks to Hiestand, Abbott and Mulvihill.

FINAL VOTE ON Ordinance 14-01 *(cont'd)*

Neher commented about the process of historic designation. He noted that there were had been many questions in the discussion, but said they were needed to help the council with the interpretation of the state statute and local statute with regards to historic districts. He noted that that he didn't necessarily like the process, but felt it was clear to all.

He said he preferred the previously interpreted process whereby the discussion would return to the council after a certain period of time. He said the discussion overall gained clarity and provided a clearer understanding of the process and designations. He said the process would also be judged by the number of forthcoming applications.

He said that he appreciated the time between meetings to review the guidelines.

Volan said the process was not clear enough, and that written aspects of the process needed to be clarified. He said he didn't want to vote against the neighborhood but could not vote for a process that he felt was flawed. He said his abstention would register his objection of the complacency of the process as it existed at this time.

Ordinance 14-01 received a roll call vote of Ayes: 6, Nays: 0, Abstain: 2 (Volan, Spechler).

Note: Susan Sandberg did not attend this portion of the meeting or participate in the deliberation for this item as noted above.

LEGISLATION FOR FIRST READING

Ordinance 14-02 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District – Re: University Courts Historic District (Bloomington Historic Preservation Commission, Petitioner)

Ordinance 14-02

PUBLIC COMMENT

There was no public comment at this portion of the meeting.

COUNCIL SCHEDULE

Sherman noted the Internal Work Session scheduled for February 21, 2014, and listed items for discussion at that meeting. Ruff asked that materials relevant to the discussion be sent out in advance.

Neher noted council schedule adjustments that would accommodate upcoming legislation.

It was moved and seconded that the council hold a committee of the whole meeting following the Regular Session on March 5th and a Special Session on March 12th.

There was discussion and specific clarification about the reasons for these changes in order to accommodate an upcoming PUD request.

The motion was approved by a roll call vote of Ayes: 8, Nays: 0

Neher announce the schedule for the discussion of Ordinance 14-02, University Courts Historic District.

ADJOURNMENT

The meeting was adjourned at 10:45 pm.

APPROVE:

Darryl Neher, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington