In the Council Chambers of the Showers City Hall, Bloomington, Indiana, on Wednesday, July 13, 2016 at 7:34pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
July 13, 2016

Roll Call: Granger, Sturbaum, Mayer, Sandberg, Ruff, Piedmont-Smith, Chopra, Rollo
Absent: Volan

ROLL CALL
[7:34pm]

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION
[7:35pm]

It was moved and seconded to approve the minutes from June 29, 2016, June 22, 2016, June 15, 2016, December 10, 2003, June 4, 2003, and February 5, 2003.

Isabel Piedmont-Smith raised a point of order, and requested to vote separately on the sets of minutes from 2016 and the sets of minutes from 2003. It was moved and seconded to so divide the question.

Ruff asked whether there were any additions or corrections for the 2016 minutes.

Piedmont-Smith noted one correction for June 15, 2016 minutes.

It was moved and seconded that the minutes from June 29, 2016, June 22, 2016, and June15, 2016 be approved as corrected. The motion was approved by voice vote.

It was moved and seconded that the minutes of December 10, 2003, June 4, 2003, and February 5, 2003 be approved. The motion was approved by voice vote with Piedmont-Smith and Alison Chopra abstaining.

APPROVAL OF MINUTES
June 29, 2016 (Regular Session)
June 22, 2016 (Special Session)
June 15, 2016 (Regular Session)
December 10, 2003 (Special Session)
June 4, 2003 (Regular Session)
February 5, 2003 (Regular Session)
[7:38pm]

REPORTS

- COUNCIL MEMBERS [7:40pm]
- The MAYOR AND CITY OFFICES
- COUNCIL COMMITTEES
- PUBLIC [7:41pm]

Chopra wished Clerk Nicole Bolden a happy birthday.

There were no reports from the Mayor's office.

There were no council committee reports.

Ruff called for public comment.

Gabe Rivera spoke about the war on drugs in Monroe County and the Dallas shooting.

Council Attorney Daniel Sherman provided background information on why the council needed to act on certain appointments at that time.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:46 pm]

It was moved and seconded to appoint Councilmembers Alison Chopra, Susan Sandberg, Isabel Piedmont-Smith, and Dorothy Granger, to work in concert with other members of the COIT council to establish a public safety LOIT committee. The motion was approved by a voice vote.

Ordinance 16-12 – To Vacate Public Parcels – Re: Two 12-Foot Wide Alley Segments and Two Fifty-Foot Wide Street Segments Located at the Northwest Corner of West 11th Street and North Rogers Street (Duke Energy, Petitioner)
[7:51pm]

It was moved and seconded that Ordinance 16-12 be introduced and read by title and synopsis only. The motion was approved by a voice vote.

Deputy Clerk Hilderbrand read the legislation and synopsis, giving the committee recommendation of do pass 0-3-5.

It was moved and seconded that Ordinance 16-12 be adopted.

Ruff invited Chris Sturbaum to address why a postponement of this ordinance was appropriate and provide background information based upon his involvement in the matter.

Sturbaum described ongoing negations between the council, the neighborhood of Maple Heights, and Duke Energy, regarding a proposal made to Duke to screen the proposed substation with a wall to block sound and sight pollution and to leave enough land along the street to build structures already intended for the tech park. Sturbaum said he attended a conference recently and heard about other communities' solutions to substation locations. Sturbaum presented pictures of what other solutions communities have used. Sturbaum said if was done right, a substation did not have to harm the surrounding area. Sturbaum presented slides to show the layout of the land at the proposed sight. He said discussions with Duke were ongoing, and that Duke had requested additional time, which Sturbaum took as a good sign. Sturbaum presented drawings showing possible solutions to screen the substation with walls and liner buildings. Sturbaum said that it made sense to postpone the ordinance because discussions were ongoing and some of those ideas had only recently been presented to Duke.

It was moved and seconded to allow the public to speak on Ordinance 16-12 as part of an additional public hearing advertised for that evening. At the conclusion of public comment, the council would then entertain a motion to postpone further deliberations on Ordinance 16-12 until the regular session schedule for August 31, 2016.

The motion to allow said public comment period received a roll call vote of Ayes: 8, Nays: 0.

Ruff invited public comment, but noted that there was an ongoing discussion with Duke and said he believed that it was being done in good faith.

Chopra commented that she believed the council was supportive of the types of solutions presented by Sturbaum and did not need to be convinced by the public.

PUBLIC COMMENT
[8:05pm]

Public Comment:

Joanna Woronkowicz said she lived in Maple Heights, and was encouraged that Duke seemed to be working in good faith with the council and the administration. She noted that she believed a sizable contingent of the community was still not convinced that it was a good location for the project, but she said she recognized compromises may need to be made on both ends. She also noted very little had been done to address the sighting of electrical lines. She encouraged the council to keep the sighting of lines and poles in mind when discussing alternate design options. She also encouraged the council, the administration, and the plan commission to think about what provisions are necessary to help prevent some of the similar

issues, such as setbacks, from arising in the future. She asked for the Mayor to publicly provide his stance on the project. She said that the public had not heard from the Mayor and his voice might help resolve the situation more quickly and more smoothly.

Sandy Clavier seconded the comments already made, and congratulated the council for being proactive in the matter. She underscored that the Mayor's voice was missing in the debate. She said she expected that he would stand up for the people and encouraged him to do so.

Robert Harmon said he disliked the location and thought the substation should be closer to IU. However, he thought he could go with the drawings shown by Sturbaum, if that was going to be a compromise. He said he did not like the idea of the City paying for making a pig's ear look like a silk purse. He hoped to make it look nice, but reiterated that the City should not pay for it.

It was moved and seconded to postpone consideration of Ordinance 16-12 to the next regular meeting, on August 31, 2016. The motion to postpone received a roll call vote of Ayes: 8, Nays: 0.

Resolution 16-11 – To Designate an Economic Revitalization Area, Approve the Statements of Benefits, and Authorize a Period of Abatement for Real Property Improvements - Re: Properties at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street (H.M. Mac Development, LLC, Petitioner)
[8:11pm]

It was moved and seconded that Resolution 16-11 be introduced and read by title and synopsis only. The motion was approved by a voice vote.

It was moved and seconded that Resolution 16-11 be adopted.

Jason Carnes, Assistant Director of Small Business Development, spoke on the proposed tax abatement. He reminded the council of the location of the project. He described and summarized the two proposed buildings. He pointed out the workforce housing component of the project and described the requirements for the workforce housing units. He described the job creation expected as a result of the project and displayed the proposed tax abatement schedule. He summarized the recommendation issued by the Economic Development Commission and mentioned the Petitioner was present to answer any questions.

COUNCIL QUESTIONS
[8:14pm]

Chopra asked who initiated the negotiations for the tax abatement.
Carnes said the developers approached the City with the idea of the workforce housing component, and one way to make that feasible was to have a tax abatement.

Amendment 1 to Resolution 16-11
[8:15pm]

It was moved and seconded to adopt Amendment 1 to Resolution 16-11.

Piedmont-Smith explained that Amendment 1 would change the date of the confirmation hearing for the tax abatement from August 10, 2016 to August 31, 2016.

COUNCIL QUESTIONS
[8:16pm]

Chopra asked for a description of the confirmation hearing process.
Council Attorney Dan Sherman explained the process of adopting a tax abatement.

Vote on Amendment 1 to Resolution 16-11
[8:19pm]

The motion to adopt Amendment 1 to Resolution 16-11 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded to adopt Amendment 2 to Resolution 16-11.

Amendment 2 to Resolution 16-11
[8:20pm]

Granger explained that Amendment 2 would change the tax abatement schedule from a five-year schedule to a three-year schedule, and spoke about her reasons for supporting the proposed amendment.

Piedmont-Smith explained her reasons for supporting the amendment, and said she wanted to see additional discussions with the developer to see if more affordable units could be added to the project before going back to a five-year abatement.

Ruff invited the developer, Steve Hoffman, to comment.

Hoffman commented he continued to believe the five-year abatement was appropriate.

COUNCIL QUESTIONS
[8:23pm]

Chopra asked Carnes if he had a working formula that was used in other situations to calculate wages, or if the formula proposed to be used for the workforce housing units was a new process to calculate workforce wages.

Carnes said, as far as the workforce housing units, it was a new formula, but noted that the Bloomington living wage ordinance was used as the basis of the formula.

Chopra asked if there was a way to fairly and accurately calculate the items in the formula, specifically wages.

Carnes said that some of the details of how to measure the variables in the formula would be included and figured out in the Memorandum of Understanding, the agreement that happened after the abatement was granted

Chopra asked if there was an agreement drafted yet.

Thomas Cameron, Assistant City Attorney, explained the tax abatement process. He stated that the Economic Development Commission reviewed a request for the tax abatement, then passed that request along to the council. He said there was multi-step process with the council, with a declaratory resolution and a confirmatory resolution. After the confirmatory resolution was drafted, then the Memorandum of Understanding was created, which outlined all of the conditions the council places on the abatement.

Chopra asked whether there was a way for the council to guarantee that what they vote on and what they pass would then be carried out in the agreement.

Cameron said that when the council approved the confirmatory resolution, that resolution would be the main document that would guide the MOU, and said that he had been and would continue to be present at all meetings related to the topic and would be the one drafting the MOU, so he would work in the council's wishes.

Hoffman said a lot of thought had gone into the formula. He addressed Chopra's concern about how to accurately measure salary and said that the hourly rate requirement was annualized. If married, each individual would have to qualify separately. He said they would be able to address individual circumstances as they came up.

COUNCIL COMMENT
[8:30pm]

Ruff said he supported the amendment, but wanted to see the project move forward regardless, so if the amendment failed, he would still support the original ordinance.

Amendment 2 to Resolution 16-11 *(cont'd)*

Sandberg said she supported the amendment, and commended the petitioner and city staff for negotiating the arrangement. She wanted to see other similar arrangement, and noted that tax abatements were just one incentive for future developers. She said the council should be sparing about giving out abatements, and be sure to save four-year or five-year abatements for projects that offered even more affordable housing options.

Ruff noted that during consideration of the confirming resolution the council could approve, approve and modify, or rescind the initial resolution.

Sturbaum suggested allowing the petitioner to speak toward the finances of the project, the thinking that went into affordability, and how the abatement fit into that concept.

There was discussion among councilmembers and the council attorney about when discussion of that topic would be most appropriate, and it was determined to allow petitioner to respond to Sturbaum's invitation to speak.

Hoffman said the project would be successful regardless of the workforce housing component or the tax abatement outcome. Hoffman said he felt the five-year abatement was appropriate as the project would provide more of a benefit than other projects right across the street that had already received three-year abatements, but that did not have any affordable housing component. Hoffman said the council was sending the wrong signal to future developers, but that it was up to the council to decide. He said the developers entered into discussions with the administration because the administration offered an olive branch that the developers wanted to grab onto, and they wanted to provide an example that showed responsible development could happen, and that city officials wanted to see it happen. Hoffman said he felt an even longer abatement would be appropriate as the difference between the rent for the workforce units and market rent was actually more of a benefit to the city than the developer was getting back with the abatement. Hoffman said the closer the city could get to matching the cost to the developers, the more it would encourage other developers to do similar projects

Sandberg responded to Hoffman's comment about the developments across the street, and provided her perspective on why that developer received the abatement it did. She also noted that because the affordable housing component was new, it was setting precedent, and that was why the council was thinking of starting at a three-year abatement. She added that she was thinking of a compromise of a four-year abatement, but thought the majority of the council supported a three-year abatement. She would like further discussion, but would still support the three-year abatement at that point.

Sturbaum said he had not been involved in negotiations of the abatement, but after talking to a nonprofit developer about the money that went into other similar projects, he understood the financial considerations. He commented he also understood the message that the council wanted to send, but did not want to discourage future developers. He said a four-year abatement might be a compromise.

Piedmont-Smith clarified that this developer was not a non-profit developer. She also expected to continue conversations with Hoffman and city staff and to come back to the council with a longer proposed period of abatement.

Amendment 2 to Resolution 16-11 *(cont'd)*

Mayer said that the developer and the administration originally had an agreement of a three-year abatement but the development commission had bumped it up to a five-year abatement, and that was how it came to the council.

Granger said she still believed a three-year abatement was the best place to start. She said the council needed to be thoughtful in using that one tool they had, and that the three-year abatement was agreed to in the beginning, plus they still had time to negotiate.

Sturbaum said that he understood then that they had time to continue discussions, and that he would support the amendment.

Ruff clarified whether Sturbaum would be supportive of a four-year abatement if that were the final vote.

Sturbaum said yes, but since there was time for more discussion, he could support amendment.

The motion to adopt Amendment 2 to Resolution 16-11 received a roll call vote of Ayes: 8, Nays: 0.

Vote on Amendment 2 to Resolution 16-11
[8:47pm]

Rollo asked about a comparison of the commercial first floor of the project in the context of other developments in the downtown core.

Carnes said he talked to the Planning and Transportation Department about that information, and that they were working on gathering it, but that they did not get it to him in time for the meeting. He said he should have it before the August 31 meeting.

COUNCIL QUESTIONS on Resolution 16-11
[8:48pm]

Granger asked whether there was a plan in place if the workforce housing apartments could not be filled.

Hoffman said that was why the five-year abatement, or even a longer abatement, would be appropriate, because the developer was taking on risk. If they made an error in judging the demand for that type of housing, the units would sit empty.

Sandberg asked who would be monitoring that those apartments were filled.

Carnes said he imagined it would be the Economic and Sustainable Development Department, but that detail would need to be figured out in the MOU.

Sandberg asked whether the city would have an obligation to advertise and market those apartments.

Carnes said the city would not be obligated to do so, but the city might want to do it anyway.

Hoffman said any referral would be graciously accepted, but the developer would still have to market those units separately, and would incur extra costs to do so.

Sandberg said maybe instead of a marketing push by the city that a referral system would be appropriate.

Piedmont-Smith thanked the developer for taking the initiative and for the dedication to shown to the community. She said she thought it would be a shot in the arm for South Walnut, and would be positive. She said they would be nice buildings, and we would still

COUNCIL COMMENT
[8:53]

Resolution 16-11 (*cont'd*)

have the Chocolate Moose in one of the buildings. She appreciated all the work that had been done. She understood that time was money and it had taken longer than originally hoped, but there was still work to be done. She said she was happy to support the resolution.

Chopra said she wanted to truly incentivize others to do those sorts of projects, rather than merely reward developers retroactively.

Sturbaum wondered what would happen if the market-rate apartments did not all rent. He hoped there would be a time that the market-rate apartments themselves would be affordable. He said the market was skewed and needed to be incentivized since there was not enough workforce housing for the demand. He said maybe units would age into affordability and wished that the market would work better so that the council would not have to incentivize.

Sandberg looked forward to more thorough conversations with the developer and the administration about the levels and the appropriate use of abatements. She said it was fair to everyone when there was a predictable formula used. She noted she was a member of the affordable living study group and was looking at solutions beyond tax abatements.

Mayer thanked Hoffman and his development team for being the first in that type of program. He looked forward to working with them and the administration on structuring policy to create a roadmap for the future.

Ruff said that type of pioneering idea was exciting, and hoped to modify the agreement in the next month and a half so that it provided more of what both sides wanted. He said there was a lot to like, especially that there would be no difference in access to amenities, or in the units themselves.

Vote on Resolution 16-11
[9:02pm]

The motion to adopt Resolution 16-11 received a roll call vote of Ayes: 8, Nays: 0.

Ordinance 16-17 – To Designate an Economic Development Target Area (EDTA) - Re: Property Located at 405 S. Walnut Street; 114, 118, and 120 E. Smith Avenue; and 404 S. Washington Street and Identified by the Monroe County Parcel ID Numbers 015-35020-00, 015-35010-00, 015-35030-00, 015-10000-00, 015-33130-00 (H.M. Mac Development, LLC, Petitioner)
[9:03pm]

It was moved and seconded that Ordinance 16-17 be introduced and read by title and synopsis only. The motion was approved by a voice vote.

Deputy Clerk Hilderbrand read the legislation by title and synopsis.

It was moved and seconded that Ordinance 16-17 be adopted.

Carnes explained that the ordinance was a state requirement needed when a tax abatement was granted. He said it set an economic development target area and an expiration date for that area. Carnes said it defined an area that needed economic development.

COUNCIL COMMENT
[9:05pm]

Sturbaum confirmed that the area did in fact need that kind of growth and development. He said the area was not far from Seminary Park, which had started to be more of a negative impact on growth, and hope that the development could be a positive impact.

Granger said she felt they were approaching the issue in reverse order, that they should want to identify such areas first, but would still support the Ordinance.

Ordinance 16-17 (*cont'd*)

The motion to adopt Ordinance 16-17 received a roll call vote of Ayes: 8, Nays: 0.

Vote on Ordinance 16-17 [9:07pm]

Sherman provided a reminder of the upcoming council recess and gave an overview of the council meetings schedule for after the recess.

COUNCIL SCHEDULE [9:08pm]

The meeting was adjourned at 9:09pm.

ADJOURNMENT

APPROVE:

Andy Ruff, PRESIDENT
Bloomington Common Council

ATTEST:

Nicole Bolden, CLERK
City of Bloomington