COMMON COUNCIL
REGULAR SESSION
September 17, 2014

In the Council Chambers of the Showers City Hall on Wednesday, September 17, 2014 at 7:30 pm with Council President Darryl Neher presiding over a Regular Session of the Common Council.

ROLL CALL

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

AGENDA SUMMATION

Council President Neher gave the Agenda Summation.

APPROVAL OF MINUTES

There were no minutes for approval at this meeting.

REPORTS

- COUNCIL MEMBERS

Andy Ruff noted that - in the face of continued distortions and misrepresentations - he wanted to correct statements that were made by members of a group advocating for non-lethal deer management in the Griffy Nature Preserve. He commented on an article about the forum held on September 9th that was sponsored by Bloomington Activists for Nonviolent Innovative Deer Stewardship (BANIDS). The article was published in the IDS on Sept 10th and included a quote attributed to IU Professor and BANIDS member Sandra Shapshay:

> *"Humane non-lethal population control methods were never explored by the city council or the Deer Task Force. No city official ever invited non-lethal deer control experts to the city, even when the Humane Society of the United States offered to send someone to Bloomington."*

Ruff said the first claim was untrue and offensive to members of the Deer Task Force (DTF), and that the second statement was a mis-representation. He said the DTF spent many months exploring humane, non-lethal population control methods. It wasn't until after a year and a half of exhaustive research that the DTF reluctantly presented their recommendation. Each council member also did extensive investigation on their own before rendering a decision. He said that this level of personal research applied to the Parks Board of Commissioners as well.

Ruff noted that the Deer Task Force had a conference call in 2012 with Stephanie Boyles Griffin of the Humane Society of the US, who was the main presenter at the BANIDS/HSUS forum in Bloomington the previous week. He said that during the call, DTF members came to the realization that they were already familiar with all the things that Boyles Griffin had to offer, attributable to their careful review and consideration of the relevant literature and research on the subject. He emphasized that the HSUS was not dismissed, and that the DTF did not overlook an opportunity to gain new information. He said that the DTF had consulted Griffy experts, PhD biologists and ecologists, animal welfare representatives, and deer experts on the task force and at their disposal.

Ruff said one of BANIDS' leading members, Maria Heslin, was Deputy Mayor during the entire time the DTF held public and open work sessions and deliberations. He said that former Deputy Mayor, James McNamara, also active in BANIDS, was aware of what was going on. Mayor Kruzan was also aware of the DTF work and ultimately vetoed the legislation.

Ruff said that at the forum the previous week, HSUS advocate, Ms. Boyles Griffin, referenced the very same projects and research that the DTF and the council had considered in their deliberations. Ruff asserted that Ms Boyles Griffin also chose to "cherry pick" the results she presented at the forum, although she did acknowledge that an immuno-

Council Member Reports *(cont'd)*

contraceptive approach had never been proven to be effective in controlling deer populations in open systems such as the Griffy Nature Preserve.

Susan Sandberg announced that the annual Lotus World Music Festival for the Arts was being held in a few days and encouraged support for this incredible gem of our community.

Marty Spechler said that he looked forward to the opening of the IU Theatre season and the IU Opera season the following week. He also commented on the local controversy regarding managing deer overpopulation. Spechler stated that in his district – the northeast side of Bloomington - people wanted relief from the damage caused by deer. He would prefer a non-lethal solution but said he didn't think there was one.

Steve Volan welcomed the IU students in the chambers, and also spoke in support of what he called the "phenomenal" 21st annual Lotus World Music and Arts Festival. Additionally, he mentioned that the County Council just approved the 2015 budget of the Solid Waste Management District which included capital for a recycling recovery facility.

Dave Rollo spoke on his experience at the BANIDS/HSUS forum the prior week. He said that he and the representative from the HSUS both agreed that Griffy was an open system and that no methods of non-lethal management had been proven effective in an open system.

- The MAYOR AND CITY OFFICES

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

- COUNCIL COMMITTEE

There were no reports from council committees at this meeting.

- PUBLIC

President Neher called for public comment.

Daniel McMullen spoke about the deer reduction issue, noting that he liked the fact that the deer meat from the cull would be providing animal protein to poor people in our community.

Director Julio Alonso and Jake Bruner, from Hoosier Hills Food Bank, encouraged everyone to vote online in the PBJ fundraising campaign to support HHFB in winning a $60,000 grant from WalMart.

Maria Heslin thanked attendees of the BANIDS/HSUS forum the previous week. She especially thanked Councilmember Granger for issuing the invitation to the HSUS.

Heslin announced that the local chapter of Women's Success Network was holding their Fall Kickoff Celebration on September 23, 2014, with Sherry Dunbar-Kruzan as the keynote speaker. All women were encouraged to attend.

Brian Bell, board member of Monroe County Court Appointed Special Advocates (CASA), spoke about the prevalence of child abuse and neglect locally and nationally. He reported that most victims were under the age of five, with 60% being under the age of one. He called upon every adult citizen in Monroe County to help vulnerable children by calling the Indiana Abuse and Neglect Hotline if they suspected that child abuse or neglect was occurring. He said that Monroe County CASA had 126 open cases with 93 of those having CASA representation; seventy five children were on the waiting list. Mr. Bell encouraged concerned community members to consider becoming a CASA volunteer.

Public Comment *(cont'd)*

Scott Wells, member of the Monroe County Plan Commission, Board of Zoning Appeals, and the Metropolitan Planning Organization (MPO), reported on the MPO meeting held on September 12, 2014, and expressed outrage that there was no media coverage. He proceeded to show pictures of soil runoff problems due to I-69 construction, which caused contaminated streams, creeks, and ponds and polluted drinking water. He disputed the State's claim that they were taking care of erosion control, and faulted the State for not responding to the MPO's complaints. Mr Wells asserted that representative government had failed in this situation.

APPOINTMENTS TO BOARDS AND COMMISSIONS

There were no appointments to Boards or Commissions at this meeting.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Ordinance 14-17 To Amend Title 20 of the Bloomington Municipal Code Entitled "Unified Development Ordinance" (Revising the Definition of "Standardized Business" Under BMC 20.11.020 [Defined Words])

It was moved and seconded that Ordinance 14-17 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 9-0-0. It was moved and seconded that Ordinance 14-17 be adopted.

Tom Micuda, Director of the Planning and Transportation Department, talked about the reason for the change, which was brought forward by CFC and Dave Harstad. The exception clause would indicate that a business or professional office on an upper floor would not be considered a "standardized business" and therefore would not be subject to the same regulations as ground floor uses. The Plan Commission approved the amendment by unanimous consent. Micuda recommended support of this minor ordinance amendment.

Volan referenced the Redeemer Church on the second floor of a downtown building which had a very large sign. He asked if churches were considered "standardized businesses" and if the large church sign was problematic. Micuda replied that churches did not fall under the category of standardized businesses and that upper floor signage had tight limitations per the sign code. Micuda said that the church sign in question had not gone through a review process, but that he would follow up on the issue of the sign's legality.

Mayer pointed out for the audience that Ordinance 14-17 had been thoroughly discussed at the previous week's meeting.

Neher added his appreciation for the timeliness with which the ordinance had been brought forward.

Vote on Ordinance 14-17

Ordinance 14-17 received a roll call vote of Ayes: 9, Nays: 0

Resolution 14-15 To Confirm Resolution 14-14 which Designated an Economic Revitalization Area, Approved Two Statements of Benefits, and Authorized Periods of Tax Abatement for Real Property Improvements and Personal Property – Re: Properties at 304 W. Kirkwood Avenue (Elmore Y Orrego, LLC, Petitioner)
Note: The public comment on this item serves as the statutorily-required public hearing on this legislation.

It was moved and seconded that Resolution 14-15 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, noting that the September 3, 2014 Regular Session action on Resolution 14-14 was 8-0-1 in favor of adoption. She also noted that this was the statutorily required public hearing on this legislation.

It was moved and seconded that Resolution 14-15 be adopted.

Danise Alano-Martin, Director of Economic and Sustainable Development for the City of Bloomington, was introduced along with Jason Carnes, Assistant Director, and Greg McHenry, representative for the property owners. Alano-Martin identified Elmore Y Orrego as the developers of the Cornerstone Headquarters project at 304 W Kirkwood

Ave. The proposal of both the administration and the Economic Development Commission was that the tax abatement apply to all the real estate improvements on the property. Alano-Martin pointed out that if the tax abatement was approved the project would be subject to the Living Wage Ordinance.

Resolution 14-15 *(cont'd)*

The Bloomington Economic Development Corporation (BEDC) provided data on the project's annual value of economic impact for Monroe County, which Alano-Martin reported was $3,624,000.
She stated that the next step in the process would be a Memorandum of Understanding between the city and petitioner Elmore Y Orrego which would specifically define Substantial Compliance and Remedies/Consequences.

It was moved and seconded that Amendment #1 to Resolution 14-15 – sponsored by Councilmember Ruff – be introduced. Amendment #1 would remove the two condominium units proposed for the top floor of this project from the tax abatement. If the amendment was approved, the owners would be responsible for paying an additional $56,202 in taxes over the five year abatement period.
The amendment was coming forward pursuant to IC 6-1.1-12.1-2(I)(2), which allowed the Council to impose additional reasonable conditions on a tax abatement, by resolution, that were consistent with purposes in statute and local guidelines, and IC 6-1.1-12.1-2.5, which gave the Council authority to confirm, modify and confirm, or rescind the declaratory resolution.

Amendment #1

Neher asked Alano-Martin about the decision to recommend a five year abatement instead of a full ten year period. Alano-Martin replied that every proposed project was evaluated according to tax abatement guidelines as well as the economic development priorities of the city. On this project, which included premium market rate housing, the five year tax abatement met city standards better than the ten year abatement.

Spechler asked about the feasibility of the assessed value of the condominium units. Alano-Martin reassured him that the County Assessor and County Auditor were consulted in determining the estimated assessed value.

Public Comment:
Scott Wells talked about the approval process for granting a tax abatement from his perspective as a former county councilmember. He commented that this proposal appeared to meet the criteria, but wondered what would happen if the benchmarks were not met. Referring back to Amendment #1, Mr Wells was bothered that this project seemed to be a TIF within a TIF. He was concerned that it was not fair to give an abatement exception to one entity within a TIF, and thereby decrease the revenue intended to benefit all the residents within the TIF. He said that the project was already granted a height variance by the Plan Commission for the two residential units proposed on the top floor.
Wells was supportive of removing the personal condos from the tax abatement.

Council Comments:
Spechler noted that this was a difficult decision but that he was inclined to support the amendment proposed by Ruff.

Volan emphasized that the council did not have to say 'yes' to every request. He felt that Amendment #1 was an appropriate amendment and supported its passage.

Amendment #1 *(cont'd)*

Speaking from his perspective as a member of the Economic Development Commission (EDC), Neher pointed out that this issue was a topic of much discussion and consideration at EDC meetings. Consistent with the stance taken by the EDC, he intended to vote against the amendment.

Ruff thanked Alano-Martin for all of the challenging work she did regarding the complex issues surrounding this amendment.

Volan commented on the "optics" of the project. He said that if the goal was to achieve a certain amount of abatement, perhaps it could have been calculated another way. He was concerned about the whole development looking appropriate.

Granger agreed with Volan that there could have been better ways to get to the desired number (regarding the amount of the tax abatement); however she supported the amendment as it stood.

Amendment #1 to Resolution 14-15 received a roll call vote of Ayes: 8, Nays: 1 (Neher)

Resolution 14-15 as amended

There were no council questions on the resolution as amended.

Public Comment:
Scott Wells commented that he rarely supported a tax abatement, but he believed that this project was deserving.

Council Comments:
Rollo stated that this project was a good investment in general and agreed that personal residences should not receive tax abatements.

Spechler said that he promised voters in his district that he would not support tax abatement for residential property. He spoke in favor of the project in general.

Sturbaum looked forward to supporting tax abatements for affordable housing projects in the future.

Ruff commented on the absence of the developers at the meeting and believed that they deserved recognition.

Sandberg was supportive of this mixed-use development in the downtown area and looked forward to the opportunity to provide incentives to developers of affordable housing.

Volan liked that this development was mixed use with a building-forward design, and included owner-occupied residential units.

Neher compared this project to other problematic EZID (Enterprise Zone Investment Deductions) applications they had received. He stated that this project "checked the boxes" for what they wanted to see in downtown development proposals. Attractive components included investment in the downtown area, owner occupied units, jobs retained downtown, and a connection to the Certified Tech Park.

Vote on Resolution 14-15 as amended

The question was called and seconded. Resolution 14-15 as amended received a roll call vote of Ayes: 9, Nays:0

There was no legislation for introduction at this meeting.

LEGISLATION FOR FIRST READING

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

PUBLIC COMMENT

Dan Sherman, Council Attorney/Administrator, reminded council-members about the budget schedule, noting that the next Tuesday night was a Special Session followed by a Committee of the Whole, with a second night on budget scheduled for Wednesday, October 8, 2014. Internal Work Sessions were scheduled for Friday, October 3, 2014 and for Friday, October 17, 2014.

COUNCIL SCHEDULE

The meeting was adjourned at 9:10 pm.

ADJOURNMENT

APPROVE:

Darryl Neher, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington