In the Council Chambers of the Showers City Hall on Wednesday, December 18, 2013 at 7:30 pm with Council President Darryl Neher presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
December 18, 2013

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

ROLL CALL

Council President Neher gave the Agenda Summation

AGENDA SUMMATION

The minutes for the Regular Session of December 4, 2013 and Special Session of and December 11, 2013 were approved by a voice vote.

APPROVAL OF MINUTES

REPORTS
- COUNCIL MEMBERS

Steve Volan noted the recent death of Ian Stark, a 24-year-old experiencing homelessness, in a stairwell of an apartment building. Volan said it was a community tragedy that should not go unmentioned, and that he wanted to take the opportunity to observe the passing of this citizen.

Tim Mayer wished the citizens a Merry Christmas, Happy Holidays and a Happy and Prosperous New Year. He thanked the city employees for their continual daily dedication to the city.

Dorothy Granger said she appreciated the job city employees did day in and day out. She said 2013 was a good year, and that 2014 would be even better.

Susan Sandberg said there would be a listening session on the importance of the Affordable Care Act, information on the enrollment process and what limitations and obstacle there might be in Indiana as a result of the governor's actions to not extend the Medicaid opportunity to Hoosiers. She said professionals in the health care field would be present including Dr. Rob Stone and Karen Green Stone from Hoosiers for Common Sense Health Care. She said community negotiators, those trained to help enroll citizens, would also be present. She said the meeting on January 8, 2014 at 5:30 pm in the council chambers would begin the process of creating a resolution in support of these issues.

Chris Sturbaum wished everyone a peaceful holiday.

Andy Ruff thanked the council staff, clerk and her staff for their work in supporting the council. He thanked his council colleagues and the council leadership for their good jobs.

Darryl Neher thanked Caroline Thompson, a budding entrepreneur who sold him a bracelet, and said she was a great young salesperson and hoped she could remain in the community. Noting that he had just reviewed the Legislative Index for 2013, Neher thanked everyone who made the year's work possible.

REPORTS
- The MAYOR AND CITY OFFICES
  - Bloomington Commission on Sustainability Report

Molly O'Donnell, co-chair of the Bloomington Commission on Sustainability, presented the annual report of the commission that detailed their work in 2013 and projected their tasks for 2014. She was accompanied by Maggie Sullivan, past co-chair. She read the mission of the Sustainability Commission as:

> *BCOS promotes economic development, environmental health, and social equity in our community for present and future generations. The commission gathers and disseminates information, promotes practical initiatives, and measures, monitors and reports on our community's progress towards sustainability.*

She reviewed the commission's activities for 2013 saying that their initiatives focused on food and waste reduction, expanded and safe bicycle and pedestrian access, sustainable business and planning and development. She said one member was a member of the Food Policy Council, and the commission submitted a letter of support for their Food Charter after offering ideas for the final document which she said promoted urban agriculture, food security and sustainable practices. She said the same member would be working with IU on a new food sustainability initiative.

O'Donnell said the members had recycling stations at the Taste of Bloomington festival to reduce waste. She said members helped with the Hoosier to Hoosier sale. She said the commission supported Open Streets, and the Greenways Implementation Plan to improve bike and pedestrian and auto safety. She said that one member served on the Imagine Bloomington Steering Committee and encouraged other members to

participate in the planning sessions. She added that there was a letter written for a proposed co-housing development near the YMCA. She said one seat was open on the commission for the next calendar year.

She noted that Ball State and IU students worked with the commission on a global reporting initiative, based on city hall's LEED certification. She said that Bloomington was one of just a few cities in the country to provide such a study. She said that from that study, an examination of STAR (Sustainability Tools for Assessing and Rating) Communities was undertaken. She said that people in the community, government and other organizations would be interviewed towards the end of becoming a more sustainable community.

Spechler asked if, in the interest of getting people to use bicycles more, she would support the use of bicycles on sidepaths and sidewalks outside the downtown area. O'Donnell said that people in Japan ride on city sidewalks and ring their bell to warn people from behind, but didn't know if Americans could learn to do that. She also added that infrastructure would need to be widened in order to do that in many places.

Spechler asked if the commission would be willing to consider expanding the dual use paths as on the south side of Third Street (on the far east side of town), or outside the central part of the city. O'Donnell said that the question was beyond her capacity to recommend without funding.

Volan noted the previous question was interesting, but called for the Traffic Commission or Bike and Pedestrian Safety Commission to weigh in on this. He asked if the commissions met together or exchanged ideas on a regular basis. O'Donnell said an Environmental Commission member attended meetings. She said they tried to send their members to other meetings as well. Volan noted the council's appreciation for the work of the commission and thanked O'Donnell for the report of the year's activity.

- COUNCIL COMMITTEES
  - Street Design and Engineering Standards

Volan declined to present a final report from the Street Design and Engineering Standards Council Committee because he said the council members had just received the draft. He said the committee might meet one more time to get down final details and that he would be presenting the final report in January.

  - Sidewalk Committee Report – request to amend the 2013 report.

Dan Sherman, Council Attorney/Administrator, facilitated the request to amend the Council Sidewalk Report for 2013. He noted that there were three projects that would not cost as much as earlier planned and there would be a surplus of $24,000 for the 2013 projects. Rather than have the money revert back to the Alternative Transportation Fund, he said the committee recommended that the 2013 funding recommendations be amended to allow the sum to be allocated to the Rockport Road project.

Sturbaum, member of the committee, said this was a very good place to put this money as it was not earmarked for any of this year's projects.

It was moved and seconded that the Sidewalk Report be amended.

Spechler said he supported this change in the recommendations. He said this was one of the most worthy projects being proposed and he was willing to put the extra money to the Rockport Road project.

The motion adopting the amendment to the Sidewalk Committee Report was approved by a roll call vote of Ayes: 9, Nays: 0.

- PUBLIC

President Neher called for public comment but there was none.

APPOINTMENTS TO BOARDS AND COMMISSIONS

There were no appointments to boards or commissions at this meeting.

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Ordinance 13-23 To Establish Procedure and Criteria for Consideration of Enterprise Zone Investment Deductions (EZIDs) for Property Located within a Tax Allocation Area pursuant to I C6-1.1-45-9

It was moved and seconded that Ordinance 13-23 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 6-0-0.
It was moved and seconded that Ordinance 13-23 be adopted.

Neher, sponsor of this ordinance, highlighted the rationale behind the proposal. He said that an EZID application was considered earlier in the year, and that as the process went forward, the council realized that the state, in its discretion to allow the council to approve applications within the TIF district, did not provide specifics as to how those applications should be evaluated. He said the

proposal came from discussions among council members and administration which became a working group he had put together to provide a clear focus for how the council would consider and discuss future EZID applications.

Neher said the highlights were that a report would be produced with the Economic and Sustainable Development Department acting in an advisory capacity for an EZID application, looking at the five areas of:

- Impact on the intersecting TIF
- Impact on the Enterprise Zone and BUEA
- Impact on the Community Revitalization Enhancement Districts (CREDs)
- Impact on the Certified Technology Park (CTP)
- Costs, if any, to be borne by the public as a result of a project that brings forward an EZID application.

He added that the Council would then have the opportunity to consider those applications as they came forward. He said this would allow the council to have a discussion about any substantial benefits to the area. He noted that a statement from Mayor Kruzan was included in materials for this meeting and that the mayor laid out clearly benefits to this proposal. Neher said it held a higher threshold for future EZIDs but recognized the tool as one the community could use.

Spechler thanked Neher for spending time looking for a fair and reasonable approach to the issue. He noted that he did not agree with Neher's position in the memo he wrote introducing the ordinance, but said he did appreciate his time. He cited the two points:

- *EZIDs reduce the revenue to the TIF districts and therefore reduce our ability to make improvements for safety for all the businesses in those areas.*
- *Because EZID deductions are approved after the investments, they are a weaker incentive for positive developments than tax abatements which are approved before an investment.*

Spechler said tax abatements were more valuable than EZIDs because they can be 100%. He asked why Neher had changed his mind about those two points. Neher said he had not changed his mind on those statements of fact. He said EZIDs reduced revenue to a TIF. He asked Spechler to take a look at his comments in the memo and read from his memo:

- *"reduce revenue to the intersecting TIF districts and may adversely impact the city's other economic development areas" and also*
- *"unlike tax abatements (they) are approved after and not before the investment."*

He said Spechler's comments were editorial and not in the memo.

Spechler asked, if EZIDs reduced the tax revenue to the city, how could it be that they MAY reduce the ability and financial health of the TIFs? He said they would NECCESSARILY reduce the health of the TIFs.

Neher said that if one was isolating it to a consideration of only a single project that the revenue that would go directly from the specific project. However, as in other applications, including the one approved earlier in the year, there were other benefits that were involved in the discussions that can and do attract other investments in the district that could have positive benefits. He said while the possibility of the impact on TIF districts might be true on a single application, the broader impact on a project doesn't operate in isolation and would have a broader impact that the council would take into consideration.

Spechler asked if it was true that the more projects approved, the more money TIFs would lose. He believed the council would approve the applications.

Neher said he questioned the assumption that the council would approve a lot of the applications, and it was a prediction on Spechler's part that wasn't necessarily true. He said the issue on this legislation was that it would give the council greater clarity and focus on how the decisions on EZID applications would be made, much greater than the absence of guidelines from the state. He said this was the opportunity to clearly define the decision making process, a valuable consideration. He added that the direction of Spechler's comments of not approving EZIDs at all was equally extreme as providing no criteria. He said that taking away that economic development tool was not a benefit to the community and a step too far. He said instead of saying we'll approve all applications, this criteria would measure an application and allow it to be judged by its merits.

There were no public comments on this ordinance.

Council comments:
Spechler said he was very much against the ordinance. He said that any tax deduction meant that other tax payers of the city would pay more or that the city would have less money for improvements especially in the TIF districts. He said that was obvious.

He said he was not for abolishing incentives for businesses. He said that EZIDs and Tax Abatements were alternatives and that it made no sense to have both. He said he was for, and had repeatedly voted for, tax abatements for commercial properties. He said the tax abatement process was superior to the EZID because the tax abatement process asked the developer in advance to promise employment benefits of the project rather than after the project is finished. He added that tax abatement procedure allowed the council to inquire about the environmental impact of a project and architectural elements of the process. He said it was a prior process that allowed the council to have more influence than the EZID. He said that even talking informally to developers without promises of an EZID would most likely result in approval of all EZIDs in the end. He said the council members were generous people and that if they saw some public benefit they would go along with the EZID recommendation without asking too much about the cost or general budget picture of the city which he said was not wonderful in the long term. He said the criteria was reasonable, but in fact, it would be easy to show that there was public benefit in a project already completed because he said there wouldn't be a project if there was not a benefit.

He said despite all the good work, on a case by case basis, all applications would be approved and there would be no influence after the fact on the employment characteristics and the environmental impact.

He said the proposal would involve a lot of staff time and an examination after the fact of what had been done. He didn't know how that would be supervised, but with a tax abatement there would be a written commitment that would be supervised by staff and contained in the annual tax abatement report prepared by staff. He said this was a much stronger incentive to do something in the public interest. He said that an EZID would be a give-away of public money and tax payer money.

He said he would vote against all EZIDs and that the other members of the council would approve them based on a report of after the fact information and general and vague criteria. He added that tax abatement showed actual target information before the shovel actually hit the ground.

He said he talked to the mayor about this earlier in the week and read his memo, and that the mayor's point was that if you don't have an EZID in a TIF district, but do have them outside the TIF district, it would favor development outside the TIF. Spechler said it might be, but that location was so important and that the TIF districts covered a great deal of the city, and it wasn't a strong statement, and didn't make a good point.

Spechler said that the mayor's point was that the city should have both abatements and EZIDs, but he didn't think the mayor understood that there could not be both. Spechler said that if the city was serious about employment and environmental objectives, the tax abatement procedure worked, not an after-the-fact thing that would be giving away money that was badly needed. He said he could not vote for a tax increase to the citizens of Bloomington.

Volan said he had conversations about TIFs and abatements and why they were given so freely, mirroring an overall positive feeling held about tax abatement incentives. He said Spechler's comments were persuasive and said to approve a deduction after the investment was difficult. He said to get good façade work on projects and to really enhance the physical environment in these projects it really had to be part of the incentives. He said he was not a fan of the construction of Smallwood, but thought it was better than the blighted Superfund site that was there beforehand. He said the Enterprise Zone was doing well, the downtown development was apace and did what was set out to do. He said an EZID in a TIF made him uneasy, and that he really didn't support EZID deductions in general.

Granger said that she was in favor of the ordinance. She said that even if all council members were not to support this ordinance, EZID applications would still be made and come before the council. She said it was not about if EZIDs were approved or not, but a process for determining if the deductions were appropriate. She said she appreciated the work of the committee because it was

very challenging during the deliberation of the Springhill deduction. She said a more clearly defined decision making process would only help in the future.

Sturbaum said that over the next twenty years, the development of the Showers Tech Park would be occurring. He added that with an up and down economy the city needed to help people with incentives to be brave enough to build in certain areas. He said these could be senior affordable housing projects, and that there could be public benefit. He said the guidelines would help to analyze the project and help decision making. He said it closed the door for older projects and thought that was a good thing. He noted that the BUEA would receive some of the money in the deduction and that those funds were of benefit to the Zone and the community.

Ruff agreed with Granger. He asked Dan Sherman, Council Attorney/ Administrator, if EZID applications would come before the council whether this ordinance was passed or not. Sherman said that since 2008 the council had considered six such deductions.
Ruff said that was an important point in that it gave the council a more solid ground for a healthy, conservative skepticism when presented with the applications. He noted the Springhill Suites application might have gotten a different vote if the ordinance had been in place then.
He said he shared some of Spechler's concerns, but said that the ordinance was important because the applications would come, no matter what.

He said it was remarkable that this incentive, 10 years of a 100% tax deduction, was created by the state with no guidelines. He added that the council was fortunate to have the opportunity to review the EZIDs in TIFs to see if they provided a significant public benefit that outweighed the loss that Spechler talked about.

He said when the applications came in the future, the council would need to be very conservative and hold the bar to demonstrate public benefits really high and really consistent and include wage structure.

He said he appreciated the careful and thoughtful work on the guidelines and noted specifically the items that described a public benefit.

Sandberg said she was struck by the creation of the law that allowed the council to review EZIDs within TIFs. She supported the proposal saying it was a policy that would assist the council in evaluating the economic development tool. She said that she disagreed with Spechler's assertion that that the council would automatically approve all EZIDs because they were generous people. She said the mayor's memo was more compelling that Spechler's memo and argumentation. She said the council was one that asked tough questions, and that she appreciated having this proposed tool at her disposal.

Mayer said that the council had no guidance in reviewing the Springhill Suites EZID application. He thanked the folks who worked on this proposal, said it was good public policy, and would give the council a way to look at abatements to see the public benefit.

Neher thanked Granger and Ruff for pointing out that whatever the vote was on this ordinance, there would be EZID applications coming forth in the future. He said that the proposal provided a higher threshold for evaluating the future applications. He added that the proposal was designed to provide a flexibility in the council's review of applications.
He said he strongly disagreed with Spechler's statement that the council could not consider environmental concerns in deliberations. He said that impact in an area was not defined solely as economic impact.

Neher clarified for the record that the words in Spechler's memo to fellow council members attributed to Neher and council packet memo were wrong. He said there was editorial commentary included in Spechler's points that were not included in Neher's original memo regarding this ordinance.

Neher also clarified that in the mayor's memo there was no talk about the EZID and tax abatement being offered simultaneously, but rather he said that the incentives and revenues could co-exist with fiscal prudence or the benefits of the project accomplish economic development goals including (TIF plan goals). He said this was fundamentally different than Spechler's characterization.

Neher said he appreciated the support from the administration and staff in designing the document and particularly thanked Sherman, Sturbaum and Ruff.

Ordinance 13-23 *(cont'd*

Spechler said there would be a lot of EZID applications because the downtown area was so vibrant. He said that with EZIDs, unlike tax abatements, the only option was yes or no, because the project was already built and operating. He said he would say no. He said he wondered what the high standard would be, as it was not measureable and there was always some public benefit. He said many council members would say yes without measuring the impact on other tax payers or the budget. He said that a clear and good public policy was to let people know in advance whether they could get a tax benefit or not, and a tax abatement did just that while an EZID could not do that.
He said that while the document was good work, he felt that it was impossible to say in advance what EZIDs would be approved before they were seen. With tax abatements we see what is being proposed. He said that this proposal was bad public policy, the council didn't need it, and there was a better public policy in the tax abatement. He said a clear public policy was needed to say to developers that if you want lower taxes, come with a tax abatement proposal. He said the EZID applications would flood the staff and council and take up a lot of time. He said he simply did not understand others' objections to his position that EZIDs were not as effective as tax abatements.

Volan said the discussion was interesting, but that Granger had persuaded him that adding criteria to the previously unmanaged incentive program was worth doing. He said he didn't disagree with Spechler's skepticism about EZID nature of being a TIF discount. He said that he agreed with Sandberg that this council had been less inclined to approve projects without asking questions, but pointed to the sidewalk report as being the result of previous councils' approval of developments without basic infrastructure such as sidewalks.

Neher said that he and Spechler agreed on the questions of fact, the definitions and benefits of tax abatements and EZIDs. He said they were arguing on policy. He added that the question was how we approach the EZID applications that would come forward in the future. He added that the broad nature of this economic tool did not make it an attractive one, but that definition and law was not in the council's purview. He said the proposal in the ordinance gave the council a better framework for decision making.

Volan said the criteria was a local addition to the discussion of EZIDs, and hoped that the council would think the same way when it came to parking meter revenue. He asked if there would be criteria as to how excess revenue would be spent, as it wasn't in the original ordinance. He asked for more specific criteria there.

Ordinance 13-23 received a roll call vote of Ayes: 8, Nays: 1 (Spechler)

LEGISLATION FOR FIRST READING

This being the last meeting of 2013, there was no legislation for introduction.

PUBLIC COMMENT

Larry Jacobs, government relations for the Chamber of Commerce, liked the debate this evening and thanked the council for their work on behalf of himself and the chamber. He wished all the best for the holiday season and thanked folks again for all the council does for the city.

COUNCIL SCHEDULE

Dan Sherman, Council Attorney/Administrator, noted that the Organizational Session for the council 2014 year would take place on January 8, 2014.
Moved and seconded to cancel the IWS on Jan 3, 2014. Approved by a voice vote.
It was moved and seconded to cancel the COW after the organizational meeting on Jan 8, 2014, which was approved by a voice vote.

ADJOURNMENT

The meeting was adjourned at 8:49 pm.

APPROVE:

Darryl Neher, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington