

In the Council Chambers of the Showers City Hall on Wednesday, March 7, 2012 at 7:43 pm (after a Committee of the Whole meeting) with Council Vice President Susan Sandberg presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
March 7, 2012

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

ROLL CALL

Council President Mayer gave the Agenda Summation

AGENDA SUMMATION

It was moved and seconded that Resolution 12-02 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, noting that there was no committee meeting held on this item. It was moved and seconded that Resolution 12-02 be adopted.

LEGISLATION FOR SECOND
READING

Resolution 12-02 To Authorize Expenditures from the Industrial Development Fund to Support an Economic Development Project (Cigital, 100 South College Avenue)

Adam Wason, the Assistant Director of Economic and Sustainable Development, asked the council to allow staff to enter into an Economic Development Finance Agreement regarding funds from the Industrial Development Fund of the Downtown Community Revitalization and Enhancement District (CRED). He said the agreement would be with the high tech security software firm named Cigital.

Wason reviewed the history of the CRED creation with regarding the goals of opportunities for employment, attraction of new business, and retaining or expanding a business in the downtown area. He reviewed the funding of the CRED, and resources the CRED provided to the ESD Department. He explained the parameters of the Economic Development Finance Agreement, and the authorization of the use of funds.

Wason noted that Envisage received funds to retain high paying, high tech jobs in the downtown, and was the last business to do so. He said that in coming years, the administration would leverage private investment in the expansion of facilities associated with the Bloomington/Monroe County Convention Center.

Wason reviewed Cigital background and services as well as their plans for establishing an assessment center in Bloomington. Wason noted that Cigital had conducted a site selection process and found that Bloomington had the right mix of technical talent, location and quality of life for their employees. He read a quote from Brian Mizell, VP for Operations for Cigital that indicated their support for the city's efforts to foster a sustainable, creative and welcoming community; noted that they were the qualities that attracted the company to Bloomington, and they believed that their presence in the downtown would strengthen these efforts, improve the downtown and strengthen the community's technology cluster.

Wason said 25 new jobs would be created in the next two years, with the annual average wage of \$75,000. He said the costs and investments would include IT and security upgrades for the space in the Chase Bank building, hardware expenditures and extensive costs for furniture and fixtures. He noted that after the benchmark of \$52,000.00 of Cigital expenditures was met, \$32,000 of IDF expenses would be available to the company. He noted that the BICAC recommended approval of this agreement, and added a stipulation that the company remain in the downtown CRED or within the city's Certified Technology Park for five years.

Wason said the Economic Development Finance Agreement would include clawback provisions should the employment goals and other stipulations not be met. He noted representatives from Cigital were present to answer questions.

Volan asked about previous examples of CRED funds given to attract companies to create a context for the current request. Wason said the

last incentive package offered from the Downtown CRED was for Envisage Technologies to increase employment by 23 new positions and thus increase their annual payroll to \$2.2M. He said the benchmarks for construction and reimbursements were different from the current proposal.

Volan asked for the amount of CRED money allocated to Cigital, to which Wason said \$150,000 was authorized for payment in 2009. Volan asked if they had been substantially compliant with the agreement, to which Wason noted they had been.

Granger asked if the percentage of cost to be reimbursed in this case was typical of the CRED agreements. Wason said that the projected new annual payroll and number of new employees created a base for the arrangements and agreements, and said the proposal was not atypical.

Danise Alano-Martin, Director of the Economic and Sustainable Development Department, said the amount of this agreement was smaller than that provided to Envisage. She noted that the needs of the company and comfort of the city in providing for those needs were factors in the agreement. She said that the city could agree to fund things that would only stay with the facility, but overall investment and job creation factored in heavily, too.

Rollo asked for the balance of the Industrial Development Fund. Wason said the Downtown CRED had about \$5.3M.

Spechler said this was wonderful news. He then asked when the connection with the company was made, who made the first overture and when the negotiations started and who first mentioned the opportunity for investment. Wason said that the first contact was made by Cigital the previous summer. He said that the State of Indiana's Development Corporation, the Bloomington Economic Development Corporation and then the city. He said that city staff, Ron Walker of the BEDC and Cigital representatives were in close contact for the previous month with finalizing site searching and proposals. Spechler asked if the council approved the resolution, was Wason sure that the company would come to Bloomington. Wason said he was.

Volan asked if it was an investment in office space that would attract a company or an investment in a company. Wason said it was both, and noted the stipulations were in effect until 2017.

Ruff asked how the agreement was enacted. Wason said that the resolution was authorizing the staff of the Economic and Sustainable Development Department and city administration to negotiate with Cigital representatives in an amount not to exceed \$32,000. He said the benchmarks for the build out of the office space, the employment levels, and annual wages would be negotiated.

Ruff noted the benchmarks and conditions listed in the packet might be estimates. Wason said that was true, but was not specific to line items, but to the general areas. Ruff said the items that would trigger the clawback were more of interest to him. Wason said that if the company didn't make the investment in the building it would be considered an initial non-compliance which would void the agreement. He said the clawbacks were associated with the employment levels and payroll amounts using a percentage of the annual payroll amount and number of jobs created as points for clawbacks.

Ruff asked if the council would be involved in firming up the provisions of the agreement after they approved the resolution. Alano-Martin said the items in the resolution noted as benchmarks would be in the agreement and that any negotiations would be regarding additional language or more specificity.

Resolution 12-02 (cont'd)

Ruff noted as this was an expansion of a growing firm, the company would not be moving existing employees to Bloomington, and asked about the interest of the existing workforce. He specifically asked if there had been any commitments from Cigital to hire locally. Wason referred the question to Brian Mizelle, VP of Operations for Cigital. He said that the jobs were new to the company and they had already hired five employees. He noted that the Office Manager with him was a Bloomington resident and that three more new employees were Indiana University students; he said the fifth person was from Johns Hopkins University. He said the company was using the relationships with the University to keep their graduates in Bloomington.

Volan asked about Cigital's site search. Mizelle said that they looked throughout the Midwest, from Austin to Ann Arbor, and looked for resources that would fit their skill levels. He said the School of Informatics and Computing was a big part of their decision, along with the cost of living and quality of life. He said most of their decision came down to looking for skills of new graduates that fit their needs in the Assessment Center.

Volan asked about the nature of the Assessment Center in Cigital's business. Mizelle said it was the first Center outside of the Headquarters in Dulles, Virginia. He said it was a growing part of the business and allowed clients to work remotely with the company.

Volan asked for a description of another city's offer to the company. Mizelle said that 'criteria' was the first issue and Bloomington came to the top of the list, and that at this point they were not looking anywhere else. He said that assistance from the State of Indiana and the City of Bloomington had solidified their decision.

Spechler said that \$60,000 didn't seem like much money to equip an office of this type. He asked if the company would expand or build in another place to accommodate the employees. Mizelle said that the space was adequate for the employees, but the infrastructure and security needs might amount to more cost. Spechler asked if the city would be asked to provide more resources to the company if they expanded. Mizelle said that he hoped to expand in Bloomington, but didn't anticipate asking for anything at this time.

Ruff asked if Cigital had any competitors in Bloomington. Mizelle said he was not aware of any, but added that the work was very specialized in application software security, and most other firms were located in other places worldwide.

A call for public comment brought Larry Jacobs, City Government Relations Manager for the Chamber of Commerce, who spoke in favor of the resolution. He added that the Chamber had researched the company and found nothing to criticize.

Ron Walker, President of the Bloomington Economic Development Corporation, said that the process had started last summer and that they had hosted a delegation of Cigital officials --the CEO, their Founder and Human Resources Director -- and talked about quality of life issues, competitiveness, and availability of talent in the area. He said that they set up a meeting of successful tech company CEOs in Bloomington for conversation about their issues. He said that those CEOs sold Bloomington and were great ambassadors for the city.

Sandberg called for final comments.

Volan said that 18 years before, he was in a similar situation as he looked for a place to start up his technology company, the first internet access provider in Bloomington. He said his choice was between

Bloomington and Chicago, and said that Bloomington had the right mix of technical talent and quality of life. He said he felt good about his decision every time he noted another company establishing in Bloomington. He said it was a win for the creative class when the administration of the city acted on the belief that quality of life is economic development. He noted his support, despite the haste of the decision in hearing this resolution on one night. He added that there was no harm to public good in having a decision made later in the month. He noted his appreciation of the Economic and Sustainable Development Department and of Cigital's decision to locate in the city.

Neher thanked the staff for their work and welcomed Cigital to the community. He said that the Certified Tech Park Advisory Committee had just met the day before and that this was a timely issue. He said that this affirmed the direction of the city and the opportunities that the property of the Certified Tech Park afforded the community. He invited citizens to participate in the visioning of what the city could grow and be.

Ruff said he agreed with the positive comments and that it was a great validation of the work of the community over the last several decades. He wished them great success. He then pointed out the complexity of the world, economy and democracy regarding the clients of Cigital – a couple of the “too big to fail” banks. He noted that those companies dumped large amounts of money into the political system to try to undermine reforms and federal legislation that were clearly in the interest of the public. He reiterated that things were not simple any more.

Resolution 12-02 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that Ordinance 12-04 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis. It was moved and seconded that Ordinance 12-04 be adopted.

Ordinance 12-04 To Amend the Bloomington Zoning Maps from Institutional (IN) to Residential Multifamily (RM) - Re: 718 East 8th Street (Cheryl Underwood, Petitioner)

Volan moved and Sturbaum seconded to postpone Ordinance 12-04 to the meeting of March 21, 2012. Volan said the reason he wanted to postpone was that council members had expressed a concern that they not be involved with a court case that had tangled up the discussion of this issue. He said the summary judgment hearing was scheduled for March 16th. He said tabling could be able to be done at a later time.

Spechler said that he supported Volan's motion with the understanding that the matter could be postponed again, depending on if the hearing took place on schedule.

Dan Sherman, Council Attorney and Administrator, clarified that the council had until April 2nd to take up this matter, 90 days after the matter was certified to the council. He said that failure to act by that date would, allow the decision of the Plan Commission to stand. He reiterated that their decision was to deny the rezone accompanied by a request for Planning Staff to review the entire University Courts area and other similar rezones.

Neher asked for clarification on the reason for postponement. Volan reiterated that the postponement was not to wait for an official decision, but rather that the arguments needed to be made before the judge. He said that it would be unlikely that a verdict would be made before April 2nd. He said his intent was to let the negotiations between the petitioner and the city continue without prejudice from the council by tabling the motion at this meeting.

Spechler asked if a final decision by the Plan Commission was actually final, or if it could be brought up again. Sherman counseled that it could not be brought up again in its current form. He said that if the issue would be revisited it would be under a different time frame, but that according to statute, if the council didn't act by April 2nd, the Plan Commission decision would go into effect.

Volan clarified that state statute gave authority of land use to both the council and the plan commission, but the council could change the verdict of the plan commission within that 90 day period.


The motion to postpone Ordinance 12-04 to March 21st received a roll call vote of Ayes: 8, Nays: 0.

The meeting was adjourned at 8:35 pm.


ADJOURNMENT

APPROVE:

ATTEST:



Timothy Mayer, PRESIDENT
Bloomington Common Council



Regina Moore, CLERK
City of Bloomington