In the Council Chambers of the Showers City Hall on Wednesday, May 8, 2013 at 7:32 pm with Council President Darryl Neher presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
May 8, 2013

Roll Call: Mayer, Neher, Rollo, Ruff, Sandberg, Spechler, Volan, Granger, Sturbaum
Absent: Ruff

ROLL CALL

Council President Neher gave the Agenda Summation

AGENDA SUMMATION

It was moved and seconded that Resolution 13-08 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 2-0-6.
It was moved and seconded that Resolution 13-08 be adopted.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Resolution 13-08 To Approve An Enterprise Zone Investment Deduction (EZID) in the Downtown Tax Increment Financing (TIF) District - Re: Springhill Suites (501 North College Avenue)

Doris Sims, Assistant Director of Housing and Neighborhood Development and staff liaison for the Bloomington Urban Enterprise Association (BUEA), explained the process of approval for an investment deduction incentive within the Downtown Tax Increment Financing (TIF) District.

She noted the proposed project was a 158 suites hotel with a pool and fitness room. She said that 39 new jobs would be created, noted 7 of those would be management positions, and added that the annual payroll for these would be over $1 million. She said value of new improvements would be $18M. She said the tax savings to the developer would be $349,000 per year. She said the following payments would be made each year in the way of participation and registration fees:

- $69,822 to the BUEA (20% of savings)
- $31,000 to the Redevelopment Commission (9% of savings)
- $3490 to the State of Indiana

She said that the usual process for claiming the deduction was for the developer to file with the county Auditor by May 15 of each year.

Sims noted a previous discussion on this issue brought questions from council member Rollo about annual contributions to the Downtown TIF. She said it was estimated at $2.4M per year. She also answered the question about projects within the TIF that were funded by proceeds of the TIF. She said the Buskirk-Chumley operations and maintenance, the Certified Tech Park plan that had been completed, and the S. Walnut Street Streetscape project were funded with TIF funds.

She added the developer, Paul Pruitt, owner of Urban Hospitality One, was available for questions.

Spechler asked Pruitt if he intended to apply for a tax abatement for this project. Pruitt said he did not.

Rollo asked Sims if this would negatively affect the income of the TIF fund. She said there were ongoing projects that would be funded but reiterated the revenue at this point averaged $2.4M per year.

Rollo also asked if other hotels would come forward to seek the same deduction. Sims said they could just apply for the deduction with the Auditor if they were within the BUEA district, but if they were within the TIF as well, they would have to seek approval from the council.

Volan asked whether this question was more about the interplay between the two districts and the funds related to them than the actual applicant or project. Sims reiterated her previous statement, adding that EZIDs could just be applied with no council approval.

Neher asked Dan Sherman, Council Attorney/Administrator, if the legislation creating the EZID was done in 2005. He asked if the section

regarding council approval when the two zones overlapped was created more recently. He asked if the legislative intent was to protect a revenue source for a municipality given the nature of the property tax caps at that time.

Sherman agreed with that characterization of the legislation and said it created an opportunity for a fiscal check on the potential of draining TIF funds.

Volan asked what the total impact to the TIF fund would be with this approval. Sims said the amount of the deduction was based on the investment of $18M based on value of the hotel. She said that $349,000 of the taxes on the improved property would not go into the TIF.

Neher said the TIF fund would recapture a 9% participation fee so that the loss would be $31,000 less than that.

Spechler asked how much was in the TIF fund. Denise Alano-Martin, Director of the Economic and Sustainable Development Department said that at the end of 2012, the balance in the Downtown TIF fund was $6M. She noted that any EZID granted would not affect current revenues, but would affect future new revenue to that fund.

Volan asked if this deduction meant that $349,000 that would have gone to TIF each year would now not go into that fund. Sims noted that this was the yearly savings to the taxpayer.

Sturbaum asked for additional info on this project, how the EZID would help the project be successful.

Alano-Martin said that the Enterprise Zone existed to support and encourage redevelopment in the zone, and the EZID was one tool that could be used to do that. She said the administration had been working with the developer for several months to determine how the hotel project could be supported. She said the project would redevelop an underutilized and partially unused site downtown, adding to the tourism and hospitality market. She said studies showed Bloomington was the second destination in Indiana after Indianapolis for conventions. She said larger conventions couldn't be booked because of the lack of large blocks of hotel rooms. She noted the hotel would create jobs.

Alano-Martin noted that the BUEA board was in support of the EZID, and had even discussed the possibility of the 9% participation fee as a deterrent to the development. Sturbaum asked whether this deduction helped build something that otherwise might not have been built. Alano-Martin said it was a help in that area.

Mayer noted just two of the development objectives stated in the Amended Economic Plan for the Downtown TIF (2010):

- *Strengthen the ties between the city and the community's higher education institutions and improve the physical linkages between the downtown and the IU campus.*
- *Construct additional hotel and meeting space within the downtown, and support an expanded convention center complex.*

He asked if this was fulfilling those objectives. Alano-Martin said that it was.

Sandberg asked about precedence and what approval of this EZID would mean for other requests of this nature. Alano-Martin said criteria was set in statute, but the council had the discretion to approve or deny the request. She said each case was judged on its own merits as aligned with the economic goals of the city and she didn't think a precedent was being set.

Neher asked Sherman about precedence since that was a reason that consideration of this resolution had been delayed. He asked Sherman to summarize the findings of research on this issue. Sherman said action

now doesn't limit actions in future. He added that because of the good discussion at this meeting and the previous one, it would provide a good record for a court to review should there be a challenge to the decision. He said if the council developed criteria to review with their consideration of these cases, it would show that the council was not relying on previous decisions. He said the council could act as they wished in this instance and decide differently on future applications.

Rollo said if other hotels applied for the EZID and the council didn't grant it, the decision could be viewed as being an arbitrary granting of the benefit. He noted that TIF funds could be used for infrastructure in an area to benefit several businesses and citizens in the city, while the EZID was used by the developer specifically to improve one property but with no restrictions on the type of use. Alano-Martin said she couldn't speak to how the developer would use the tax savings, but said that TIF funds had been used for training to benefit downtown technology business.

Spechler asked about the BUEA, noting that it was costing the city money to give incentives for development that might not be actually needed as incentives. Alano-Martin noted the BUEA had many programs that fostered the revitalization that Spechler noted in the downtown.

Spechler noted the EZID was a ten year 100% tax deduction, with a small amount being paid for fees. He said that was a lot of money lost from the downtown revenue and said it was probably no longer justified. Alano-Martin said there should always be investment in the downtown central business district. She said the BUEA continued to support the vibrancy of the downtown and other areas in the zone further north and south of the downtown with its programs. She said this incentive was a valuable tool to promote and support revitalization.

There were no comments from the public.

Council comments:

Sturbaum said there were still areas within the Enterprise Zone that needed to be redeveloped. He added that as the city was asking more of the developers in meeting city goals, this was a way to help them do those things.

Sandberg said she was supportive of this request, and was confident that there could be different decisions in the future based on the merits of each case.

Granger said this helped the city continue to focus on the downtown, and liked the fact that there was a local investor on the project.

Spechler said he understood that the benefit was not promised to the developer, liked the idea that the project was from a local owner and would be managed by a reputable, local company. He noted his agreement with Rollo that this did set a precedent and hoped that the council would create criteria with which to judge future requests. He was not in favor of giving up revenue to the TIF.

Volan concurred with colleagues but primarily supported this because of the goal to bring more hotel space to the downtown. He said the tax deduction helped to incentivize new types of building use in the downtown. He added it was worth remembering that there were no rights or obligations with the EZID program. He said previous councils had been less scrutinizing with requests, and that this council may decide in the future not to incentivize hotels, but some other building use.

Resolution 13-08 *(cont'd)*

Rollo said he would not support this because it struck him as arbitrary, forcing the council to make the same decision in the future for any other hotel. He added the deduction would help deplete the TIF fund which was needed for infrastructure, and that the hotel was not needed.

Mayer said there were a number of reasons to support this request including it was an improvement to the property, it had local investment and ownership of the facility, the proposal was amended to include retail space, and met the criteria of the Economic Development Plan of 2010.

Neher spoke about the original delay and that it had nothing to do with the project, but rather the process, and what the legal implications were for future decision. He said he was very comfortable with the legal opinion that this decision would not bind the council to any future decision. He noted his intention to pursue criteria for consideration of EZIDs in the future.

Resolution 13-08 received a roll call vote of Ayes: 7, Nays: 1 (Rollo).

COUNCIL SCHEDULE

There were no amendments to the council schedule.

ADJOURNMENT

The meeting was adjourned at 7:43 pm.

APPROVE:

Darryl Neher, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington