

In the Council Chambers of the Showers City Hall on Wednesday, May 6, 2015 at 7:30 pm with Council President Dave Rollo presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
May 6, 2015

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

ROLL CALL

Council President Rollo gave the Agenda Summation.

AGENDA SUMMATION

It was moved and seconded that the minutes from February 4, 2015 be approved.

APPROVAL OF MINUTES

The minutes were approved by a voice vote.

REPORTS

Tim Mayer extended appreciation to the County Clerk's Office for their work and organization of the municipal election.

- COUNCIL MEMBERS

Steve Volan clarified the information about voter turnout in the primary election saying that it was a decent turnout.

Chris Sturbaum thanked those who ran for office and the risk they took in doing so.

Council member Sturbaum declared he would be excusing himself from deliberation of Resolution 15-13:

I wish to be excused from voting, deliberating, or taking action on Resolution 15-13 as provided for under our code. I am President of the Board of the Farmer House Museum. The Museum and Petitioner, as owners of adjacent properties, have worked together on aspects of this project and the Petitioner has agreed to help with some fund-raising. Rather than raise the appearance of impropriety, I am declaring this relationship under BMC 2.04.150, and intend to remove myself from these deliberations.

It was moved and seconded to accept the statement by Sturbaum to allow his recusal, and the motion was approved by a voice vote.

Susan Sandberg recognized the local Community Action Program, the South Central Community Action Program, part of the anti-poverty program begun by Lyndon Johnson. She announced that the agency would celebrate its 50th anniversary on May 7, 2015 with a community celebration at the local offices.

Dave Rollo reminded all that the local postal workers would be collecting canned and boxed food on May 9th and encouraged residents to leave bags of food at their mailboxes.

Andrew Cibor, new City Transportation Engineer, introduced himself to the Council, described his past experiences as a transportation engineer, and said he looked forward to his future with the city.

- The MAYOR AND CITY OFFICES

Lucy Schaich, Assistant Director of the Bloomington Volunteer Network in Community and Family Resources, reported on the Bloomington Volunteer Network and described the Be More Awards which recently recognized area volunteers. She also introduced Jackie Parks and Arianna Shamloo from the Monroe County Youth Council who described their Service Day held in April.

There were no reports from council committees at this meeting.

- COUNCIL COMMITTEES

Jim Shelton spoke on behalf of CASA and their need for volunteers who work for children who have been removed from the home.

• PUBLIC

Daniel McMullen talked about the US Constitution and the Civil Rights Act.

It was moved and seconded to reappoint Judy Maki and Ryan Cobine to the Traffic Commission.

APPOINTMENTS TO BOARDS AND COMMISSIONS

The motion for these reappointments was approved by a voice vote.

It was moved and seconded that Resolution 15-12 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, saying there was no committee recommendation. It was moved and seconded that Resolution 15-12 be adopted.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Resolution 15-12 - Resolution to Adopt the Monroe County Energy Challenge Energy Plan

Jacqui Bauer, Sustainability Coordinator with the Economic and Sustainable Development, described the Monroe County Energy Challenge.

Public Comment:

Daniel McMullen spoke in favor of this program.

Council comments:

Sturbaum suggested air drying clothes to save energy.

Granger recognized the entire team that helped support this program.

Spechler talked about the amount of energy needed to pipe water from the lake to the city. He said those who use less water should pay a lower rate than those who use more water.

Mayer explained that there was not a graduated rate for water use due to the ruling by the Indiana Regulatory Commission. He added that he thought the city was prudent with its water use and policies on conservation.

Volan said the IRC would not allow different rates for different amounts of water use, and appreciated Mayer's information about utilities.

Spechler said he would like to hear in the future how Bloomington compares to other cities.

Resolution 15-12 received a roll call vote of Ayes 9; Nays 0

It was moved and seconded that Resolution 15-15 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, saying there was no committee recommendation. It was moved and seconded that Resolution 15-15 be adopted.

Resolution 15-15 - Urging the Bloomington Historic Preservation Commission to Initiate the Process of Establishing the Courthouse Square as a Historic District

Rollo read the Resolution. Sturbaum introduced the Resolution by saying it did not declare the Courthouse Square as Historic, but requested that the Bloomington Historic Preservation Commission initiate the process. He explained how the square was first laid out in 1818, some of the history of the downtown square, and said this was the council's responsibility to protect the square with a historic designation.

Volan asked about regulations for sign standards in restoration of structures.

Spechler asked if the areas could be removed or added to the map presented.

Resolution 15-15 (cont'd)

Sturbaum said the map couldn't be changed due to the qualifications that were established by the National Park Service which was well researched and documented. But, he added, that input from stakeholders would be sought in terms of maintenance and repair guidelines.

Public Comment:

Elliott Lewis spoke in favor of this resolution. He described his past investments and efforts to help restore downtown buildings and preserve their historical significance rather than destroy them.

Derek Richey spoke about buildings lost after World War II, and said that in the ten years after, 50-60 % of all of the core structures and buildings in the downtown were removed. He said that it was just one generation that made the decisions to remove all of those buildings, and that this resolution will help prevent that from happening in the future.

Marlene Newman, Historic Preservation Commission member spoke in support of this resolution.

Council Comments:

Volan addressed the concept of protecting historic signs, and commended Derek Richey for his work. He added that this was an important resolution and would support it.

Ruff referred to other cities that had lost their historic downtowns, adding that it was heartbreaking to see those losses of old buildings, and that he would support this legislation.

The motion to approve Resolution 15-15 received a roll call vote of Ayes 9; Nays 0.

It was moved and seconded that Resolution 15-13 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, saying there was no committee recommendation. It was moved and seconded that Resolution 15-13 be adopted.

Resolution 15-13 - To Approve an Enterprise Zone Investment Deduction (EZID) within a Tax Allocation Area (Otherwise Known as a Tax Increment Financing (TIF) District) - Re: ERL-15, LLC, 531 North College Avenue

It was moved and seconded to restructure debate on Resolution 15-13 to limit public comment and to allow the petitioner a final statement.

Ruff asked Council Attorney/Administrator Sherman why this action needed a different process. Sherman said It was unusual part to have the petitioner present final arguments after all other comments.

Granger said she still wondered why this was needed. Sherman said it was a request from the petitioner to have an opportunity to provide final arguments.

Jason Carnes, Assistant Director of the Economic and Sustainable Development Department, said there was no recommendation from administration because as a state program, the application merely flowed through the city. He said this change would allow additional information from the petitioner in lieu of a recommendation from the administration.

The motion to restructure debate for Resolution 15-13 received a roll call vote of Ayes 8; Nays 0. Sturbaum was out of room as a result of his recusal.

Vote to restructure debate

Carnes reviewed the Enterprise Zone Investment Deduction (EZID) deduction application which had been discussed in length at the Committee of the Whole. He noted that according to statute any application for an EZID that was in a TIF District needed to receive

approval by the City Council. He also noted that the Living Wage Ordinance would not apply to this EZID, since the deduction would not be classified as a subsidy from the city.

Carnes said the petitioner was ERL-15 LLC and the development was located at 531 N. College Ave. He said the EZID deduction was based on the assessed property value, and that the abated taxes for each year of the 10 year term would be \$59,039.00. After paying participation fees to the bodies related to this deduction in lieu of paying the full tax liability, the net annual savings for the petitioner would be \$41,327.

Carnes noted the 10 year cumulative estimates of participation fees would be as follows:

Bloomington Urban Enterprise Association Fees:	\$118,077
Indiana Economic Development Fee:	5,904
Redevelopment Commission Fee:	\$53,135

He said the total participation fees would be \$177,116, and the net savings to the applicant would be \$413,270.

Carnes displayed a map of the property location, the interior and exterior of the building. He said it was a 3 story mixed used building with a total capital investment of over \$3.8 million.

Elliot Lewis, petitioner, presented persons on the development team to formally explain the request for the investment deduction.

Mike Carmin, attorney for the petitioner, reminded the council that the EZID was not the same as a tax abatement. He noted that while a tax abatement was requested prior to investment, an EZID was requested after the investment has been made. EZID applications for a qualified investment would simply be filed with the county auditor to receive the investment deduction.

Carmin pointed out that when an investment was made within a TIF District, there was a concern that reducing tax liability on the investor could drain tax money that would otherwise go into the TIF. Therefore, the state granted this oversight to the local fiscal body, in this case the common council.

However, Carmin said, the new statute that provided oversight to fiscal bodies was not part of a process for granting an approval, but rather it gave this body the power to remove a benefit that was granted by the legislature. He said there were no guidance or standards on how to address these issues, even according to council's own ordinance. He concluded by saying his client already achieved a qualifying benchmark of a deduction by reinvesting into the zone in question. He said because of that, the EZID application should be granted.

Jana Voyles, CPA for ERL-15 LLC, reviewed the financial and economic benefits this project contributed to the city. She estimated that the annual economic benefit to Bloomington would be \$289,655 while the annual tax savings for the applicant would be \$41,327.

Tom Redman, president of the contracting company that built the development, explained the environmental problem of removing gas tanks. He also said that a grease interceptor was installed.

Suzanne O'Connell, Cedarview Management, described the infrastructure improvements, how TIF goals were met, and how this development supported the desire for diverse housing units.

Lewis explained the positive neighborhood impact that occurred through a contribution of \$486,820 for the Farmer House Museum and donations for low and no cost housing.

Council questions:

Ruff asked whether the applicant was ever told by staff that there was a source of public money that could be accessed in the future to pay for the contributions or costs of remediation. Carnes said no one in his department made that type of statement.

Volan asked why one bedroom studio apartments were built and not multi bedroom units. Lewis said the building configuration was limited by surrounding buildings, and that the studio and one bedrooms were specifically geared for what young professionals, older professionals and graduate students were looking for in apartments.

Sandberg asked about a grease interceptor, and was told by Redman that even though there was no restaurant on the property, it was a city requirement.

Neher asked about the city's ability to create standards and rules for the EZID. Sherman said the council created an ordinance that provided guidance and standards for EZIDs. He also said that there was no requirement for the council to hear the application.

Granger asked why the street and sidewalk improvements were made. Redman said it was a city requirement.

Spechler asked about the projected revenue for this project. Lewis said he did not look at rate of return, because it was too difficult to predict.

Granger asked why this lot was chosen. Lewis said as a teen he developed a relationship with owners of Diamond Travel that had previously occupied the site. When the property became available, purchasing it was something he wanted to do.

Rollo asked about occupancy demographics and the outlook for the future. Lewis said 53% would be professionals and PhD students, some would be older, and some younger. He said professionals would continue to look for this type of boutique housing close to professional places of employment.

Ruff asked about old petroleum tanks on the property and was told the tanks were removed without incident.

Sandberg asked about the state tax caps and how that related to fewer taxes going into TIFs, and whether that is why councils have this new authority. Sherman said he couldn't speak for the General Assembly but thought that what she said might be partially correct.

Sandberg asked if the purpose of the legislation was because EZIDs could drain city resources. Sherman said that the effect on the TIF was part of the equation.

Volan asked about the process for following through with the financial arrangements for these programs in the Enterprise Zone. Sherman said it was handled through the county auditor.

Volan said under normal circumstances, a petitioner would apply for an investment deduction. Sherman replied that applications for a property in the TIF was heard by council, while property not in the TIF was not heard by council.

Granger asked if the auditor's office would ever deny an application.

Carnes said that it might happen, but only if the information filed was incorrect. He noted that the auditor's office had no authority to make a decision other than whether qualifications were met.

Ruff asked about the year the EZIDs were established and the answer was 2005.

Public Comment:

Daniel McMullen spoke in favor of the project

Concluding remarks by the petitioner:

Elliott Lewis thanked the Department of Economic and Sustainable Development. He said the process of deciding this seemed different from procedures for similar parcels in the area. He added that it was worthless to have such a program if no one could take advantage of it, or if council never approved it. He said visually and numerically, this property is worth 60 times more than it would have been without his improvements on the property.

Council Comments:

Spechler asked how much revenue the TIF could lose while benefitting the petitioner. He said that the opportunity to build in Bloomington was already a benefit. He said he had always promised not to vote for abatements like this unless they produced a substantial number of additional jobs.

Granger talked about how much she loved this building and how much she admired Mr. Lewis's relationship with the Farmer House Museum. She said she opposed EZIDs, and would be more inclined to support a tax abatement.

Neher said this application didn't meet criteria that the council laid out when balanced against the loss of revenue to TIF, and would vote against it.

Ruff said he liked the project, but did not agree that the council was taking away something that was an entitlement through the EZID. He said it was a huge diversion of revenue from the TIF, and he would vote no.

Sandberg thanked the petitioner for a beautiful building and the support of Farmer House Museum. She said she was sorry she couldn't reward the petitioner in some way for his community service, but that the TIF money was needed for city services.

Volan commented on aspects of the building related to meeting the various regulations and guidelines, and noted that the demographics matched what had been requested recently for this area. He said although this program was similar to a tax abatement, he noted the name was "*investment deduction*" which made it different. He said the investor would get a marginal deduction in the taxes they would pay, but would still be paying taxes. He wondered, if the city no longer liked this type of program, why the Enterprise Zone still existed. He added that he was ambivalent about this and would agree that this project added to the investment, was in line with the Growth Policies Plan, and so he would rather err on the side of granting the request.

Mayer said he preferred a tax abatement where there was give and take between the developer and the city, whereas with the EZID "you take it or leave it". He said at this time, it was just too much money to lose from the TIF District funds.

Neher said this discussion had demonstrated that there was a struggle dealing with EZIDs in general. He suggested changing the language of EZID applications and reviewing the process for future requests.

Resolution 15-13 (cont'd)

Rollo agreed with Neher saying it was important to review the EZID process.

Ruff noted that EZID was not left out of the Living Wage Ordinance; the program didn't exist at the time that policy was developed.

The motion to approve Resolution 15-13 received a roll call vote of Ayes: 1 (Volan), Nays: 7 and thus failed. (Sturbaum was not present for deliberation or vote because he recused himself)

LEGISLATION FOR FIRST READING

Appropriation Ordinance 15-01 - An Ordinance Authorizing an Additional Appropriation of Proceeds of Bonds and Any Investment Earnings Thereon

Appropriation Ordinance 15-01

Ordinance 15-11 - To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish Four Buildings at Six Addresses as Historic Districts - Re: Showers Brothers Furniture Company Complex (Bloomington Historic Preservation Commission, Petitioner)

Ordinance 15-11

Ordinance 15-12 - To Authorize the Issuance of Bonds by the Monroe County Redevelopment Commission Pursuant to IC 36-7-14-3.5

Ordinance 15-12

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

PUBLIC COMMENT

Dan Sherman, Council Attorney/Administrator, noted that there was an Internal Work Session scheduled for Friday, May 8, 2015, but the administration would like to have the discussion on May 15th.

COUNCIL SCHEDULE

Rollo polled the members to determine whether the IWS should be scheduled for Friday, May 8th or May 15th. He determined that 4 members could attend on May 8th, therefore Sherman said he would relay that to the Mayor's Office.

The meeting was adjourned at 10:57 pm.

ADJOURNMENT

APPROVE:

ATTEST:



Dave Rollo, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington