

City of Bloomington Common Council

Legislative Packet

Wednesday, 21 October 2015

Regular Session

All materials contained herein.

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402
812.349.3409

council@bloomington.in.gov

<http://www.bloomington.in.gov/council>



Packet Related Material

Memo
Agenda
Calendar

Notices and Agendas:

None

Legislation for Second Reading:

- **Res 15-21** In Support of Planned Parenthood of Indiana and Kentucky
 - Memo from Council Sponsors
 - Link to “Planned Parenthood at Risk.” Editorial appearing in the New England Journal of Medicine, 03 September 2015
 - *Contacts:*
 - Dorothy Granger at 734.726.4384; grangerd@bloomington.in.gov*
 - Susan Sandberg at 812.320.8552; sandbers@bloomington.in.gov*
 - Tim Mayer at 812.332.5269; mayert@bloomington.in.gov*

Legislation and Background Material for First Reading:

- **Ord 15-23** To Amend the Approved Planned Unit Development (PUD) District Ordinance and Preliminary Plan - Re: 751 E. Tamarack Trail (Jill’s House, LLC, Petitioner)
 - Certification of Action on October 12th Consent Agenda (6-0-0)
 - Zoning Map and Aerial Photo
 - Memo to Council from Beth Rosenbarger, Zoning and Long Range Planner, Planning and Transportation Department
 - Staff Report to Plan Commission
 - Petitioner’s Statement
 - Schematic Plan for Renovation of First and Second Floors
 - Photos of Front (South) and Side (East) Faces of Building

Contact: Beth Rosenbarger at 812-349-3423 or rosenbab@bloomington.in.gov

Minutes from Regular and Special Sessions:

- November 19, 2014 Special Session
- December 3, 2014 Regular Session
- December 10, 2014 Special Session
- May 6, 2015 Regular Session

Memo

One Resolution Ready for Consideration Under “Second Readings and Resolutions” and One Ordinance Under “First Reading” for the Regular Session on Wednesday, October 21st

There is a resolution ready under Second Readings and an ordinance ready for introduction under First Reading at the Regular Session next Wednesday. Both items are included in this packet and summarized herein.

Second Reading

Item One – Res 15-21 – In Support of Planned Parenthood of Indiana and Kentucky

Resolution 15-21 is sponsored by Councilmembers Granger, Sandberg, and Mayer and expresses support for the work of Planned Parenthood of Indiana and Kentucky (PPINK). The resolution documents the local, regional and national positive reach of Planned Parenthood and highlights the preventative nature of PPINK’s work. Pursuant to the Council’s police powers to protect the health, welfare, and safety of Bloomington residents, the resolution maintains that Planned Parenthood of Indiana and Kentucky improves the lives of Bloomington residents and our collective community welfare. The measure resolves that the City “stands with Planned Parenthood and strongly supports the work of Planned Parenthood of Indiana and Kentucky in its mission to provide critical and life-saving health care services to women, men, and teens throughout Bloomington and the entire State of Indiana.”

As the resolution points out, PPINK provides significant benefit to Bloomington residents. Planned Parenthood’s Bloomington Health Center provides health services to over 4,000 women, men, and teens each year. Approximately 80% of these patients

are seeking family planning services. Approximately 80% of the Bloomington Health Center's patients are at or below 150% of the federal poverty level. Furthermore, the resolution points out that in 2014, the Bloomington Health Center provided over 4,000 STD tests, close to 900 breast exams, and over 200 cervical cancer screenings to its patients. As the resolution makes clear, fully 93% of the services provided by Planned Parenthood of Indiana and Kentucky are preventive in nature: STD tests and treatment, breast exams, cervical cancer screenings, and contraception.

The memo from Council sponsors makes it clear that this resolution is being proposed at a time of much national discussion about Planned Parenthood. The memo contextualizes this debate, and makes it clear that all funds granted to the local Planned Parenthood health center by the Common Council's Jack Hopkins Social Services funding program are preventive in nature. Over time, Jack Hopkins funds have been devoted to wellness exams, STD testing, cancer screenings, and birth control.

It is anticipated that there will be robust public attendance for this resolution and that many members of the public will want to speak to this legislation. For this reason, it is anticipated that there may be a motion to limit individual public comment on this agenda item which has typically been set at no more than three minutes per speaker. Other rules for orderly deliberations will be issued at the meeting.

First Readings

Item One – Ord 15-23 - Amending the Jill's House / Meadowood PUD to Allow for Assisted Living Facility and Nursing Convalescent Home Uses on the Parcel Occupied by Jill's House (751 E. Tamarack Trail)

Ord 15-23 would amend the Jill's House/Meadowood Planned Unit Development (PUD) to allow Assisted Living Facility and Nursing Convalescent Home uses on the Jill's House parcel (751 E. Tamarack Trail) at the request of Jill's House, LLC and House Investments, LLC. This summary draws upon material provided by Beth Rosenbarger, Zoning and Long Range Planner, and previous Council materials.

Many on the Council probably remember the approval of this PUD in 2006. Jill's House and Meadowood worked in concert to obtain approval for a PUD on 10.6 acres of land. This land lies east of North Dunn both north and south of Tamarack Trail and extends to existing development in Meadowood. The land north of Tamarack Trail had been zoned RE 2.5 and includes the second address on North Dunn north of

that street (but not the first address – which is a dwelling). The land south of Tamarack Trail had been part of the Meadowood PUD.

The entire 10.6 acres is surrounded by single family properties and the Griffy Nature Preserve on the north, Meadowood on the east, and single family properties on the south and west. With approval of the PUD, one parcel north of Tamarack Trail was set aside for a temporary housing facility with no more than 20 beds (Jill’s House) and another parcel just east of it was set aside for nine garden homes (which have been constructed). The land south of Tamarack Trail was set aside for an assisted living facility (which has not been constructed).

Jill’s House was a non-profit organization that provided temporary housing for families with members being treated at the Midwest Proton Radiotherapy Institute (MPRI) and ceased operations at the end of 2014 after MPRI closed its doors.

The Petitioner intends to reuse the current building with interior remodeling but only minor exterior modifications (i.e. removal of a deck) with the goal of providing a secure facility for “memory care patients.” The staff report notes that the 29 parking spaces under the building and the drop-off area in front of the building will provide adequate parking for employees and visitors.

Growth Policies Plan. This parcel¹ lies within the Lake Griffy Watershed and is designated in the Growth Policies Plan as Conservation Residential, which applies to “areas possessing special natural environmental characteristics that require careful attention with regard to development proposals... (which should be) low in density and clustered in a manner that protects environmentally sensitive lands and preserves infrastructure capacities.” Much of the deliberation in 2006 dealt with the environmentally sensitive aspects of this site and resulted in the building being “placed in the least sensitive location on the lot” next to a pond and rain garden to hold and filter storm water before it is released into the watershed.

Public Input. The Staff Report notes that input from a neighborhood meeting was generally favorable in regard to the building being “reused in a similar fashion,” but included some concerns over delivery trucks on North Dunn.

Recommendation: The Plan Commission voted to approve this PUD amendment by a vote of 6-0 as part of its Consent Agenda. According to the memo to the

¹ The land south of Tamarack Trail is designated as a Public/Semi-Public/Institutional area, which is intended “to provide adequate land to support compatible government, non-profit and social service land use activities.” This includes, among other uses, assisted care facilities.

Council, the Commission “found this to be a very minor change to the PUD with negligible impacts to the development and surrounding area” and imposed three conditions:

- Staff will review and approve the Final Plan using current criteria;
- An updated landscape plan shall be included in the Final Plan and correct for incorrectly installed landscaping; and
- The authorization only allows for reutilization of the existing building, with the construction of any new buildings, other than accessory structures, requiring reconsideration of the PUD.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, OCTOBER 21, 2015
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

- III. APPROVAL OF MINUTES FOR:** Regular Session on: May 6, 2015
December 3, 2014
Special Sessions on: November 19, 2014
December 10, 2014

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Resolution 15-21 - In Support of Planned Parenthood of Indiana and Kentucky

Committee Recommendation: *None*

It is anticipated that many members of the public will wish to speak to this agenda item; for that reason, it is anticipated that a motion will be proposed this evening to limit individual public comment on this item. Motions in regard to public comment typically limit speakers to no more than three minutes.

VII. LEGISLATION FOR FIRST READING

1. Ordinance 15-23 - To Amend the Approved Planned Unit Development (PUD) District Ordinance and Preliminary Plan - Re: 751 E. Tamarack Trail (Jill's House, LLC, Petitioner)

VIII. ADDITIONAL PUBLIC COMMENT* (A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

* Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.



**City of Bloomington
Office of the Common Council**

To Council Members
From Council Office
Re Weekly Calendar – 19 – 24 October 2015

Monday, 19 October

11:00 am Board of Public Works – Work Session, Kelly
12:00 pm Bloomington Entertainment & Arts District, McCloskey
5:00 pm Utilities Service Board, Utilities
5:30 pm Bicycle & Pedestrian Safety Commission, Hooker Room

Tuesday, 20 October

11:30 am Plan Commission – Work Session, Kelly
4:00 pm Board of Public Safety, McCloskey
5:00 pm Redevelopment Commission, McCloskey
5:30 pm Animal Care & Control, Kelly
5:30 pm Board of Public Works, Chambers
5:30 pm Commission on the Status of Children & Youth, Hooker Room

Wednesday, 21 October

10:00 am Metropolitan Planning Organization – Technical Advisory Committee, McCloskey
2:30 pm Affordable Care Act Committee, McCloskey
4:00 pm Board of Housing Quality Appeals, McCloskey
5:30 pm Traffic Commission, Chambers
6:00 pm Council of Neighborhood Associations, Hooker Room
7:30 pm Common Council –Regular Session, Chambers

Thursday, 22 October

5:00 pm Bloomington Historic Preservation Commission, McCloskey
5:30 pm Board of Zoning Appeals, Chambers

Friday, 23 October

12:00 pm Council-Staff Internal Work Session, Council Library

Saturday, 24 October

9:00 am Bloomington Community Farmers' Market, Showers Common,
401 N. Morton St.
9:00 am Neighborhood Heart & Soul: Exploring our Sense of Place, Chambers
(Call 349-3505 to Register)

RESOLUTION 15-21

IN SUPPORT OF PLANNED PARENTHOOD OF INDIANA AND KENTUCKY

WHEREAS, Planned Parenthood of Indiana and Kentucky is the largest provider of reproductive health care services in Bloomington, Indiana; and

WHEREAS, Planned Parenthood of Indiana and Kentucky has served women, men, teens, and families in Bloomington, Indiana and surrounding communities for 51 years and provides access to critical, non-judgmental health care services, including: birth control, life-saving cancer screenings, HIV screenings and counseling, STD testing and treatment, well-women exams, and, safe and legal abortion; and

WHEREAS, Planned Parenthood provides these essential services to many of the Bloomington community's most vulnerable residents, residents who would otherwise be unable to afford such care; and

WHEREAS, Planned Parenthood is a critical community partner in protecting the health of Bloomington residents:

- Planned Parenthood's Bloomington Health Center provides health services to over 4,000 women, men, and teens each year, 80% of whom come to Planned Parenthood for family planning services, and 80% of whom are at or below 150% federal poverty level;¹ and
- In 2014 alone, Planned Parenthood's Bloomington Health Center provided 4,413 STD tests and treatments, including HIV tests, 890 breast exams, and 224 cervical cancer screenings to its patients;² and
- At a time when Monroe County's STD rates outpace national rates,³ and at a time when our community is experiencing an increase in Hepatitis C infections, the testing and treatment provided by Planned Parenthood's Bloomington Health Center is ever-more vital; and

WHEREAS, Planned Parenthood is an indispensable defender of regional health:

- Planned Parenthood provides care in Monroe County, a medically underserved area as indicated by a shortage in primary care physicians, high infant mortality rates, populations with incomes below the poverty level, and/or populations age 65 or over; and
- Indiana's 9th Congressional District includes 10 counties ranked in the bottom half of the State's county health rankings, including 4 counties with teen birth rates in the top quartile of counties in Indiana;⁴ and
- Planned Parenthood's Bloomington Health Center provides service to all of Indiana's 9th Congressional District thereby filling a gap in reproductive health care access in the District;⁵ and

WHEREAS, fully 93% of the care that Planned Parenthood provides in Indiana is preventive in nature;⁶ and

¹ Planned Parenthood of Indiana and Kentucky, *Bloomington Health Center Profile*, 2014.

² Planned Parenthood Bloomington Health Center Data.

³ Robert Wood Johnson Foundation, *County Health Rankings and Roadmap: Building a Culture of Health, County by County*.

⁴ *County Health Rankings, Teen Births, Ibid.*

⁵ Planned Parenthood Bloomington Health Center Data.

⁶ Planned Parenthood of Indiana and Kentucky, *Planned Parenthood of Indiana and Kentucky Annual Report*, 2014.

WHEREAS, Planned Parenthood is a guardian of the reproductive health of women, men and teens throughout the country, a vital role recognized by doctors and the medical community. In pointing to Planned Parenthood's systemic positive influence on public health, the *New England Journal of Medicine* published an editorial in September 2015 whose authors express strong support for, among other things, the organization's work as "one of the country's largest providers of health care for women, especially poor women;"⁷ and

WHEREAS, the contraceptive services provided by Planned Parenthood improves the economic, psychological, and social lives of both individuals and communities. According to the Guttmacher Institute, consistent access to contraception: improves the mental health of children; lifts women, children and families out of poverty; increases the likelihood that women will attain higher education; better prepares women for the workforce; improves happiness; and, strengthens family stability;⁸ and

WHEREAS, an investment in Planned Parenthood is a wise investment of public funds. Studies indicate that for every public dollar invested in family planning, over \$7 in taxpayer savings are realized;⁹ and

WHEREAS, the reach of Planned Parenthood is systemic: approximately 1 in 5 women has relied on a Planned Parenthood health center for care in her lifetime; and

WHEREAS, the work of Planned Parenthood is accessible: Planned Parenthood of Indiana and Kentucky's healthcare professionals offer safe, affordable, and convenient health services; and

WHEREAS, the effect of Planned Parenthood is transformative: access to Planned Parenthood's contraceptive services and preventive care affords women life choices and strengthens the well-being of Bloomington residents, families, and our shared community; and

WHEREAS, access to care provided by Planned Parenthood is a matter of social and reproductive justice.

NOW, THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. As public officials charged with protecting the health, welfare, and safety of Bloomington residents, we maintain that the vital services provided by Planned Parenthood of Indiana and Kentucky prevents suffering, saves lives, saves both individuals and communities money, improves the quality of life for our residents, and improves our collective community condition.

SECTION 2. The City of Bloomington, Indiana stands with Planned Parenthood and strongly supports the work of Planned Parenthood of Indiana and Kentucky in its mission to provide critical and life-saving health care services to women, men, and teens throughout Bloomington and the entire State of Indiana.

⁷ Topulos, G., Greene, M.F., & Drazen, J.M. (2015). Planned Parenthood at Risk. *The New England Journal of Medicine*, 373(10), 963. doi: 10.1056/NEJMe1510281

⁸ Sonfield, A., Hasstedt, K., Kavanaugh, M.L., & Anderson, R. The Social and Economic Benefits of Women's Ability to Determine Whether and When to Have Children. New York, NY: The Guttmacher Institute; March 2013.

⁹ Frost, J.J., Sonfield, A, Zolna, M.R., & Finer, L.B. (2014). Return on Investment: A Fuller Assessment of the Benefits and Costs of the US Publicly Funded Family Planning Program. *The Milbank Quarterly*. 92(4), 667-720. doi: 10.1111/1468-0009.12080

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2015.

DAVE ROLLO, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana upon this _____ day of _____, 2015.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2015.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution is sponsored by Councilmembers Granger, Sandberg, and Mayer and expresses strong support for the work of Planned Parenthood of Indiana and Kentucky. The resolution documents the far-reaching benefit of Planned Parenthood of Indiana and Kentucky on Bloomington residents, the Bloomington community, and beyond. The legislation resolves that Planned Parenthood of Indiana and Kentucky saves lives, saves money, and improves the quality of life of women, children, and families in our community. The legislation further resolves that the City of Bloomington stands with Planned Parenthood of Indiana and Kentucky in its mission to provide critical and life-saving health care services to women, men, and teens throughout Bloomington and the entire State of Indiana.



**City of Bloomington
Office of the Common Council**

To: Council Members
From: Councilmembers Dorothy Granger, Susan Sandberg, and Tim Mayer
Re: Resolution 15-21: In Support of Planned Parenthood of Indiana and Kentucky
Date: 16 October 2015

Resolution 15-21 expresses strong support for the work of Planned Parenthood of Indiana and Kentucky (PPINK). As City Councilmembers charged with protecting the health, welfare, and safety of Bloomington residents, we sponsor this resolution which acknowledges the critical role the PPINK plays in providing life-saving preventive services to members of our community who would otherwise not be able to afford such care. The care provided by PPINK improves the health and well-being of Bloomington residents and our collective community condition.

Pursuant to our statutory charge, we take great care in the stewardship of public funds, and funding of PPINK is no exception. PPINK provides critical preventive and life-saving health care services to Bloomington residents and residents throughout the State of Indiana. Indeed, fully 93% of the services provided by PPINK are preventive in nature: these include wellness exams, cervical cancer screenings, STD-testing, and contraceptive services. By making these services accessible, diseases are caught earlier, the spread of STDs is curtailed, suffering is prevented, and women are afforded more life choices.

This Resolution comes at a time when Planned Parenthood faces Congressional scrutiny following misguided attacks against this legitimate and much-needed health care service. A threat to defund Planned Parenthood continues as Congress debates the future of our national budget. In the wake of this current discussion, this Resolution stands as our show of support for a nonprofit organization that we value for its services to our low-income residents. Indeed, as the Resolution points out, PPINK's Bloomington Health Center provides health services to over 4,000 women, men, and teens – 80% of whom are at or below 150% of the poverty level.

The influence of Planned Parenthood is positive and far-reaching. In pointing to Planned Parenthood's influence on national public health, the *New England Journal of Medicine* published an editorial in September 2015 whose authors express strong support not only for the organization's responsible and legal work to channel fetal tissue into critical research, but also for the organization's work as "one of the country's largest providers of health care for women, especially poor women."

In support of this position, the authors point to the following figures:

In 2013, the most recent year for which data are available, Planned Parenthood provided services to 2.7 million women, men, and young people during 4.6 million health center visits. At least 60% of these patients benefited from public health coverage programs such as the nation's family-planning program (Title X) and Medicaid. At least 78% of these patients lived with incomes at or below 150% of the federal poverty level. Planned Parenthood's services included nearly 400,000 Pap tests, nearly 500,000 breast examinations, nearly 4.5 million tests for sexually transmitted illnesses (including HIV), and treatments. The contraception services that Planned Parenthood delivers may be the single greatest effort to prevent the unwanted pregnancies that result in abortions¹ (citations omitted).

It is important to note that the bulk of Planned Parenthood's work is preventive. While no federal tax dollars go to support abortion services, the abortion debate nonetheless lies at the heart of the most recent attack of Planned Parenthood. Just as federal funds are not used for abortion services, neither are local funds. All monies allocated to PPINK via the Council's Jack Hopkins Social Services program are dedicated to preventive services: wellness exams, STD testing, cancer screening, and birth control. Without such local and regional services, many low-income residents would not have access to safe, affordable or convenient options for their family planning and general wellness health needs. While family planning clinics have been closed down in other Indiana communities, our State has simultaneously experienced outbreaks of life-threatening conditions such as HIV and Hepatitis C. Some parts of our region, particularly some counties in the Ninth Congressional District, experience some of the highest rates of teen births in the State. The work of PPINK is critical to improving the health and lives of Indiana women, men, and teens.

By standing in support of Planned Parenthood of Indiana and Kentucky, we stress the importance of its preventive and life-saving work. And while no local dollars support abortion services at PPINK, our position on abortions is that they remain safe, legal, affordable, and rare as guided by long-established Constitutional law. It is our strong hope that those low-income individuals seeking preventive services through Planned Parenthood will not require abortion services due to their ability to get the reproductive health care counseling and services needed to prevent that difficult personal choice.

It is in this spirit that we respectfully request your support of Resolution 15-21.

¹ Topulos, G., Greene, M.F., & Drazen, J.M. (2015). Planned Parenthood at Risk. *The New England Journal of Medicine*, 373(10), 963. doi: 10.1056/NEJMe1510281

Editorial

[“Planned Parenthood at Risk” \(linked\)](#)

by George P. Topulos, M.D., Michael F. Greene, M.D., and Jeffrey M. Drazen, M.D.
Published in *The New England Journal of Medicine* 373(10), 963, 03 September 2015.

ORDINANCE 15-23

**TO AMEND THE APPROVED PLANNED UNIT DEVELOPMENT (PUD) DISTRICT
ORDINANCE AND PRELIMINARY PLAN
- Re: 751 E. Tamarack Trail
(Jill's House, LLC, petitioner)**

WHEREAS, Ordinance 06-24, which repealed and replaced Title 20 of the Bloomington Municipal Code entitled, "Zoning", including the incorporated zoning maps, and incorporated Title 19 of the Bloomington Municipal Code, entitled "Subdivisions", went into effect on February 12, 2007; and

WHEREAS, the Plan Commission has considered this case, PUD-25-15, and recommended that the petitioner, Jill's House, LLC, be granted an amendment to the approved PUD district ordinance and preliminary plan approval. The Plan Commission thereby requests that the Common Council consider this petition;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Through the authority of IC 36-7-4 and pursuant to Chapter 20.04 of the Bloomington Municipal Code, the list of approved uses and development standards shall be amended for 751 E. Tamarack Trail of the approved PUD. The property is further described as follows:

Commencing at the northeast corner of Lot 2 of North Dunn Addition; Thence on the north line of said lot North 87 degrees 53 minutes 28 seconds West 510.34 feet to the true Point of Beginning.

Thence leaving said north line South 02 degrees 06 minutes 32 seconds West 226.21 feet to the beginning of a non-tangent curve concave to the southeast having a radius of 465.00 feet and to which beginning a radial line bears North 01 degrees 40 minutes 22 seconds West; Thence on said curve Southwesterly 131.16 feet through a central angle of 16 degrees 09 minutes 39 seconds; Thence on a tangent line South 72 degrees 09 minutes 59 seconds West 55.95 feet to the beginning of a curve concave to the southeast and having a radius of 515.00 feet; Thence on said curve Southwesterly 50.53 feet through a central angle of 05 degrees 37 minutes 18 seconds; Thence on a tangent line South 66 degrees 32 minutes 41 seconds West 80.23 feet to the beginning of a curve concave to the northwest and having a radius of 200.00 feet; Thence on said curve Westerly 89.28 feet through a central angle of 25 degrees 34 minutes 32 seconds; Thence on a tangent line North 87 degrees 52 minutes 48 seconds West 17.12 feet; Thence North 02 degrees 12 minutes 48 seconds East 345.90 feet to the north line of said Lot 2; Thence on said north line South 87 degrees 53 minutes 28 seconds East 402.33 feet to the Point of Beginning, containing 2.63 acres, more or less.

SECTION 2. This amendment to the District Ordinance and the Preliminary Plan shall be approved as attached hereto and made a part thereof.

SECTION 3. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2015.

DAVE ROLLO, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2015.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2015.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance would amend the list of permitted uses of the PUD District Ordinance for 751 E. Tamarack Trail of the Meadowood PUD to allow for “assisted living facility” and “nursing/convalescent home.”

****ORDINANCE CERTIFICATION****

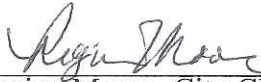
In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 15-23 is a true and complete copy of Plan Commission Case Number PUD-25-15 which was given a recommendation of approval by a vote of 6 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on October 12, 2015.

Date: October 13, 2015



 Thomas B. Micuda, Secretary
 Plan Commission

Received by the Common Council Office this 13th day of OCTOBER, 2015.



 Regina Moore, City Clerk

Appropriation Ordinance # _____	Fiscal Impact Statement Ordinance # _____	Resolution # _____
---------------------------------	---	--------------------

Type of Legislation:

Appropriation Budget Transfer Salary Change	End of Program New Program Bonding	Penal Ordinance Grant Approval Administrative Change
Zoning Change New Fees	Investments Annexation	Short-Term Borrowing Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure _____	Emergency _____
Unforeseen Need _____	Other _____

Funds Affected by Request:

Fund(s) Affected	_____	_____
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/-)	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

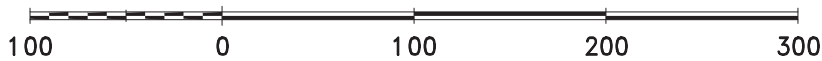
If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)



PUD-25-15

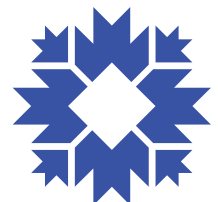
By: rosenbab
17 Sep 15



For reference only; map information NOT warranted.



City of Bloomington
Planning & Transportation



Scale: 1" = 100'

Interdepartmental Memo

To: Members of the Common Council
From: Beth Rosenbarger, Zoning and Long Range Planner
Subject: Case #PUD-25-15
Date: October 13, 2015

Attached are the staff report, petitioner's statement, maps, and exhibits which pertain to Plan Commission case #PUD-25-15. The Plan Commission heard this petition at the October 12, 2015 hearings and voted unanimously to send this petition to the Common Council with a favorable recommendation.

REQUEST: The petitioner is requesting an amendment to the list of permitted uses for the property at 751 E. Tamarack Trail of the Meadowood PUD to include assisted living facility and nursing/convalescent home.

BACKGROUND:

Area:	2.63 acres
Current Zoning:	PUD
GPP Designation:	Public/Semi-Public/Institutional
Existing Land Use:	Temporary Housing Facility (Jill's House, vacant)
Proposed Land Use:	Assisted Living Facility and Nursing/Convalescent Home
Surrounding Uses:	North – Dwelling, Single-family West – Dwelling, Single-family East – Existing Meadowood Retirement Community South – Vacant, Meadowood PUD

REPORT: This property is located at 751 E. Tamarack Trail of the Meadowood PUD. The site was developed as Jill's House and constructed in 2008. Jill's House served as a temporary housing facility for families in conjunction with the Midwest Proton Radiotherapy Institute (MPRI). Unfortunately, the MPRI has closed and Jill's House closed as well. The PUD was originally narrowly tailored, and this amendment would add two uses to the parcel, which allows for the existing structure to be reused.

This portion of the Meadowood PUD was created in 2006 with only three permitted uses—Garden Homes, Assisted Living Facility, and Temporary Housing Facility—each on separate tracts. The area permitting an Assisted Living Facility has not yet been developed and was approved for the south side of Tamarack Trail, across from Jill's House. In order to reuse the existing building, the developers would like to add two uses—Assisted Living Facility and Nursing/Convalescent Home—to the permitted uses for the Jill's House parcel. They plan to convert the building into a memory care facility.

The property is within the Lake Griffy Watershed. Due to its proximity to and impact on Lake Griffy, the original proposal sought to permit the development while limiting and mitigating any disturbance of soil or vegetation. For this proposal, no new building is proposed at this time. The petitioner will use the existing building with only minor modifications, such as removing a deck in order to secure the facility for memory care patients. Other modifications will be interior remodeling. At the time of development, some of the landscaping was not installed correctly including the grasses in the detention pond. At the Final Plan phase, the petitioner will need to work with staff to correct any landscaping areas that need to be updated in order to meet current code.

The site has 29 parking spaces which are located under the building. The petitioner anticipates approximately 20 full-time employees and possibly 5 part-time employees. The front of the building also has a large driveway with a drop-off area that is likely to be used by those visiting family members. Staff finds the available parking adequate to meet the needs of the proposed uses.

GROWTH POLICIES PLAN ANALYSIS: The Growth Policies Plan (GPP) has designated the southern half of the property as Public/Semi-Public/Institutional and the northern half as Conservation Residential. The intent of the Public/Semi-Public/Institutional area is *“to provide adequate land to support compatible government, non-profit and social service land use activities.”* This designation specifically anticipates uses such as Jill’s House and an assisted living facility as demonstrated in the Land Use guidance that reads as follows:

The Public/Semi-Public/Institutional designation encompasses properties controlled by public and private institutions and developed for: 1) schools (including Indiana University), 2) **non-profit facilities**, 3) government facilities, and 4) hospitals, medical parks, and **assisted care facilities**.

The GPP also gives guidance for any future Public/Semi-Public/Institutional uses to have adequate public services on site to support the use. This site is currently served by public utilities that also serve the existing Meadowood Retirement Community.

The Conservation Residential intent states that *“This category identifies areas possessing special natural environmental characteristics that require careful attention with regard to development proposals”* and that *“Any development in Conservation Residential areas should be low in density and clustered in a manner that protects environmentally sensitive lands and preserves infrastructure capacities.”*

This proposal reuses an existing building, which was permitted under these regulations. The building was placed in the least sensitive location on the lot. Other areas are and will continued to be protected. The GPP also notes that *“access to property located within these areas should be from existing streets and roads. The*

development and construction of new public roadways within these areas should be discouraged.” This development would gain access from the existing private roadway, Tamarack Trail.

PUBLIC INPUT: Staff has received no comments regarding this petition. At a neighborhood meeting, some neighbors expressed concerns over delivery trucks on N. Dunn St. Neighbors were generally happy to see the building reused in a similar fashion as the prior use. There were no comments made at the Plan Commission Hearing.

CONCLUSIONS: The Plan Commission found this to be a very minor change to the PUD with negligible impacts to the development and the surrounding area.

RECOMMENDATION: The Plan Commission voted 6-0 to forward this petition to the Common Council with a positive recommendation and the following conditions:

1. The Final Plan will be reviewed and approved at staff level using current standards.
2. The Final Plan must include an updated landscape plan to current standards. In some cases, the petitioner will need to remove landscaping that was incorrectly installed.
3. This PUD amendment only allows reutilization of an existing building. Any new building construction, excluding accessory structures, will require reconsideration of the PUD.

PETITIONER: Jill's House, LLC
751 E. Tamarack Trail, Bloomington, IN

CONSULTANT: JPF Properties, LLC, Gary Scott

REQUEST: The petitioner is requesting an amendment to the list of permitted uses and a waiver of the second hearing for the Meadowood PUD to allow for a 25-unit assisted living facility.

BACKGROUND:

Area: 2.63 acres
Current Zoning: PUD
GPP Designation: Public/Semi-Public/Institutional
Existing Land Use: Temporary Housing Facility (Jill's House, vacant)
Proposed Land Use: Assisted Living Facility and Nursing/Convalescent Home
Surrounding Uses: North – Dwelling, Single-family
West – Dwelling, Single-family
East – Existing Meadowood Retirement Community
South – Vacant, Meadowood PUD

REPORT: This property is located at 751 E. Tamarack Trail of the Meadowood PUD. The site was developed as Jill's House and constructed in 2008. Jill's House served as a temporary housing facility for families in conjunction with the Midwest Proton Radiotherapy Institute (MPRI). Unfortunately, the MPRI has closed and Jill's House closed as well. The PUD was originally narrowly tailored, and this amendment would add two uses to the parcel, which allows for the existing structure to be reused.

This portion of the Meadowood PUD was created in 2006 with only three permitted uses—Garden Homes, Assisted Living Facility, and Temporary Housing Facility—each on separate tracts. The area permitting an Assisted Living Facility has not yet been developed and was approved for the south side of Tamarack Trail, across from Jill's House. In order to reuse the existing building, the developers would like to add two uses—Assisted Living Facility and Nursing/Convalescent Home—to the permitted uses for the Jill's House parcel. They plan to convert the building into a memory care facility.

The property is within the Lake Griffy Watershed. Due to its proximity to and impact on Lake Griffy, the original proposal sought to permit the development while limiting and mitigating any disturbance of soil or vegetation. For this proposal, no new building is proposed at this time. The petitioner will use the existing building with only minor modifications, such as removing a deck in order to secure the facility for memory care patients. Other modifications will be interior remodeling. At the time of development, some of the landscaping was not installed correctly including the grasses in the detention pond. At the Final Plan phase, the petitioner will need to work with staff to correct any landscaping areas that need to be updated in order to meet current code.

The site has 29 parking spaces which are located under the building. The petitioner anticipates approximately 20 full-time employees and possibly 5 part-time employees. The front of the building also has a large driveway with a drop-off area that is likely to be used by those visiting family members. Staff finds the available parking adequate to meet the needs of the proposed uses.

GROWTH POLICIES PLAN ANALYSIS: The Growth Policies Plan (GPP) has designated the southern half of the property as Public/Semi-Public/Institutional and the northern half as Conservation Residential. The intent of the Public/Semi-Public/Institutional area is “to provide adequate land to support compatible government, non-profit and social service land use activities.” This designation specifically anticipates uses such as Jill’s House and an assisted living facility as demonstrated in the Land Use guidance that reads as follows:

The Public/Semi-Public/Institutional designation encompasses properties controlled by public and private institutions and developed for: 1) schools (including Indiana University), 2) **non-profit facilities**, 3) government facilities, and 4) hospitals, medical parks, and **assisted care facilities**.

The GPP also gives guidance for any future Public/Semi-Public/Institutional uses to have adequate public services on site to support the use. This site is currently served by public utilities that also serve the existing Meadowood Retirement Community.

The Conservation Residential intent states that “*This category identifies areas possessing special natural environmental characteristics that require careful attention with regard to development proposals*” and that “*Any development in Conservation Residential areas should be low in density and clustered in a manner that protects environmentally sensitive lands and preserves infrastructure capacities.*”

This proposal reuses an existing building, which was permitted under these regulations. The building was placed in the least sensitive location on the lot. Other areas are and will continued to be protected. The GPP also notes that “*access to property located within these areas should be from existing streets and roads. The development and construction of new public roadways within these areas should be discouraged.*” This development would gain access from the existing private roadway, Tamarack Trail.

PUBLIC INPUT: Staff has received no comments regarding this petition. At a neighborhood meeting, some neighbors expressed concerns over delivery trucks on N. Dunn St. Neighbors were generally happy to see the building reused in a similar fashion as the prior use.

CONCLUSIONS: Staff finds this to be a very minor change to the PUD with negligible impacts to the development and the surrounding area.

RECOMMENDATION: Staff recommends forwarding this petition to the Common Council with a favorable recommendation with a waiver of a second hearing and the following conditions:

1. The Final Plan will be reviewed and approved at staff level using current standards.

2. The Final Plan must include an updated landscape plan to current standards. In some cases, the petitioner will need to remove landscaping that was incorrectly installed.
3. This PUD amendment only allows reutilization of an existing building. Any new building construction, excluding accessory structures, will require reconsideration of the PUD.

HISTORY

Jill's House, 751 Tamarack Trail, Bloomington, IN 47408 was built in 2008 to house patients and their families undergoing treatment at the IU Health Proton Therapy Center. The initial development was a collaborative effort between Jill's House, Inc and Meadowood Retirement Community. Meadowood donated the land while Jill's House, Inc raised funds to build the structure. Through great community efforts funds were raised and a house was built opening in June 2008. It is a 25 unit, hospitality house and in its 6 and a half years it housed over 600 families from all over the world. Jill's House was inspired by the lives and the footsteps of Jill Behrman and Steve Howard, two young people whose time on Earth was much too short. Through Jill's House, their parents, Eric and Marilyn Behrman, and Bud and Peg Howard, hoped to honor their legacies by bringing both hope and healing to those who stayed at the facility.

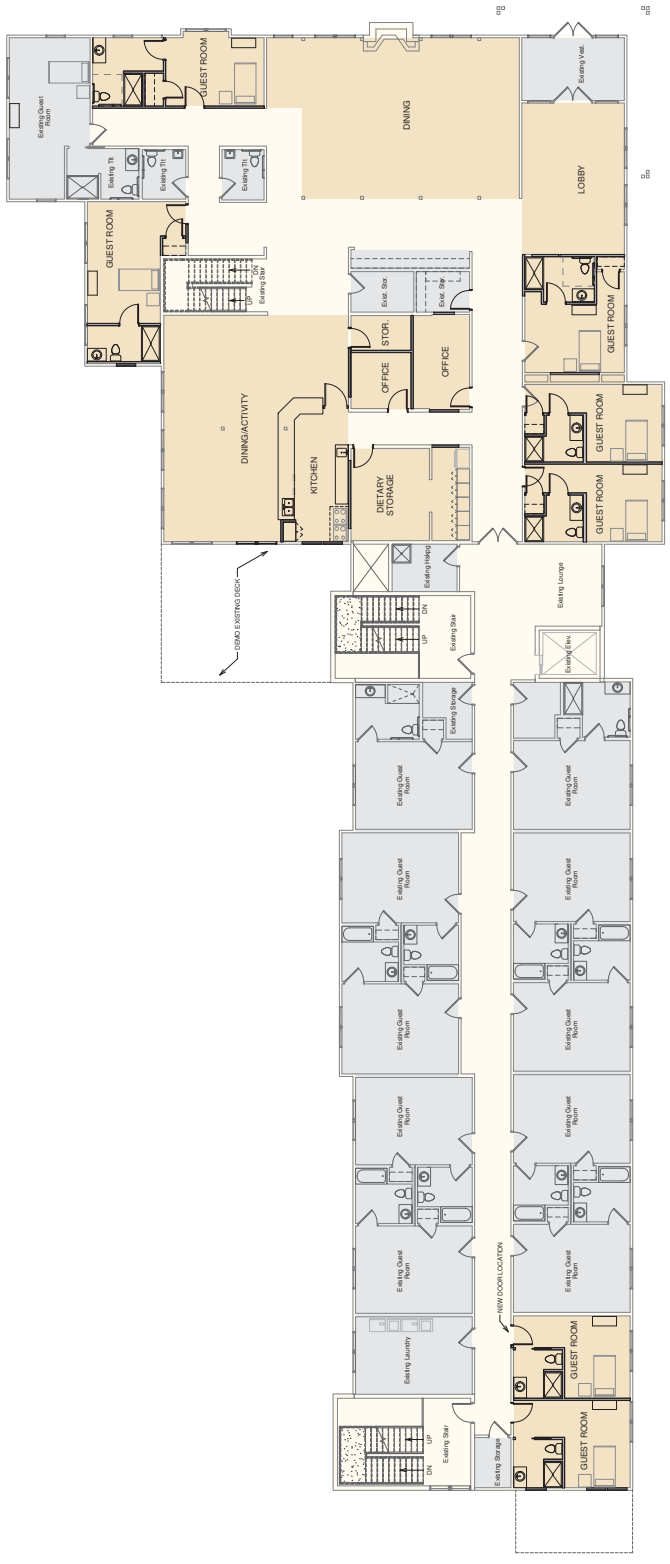
Jill's House was originally owned by Jill's House Incorporated. In December of 2013, Jill's House, LLC was formed which purchased the property at 751 Tamarack Trail with a long term lease from Jill's House, Inc. In September of 2014 it was announced that the IU Health Proton Therapy Center would be closing by the end of the year and Jill's House Inc. would no longer be in operation.

The Planned Urban Development (PUD) is specific to Jill's House not allowing any other permissible uses. Therefore, Jill's House LLC and House Investments, LLC are applying for an amendment to the PUD which would allow a continued healthcare focus of the property.

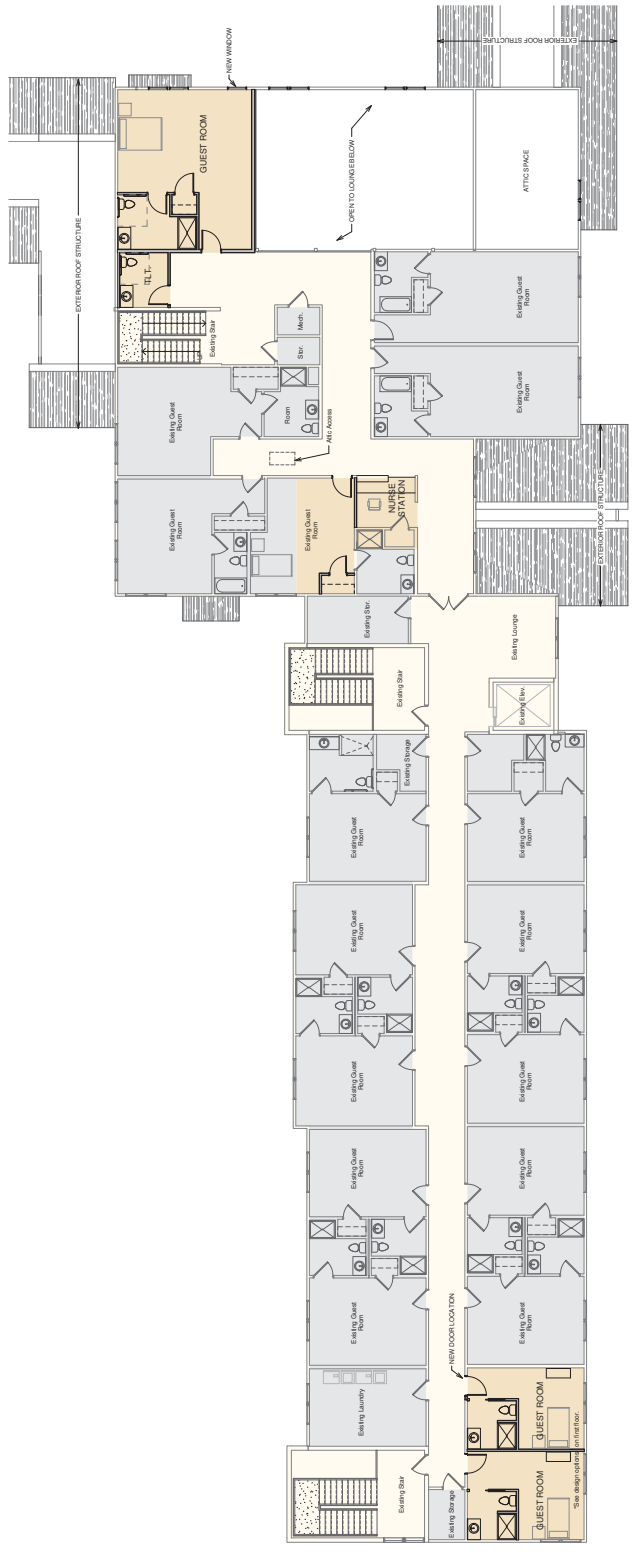
Attached to this is the document that was used when applying for the PUD in 2006 which includes all of the required descriptions of the land, infrastructure, drainage, etc.

Gary Scott
Partner/Principle
Jill's House, LLC

Kevin D. Theile
Partner/Principle
Jill's House, LLC



FIRST FLOOR SCHEMATIC PLAN
 1/8" = 1'-0"



SECOND FLOOR SCHEMATIC PLAN
 1/8" = 1'-0"





Front of Jill's House on Tamarack Trail



East side of building, facing north. Existing deck to be removed.

In the Council Chambers of the Showers City Hall on Wednesday, November 19, 2014 at 7:30 pm with Council President Darryl Neher presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
November 19, 2014

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

ROLL CALL

Council President Neher gave the Agenda Summation

AGENDA SUMMATION

Appropriation Ordinance 14-06 To Specially Appropriate from the General Fund, Parks General Fund, Fire Capital Fund, Risk Management Fund, and Rental Inspection Program Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund, Fire Pension Fund; and, Appropriating Additional Funds from the Arts Commission Operating Fund, Risk Management Fund, BMFC Showers Bond, 1998 Street Bond II, Golf Course Bond, BMFC 1998 Street Lease and Rental Inspection Program Fund)

LEGISLATION FOR FIRST
READING

Appropriation Ordinance 14-06

Dan Sherman, Council Attorney/Administrator noted that an Internal Work Session was in order for December 5, 2014 with the HAND department.
It was moved and seconded to hold the above session. The motion was approved by a voice vote.

COUNCIL SCHEDULE

The meeting was adjourned at 7:40 pm.

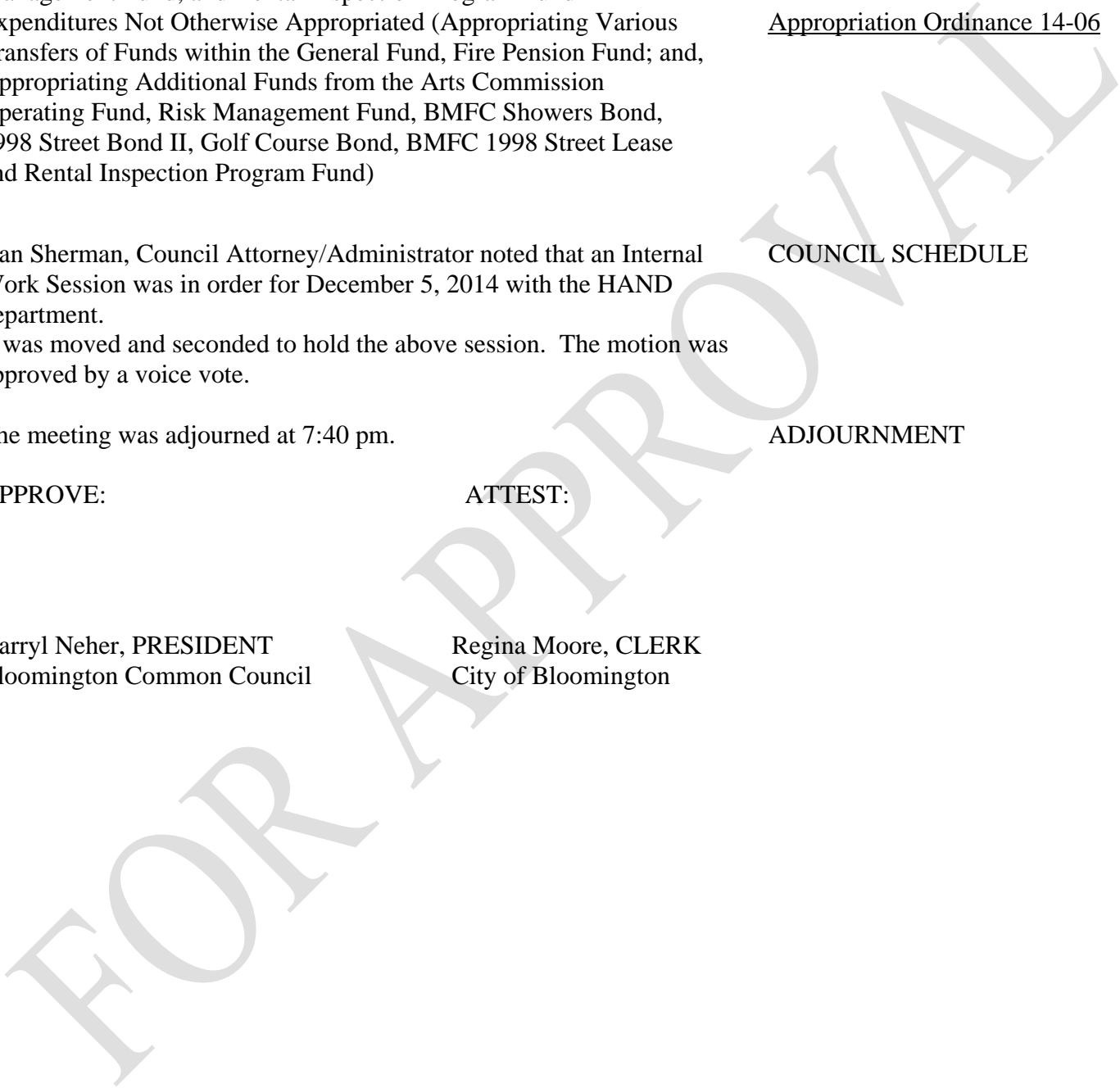
ADJOURNMENT

APPROVE:

ATTEST:

Darryl Neher, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington



In the Council Chambers of the Showers City Hall on Wednesday, December 3, 2014 at 7:30 pm with Council President Darryl Neher presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
December 3, 2014
(50 in attendance)

Roll Call: Rollo, Ruff, Sandberg, Volan, Granger, Sturbaum, Neher, Spechler, Volan, Mayer (arr. 8:47 pm)
Absent: none

ROLL CALL

Council President Neher gave the Agenda Summation.

AGENDA SUMMATION

There were no minutes for approval at this meeting.

APPROVAL OF MINUTES

REPORTS

Susan Sandberg welcomed the Commission on Aging and commented on the personal importance of the Commission to her because of her recent experience with her father's aging and health.

- COUNCIL MEMBERS

Marty Spechler spoke about holiday season consumer spending. He commented that although overall spending was strong, in-person retail sales were down because of an increase in online shopping. Online merchants were not required to charge sales tax, but legislation was before Congress that would require sales tax to be applied to the order. He encouraged the community to reach out to Representative Todd Young in support of the legislation.

Steve Volan called attention to the City Administration's choice not to enforce parking meters on Saturdays during the holiday shopping season.

Dave Rollo reported that the Earth had lost half of its wildlife over the previous four decades, according to the World Wildlife Fund, the Zoological Society of London and others. He stated that our expansion as a species and appropriation of resources and habitat were the cause. He encouraged the purchase of local, sustainable gifts to reverse the trend.

Andy Ruff noted that the Hoosier Hills Food Bank announced that they distributed more food in November than they had in the twelve months of 2013. He added that the good news was that HHFB could provide the amount of food, but the bad news was that the demand was that high. He spoke about the Right Livelihood Awards that served as a parallel to the Nobel Prize awards. The awards were given to people who achieved in making the world a better place in fields such as ecology and social justice. One of the award winners in 2014 was Edward Snowden and another was Bill McKibbin of 350.org.

Alice Oestreich, Chair of the Commission on Aging, presented their 2014 Annual Report. She explained that the Commission's goals were threefold: promote a positive perception of aging, increase older adult participation in creative and civic activities, and enhance the skill sets of the workforce to improve quality of life for the population. In 2015, the Commission intended to put a spotlight on aging related initiatives in Indiana.

- The MAYOR AND CITY OFFICES

Volan asked that the report be reissued with a correct date and a list of the Commission members included.

Molly O'Donnell of the Commission on Sustainability presented their 2014 Annual Report. She said the commission promoted economic development, environmental health, and social equity in the community. It measured and reported the community's progress towards sustainability. The commission focused on energy use and sustainable development for the year 2014 by assessing green infrastructure, water system, ambient noise and light in the community, and access to public transit. Bloomington had more solar energy installations than any other city in Indiana, and members of the

Commission were active in the Monroe County Energy Challenge. In 2015, the Commission intended to focus on the Energy Challenge, promote ordinances that would be friendly to environmental agriculture, and to support Bring Your Bag Bloomington.

There were no reports from council committees at this meeting.

Jessica Pillar spoke about Court Appointed Special Advocates (CASA) and asked the public to consider volunteering to advocate for children who were victims of abuse and neglect in Monroe County. She urged that dialogue around child abuse and neglect continue in the community.

Claire Boardman read a statement about the rezoning of properties around Indiana University to Institutional. She spoke about the subsequent lawsuits over the zoning.

Cheryl Underwood continued the discussion of rezoning. She accused the Mayor and Council of being unaware of what was occurring within the city’s Planning Department. She called on the Council to reverse the rezoned properties to their prior zoning and explained the reasoning behind the lawsuit she brought against the city.

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

It was moved and seconded that Appropriation Ordinance 14-06 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 7-0-0. She stated that the public comment portion of discussion for the ordinance would serve as the legally advertised public hearing that was advertised in the newspaper.

It was moved and seconded that Appropriation Ordinance 14-06 be adopted.

Controller Jeff Underwood explained that the legislation was the end-of-the-year clean-up ordinance and there would be no impact on the appropriation of tax rates. He laid out the details of the funds which were transferred.

There were no questions from the council. There was no public comment regarding the ordinance.

Appropriation Ordinance 14-06 received a roll call vote of Ayes: 8, Nays: 0 (Mayer was not yet present for this vote)

It was moved and seconded that Ordinance 14-24 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 4-1-2.

It was moved and seconded that Ordinance 14-24 be adopted.

Patty Mulvihill, City Attorney, commented that Ordinance 14-24 and Ordinance 14-25 were intertwined, and she spoke about both of them simultaneously. She compared the code as it would be with and without the ordinance. She clarified the intention behind the legislation, saying that it was meant to be less restrictive on mobile food vendors and was not intended to protect brick and mortar restaurants. She said staff wanted to protect Bloomington’s community character. She said that the ordinance was a compromise among interested parties. She laid out the amendments to Ordinance 14-24 that were proposed and stated the staff supported Amendments #3, 4, 5, 6, 7, and 8.

Rollo expressed concern that the public was not given adequate notice of the amendments prior to the meeting.

Mayor and City Offices (cont’d)

- COUNCIL COMMITTEES
- PUBLIC

APPOINTMENTS TO BOARDS AND COMMISSIONS

LEGISLATION FOR SECOND READING AND RESOLUTIONS

Appropriation Ordinance 14-06 To Specially Appropriate from the General Fund, Parks General Fund, Fire Capital Fund, Risk Management Fund, and Rental Inspection Program Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund, Fire Pension Fund; and, Appropriating Additional Funds from the Arts Commission Operating Fund, Risk Management Fund, BMFC Showers Bond, 1998 Street Bond II, Golf Course Bond, BMFC 1998 Street Lease and Rental Inspection Program Fund)

Ordinance 14-24 To Amend Title 4 of The Bloomington Municipal Code Entitled “Business Licenses and Regulations” - Re: Chapter 4.16 (Itinerant Merchants, Solicitors and Peddlers – *deleted and replaced*); Chapter 4.28 (Mobile Vendors - *added*); and, Chapter 4.30 (Pushcarts - *added*)

Ordinance 14-24 (cont'd)

Volan answered by saying he was not opposed to giving more time for the public to digest the amendments, but he felt it was important to introduce the amendments immediately to begin the discussion. He stated he would not object to postponing final action on the ordinance to another meeting.

Neher asked that the ordinance be discussed to allow the public to comment before delaying.

Volan asked to introduce the amendments in reverse order with the exception of Amendment #5 which he requested be introduced after Amendment #2.

Sturbaum asked staff if the ordinance was intended to be a procedural correction or a policy change. He asked who was driving the policy change.

Questions from the council on the intention of the ordinance in general

Mulvihill answered that the ordinance served as both. She asserted that the previous policy was not working for the different stakeholders, and staff wanted to find a way to streamline the process.

Sturbaum asked for a summary of the new policy direction.

Mulvihill described the desire of mobile food truck vendors to be able to be in close proximity to one another and operate on private property. To accommodate this, policy needed to be changed.

Sturbaum asked who in the city chose the direction the city would go with the ordinance. Mulvihill said it started with the Economic and Sustainable Development Department, the Legal Department, and the Office of the Mayor. She said they wanted to encourage new business but balance it with the need for community character.

Sturbaum asked if this meant that the city wanted more mobile food truck vendors. Mulvihill said she did not think that that was necessarily the meaning behind the legislation, but the city needed to meet the demand of the public.

Sandberg asked who in the brick and mortar community stepped up to weigh in on the ordinance. She commented on several emails from brick and mortar restaurants the council had received the day of the meeting that stated concern about the ordinance. Mulvihill assured the council that they reached out to brick and mortar establishments. She indicated that the feedback received from the outreach was included in the discussion. She reiterated that the ordinance was a legitimate compromise.

Volan asked to what extent the proposed ordinance was stricter than the current code. Mulvihill stated that the fifty foot requirement could be considered stricter than regulations of a license cap, increased penalties, revocation of permits, and a decibel limit for generators.

Spechler stated his concern about market fairness. He asserted that mobile food vendors and brick and mortar restaurants should be taxed in the same way. He wanted to know if staff had reached out to other cities to find out how much food trucks paid in taxes in relation to brick and mortar restaurants. Mulvihill explained that the city could not tax mobile food vendors, but they could charge license fees. State Statute also indicated that these fees had to be related to the program and expenses associated with issuing the licenses.

Spechler asked about business taxes. Mulvihill was not certain if the city had the authority to impose that type of tax.

It was moved and seconded to introduce Amendment #8 to Ordinance 14-24 for consideration.

Amendment #8 to Ordinance 14-24

Volan noted that he was actually a co-sponsor on all amendments presented for the ordinance. He explained that the amendment corrected the ordinance to require mobile food trucks to be fifteen feet away from a fire hydrant, instead of ten feet, in order to comply with State Code.

Mulvihill stated that the law was likely based on the amount of space needed for firefighters to access the hydrant and asked that the council fix the ordinance to ensure compliance.

Sandberg asked if this would further limit the designated spots in which vendors could set up their trucks. Mulvihill stated that staff did not have time to look into the issue but was confident that the map would be updated.

Sandberg asked again whether this would further limit the spots. Mulvihill said she was not prepared to answer the question that evening.

There was no council comment on Amendment #8. There was no public comment on Amendment #8.

Amendment #8 to Ordinance 14-24 received a roll call vote of Ayes: 9, Nays: 0

It was moved and seconded to introduce Amendment #7 to Ordinance 14-24 for consideration.

Volan explained that this amendment added specific examples of the kinds of sound and light that would be prohibited by the ordinance.

Sturbaum asked if the specific part of the ordinance under discussion would ban ice cream trucks from circulating in neighborhoods.

Mulvihill said that ice cream trucks were exempt from this regulation.

Public Comment:

Kay Bull commented that there were five parking meters with blinking lights outside of Max's Place that were annoying to patrons inside.

Council Comment:

Dorothy Granger said she appreciated the amendment's clarity.

Volan said he would appreciate support of the amendment.

Amendment #7 to Ordinance 14-24 received a roll call vote of Ayes: 9, Nays: 0

It was moved and seconded to introduce Amendment #6 to Ordinance 14-24 for consideration.

Volan explained that the amendment increased the decibel (dBA) limit on generators from 60dBA to 70dBA, established a specific distance for the measurement, and removed the requirement for the manufacturer's specifications to be submitted with the application for license.

Neher pointed out that 70dBA is actually two times the volume of 60dBA. He stated that some sources indicated that noises of at least 80dBA could cause hearing damage. He cautioned that moving the decibel level higher would make it difficult to lower in the future, and he believed starting at 70dBA would provide a starting benchmark.

Sturbaum asked why the manufacturer's specifications were being removed. Neher explained that it would allow mufflers or other modifications to be added to the generator to lower the decibel level.

Sturbaum asked if there would be testing of the decibel level instead of the submitted specifications. Neher confirmed that there would be.

Amendment #8 to Ordinance 14-24

Sponsor: Neher

Fixed clerical error to state that mobile food vendors and pushcarts be parked at least fifteen feet away from a fire hydrant according to Indiana Code 9-12-16-5(e).

Vote on Amendment #8

Amendment #7 to Ordinance 14-24

Sponsor: Volan

Clarified definitions of amplified sounds and aural devices by giving examples of these attention drawing devices.

Vote on Amendment #7

Amendment #6 to Ordinance 14-24

Sponsor: Neher

- 1) increased the permitted decibel level for generators from 60 dBA to 70 dBA.
- 2) established a distance of four feet by which the decibel level of the generator is measured.
- 3) deleted the requirement that the manufacturer's specifications of existing generators be submitted with the application which would allow generators to be modified to meet the new levels.

Sandberg asked what fuel was used to power the generators. Mulvihill indicated that nothing in the ordinance regulated emissions.

Amendment #6 to Ordinance 14-24
(cont'd)

Volan said that emissions standards are beyond the regulatory authority of the city and the authority remained with the State. Mulvihill said staff could not find any guidance on what the emissions should be for a vehicle that remained idle and not in motion. She said staff remained open to suggestions.

Sandberg asked if this was taken into consideration for the limit on how many mobile food vendors could be in one place at any given time. Mulvihill stated that the fifty foot distance regulation rather than a number cap could still work to serve this purpose. She said that if there was a vehicle that was a nuisance there were mechanisms within the ordinance to approach that problem.

Rollo asked where the fifty foot limit would be measured from. Mulvihill stated that the unamended ordinance indicated that it would be measured from the facade but cautioned that there would be an amendment that would include outdoor seating areas.

Spechler asked how Home Rule would work if the council wanted to limit vehicle emissions. Mulvihill stated that there would need to be research into the State Code to determine if there was any indication on emission levels because Home Rule only applied if there was no rule in the State Code.

Neher asked how the amendment would reconcile with the city's noise ordinance. Mulvihill said they would work in tandem. The amendment would only take effect if the noise complaint was related to a generator. Other types of noise would be under the purview of the Noise Ordinance, which uses a reasonable standard.

Neher asked why the reasonable standard would not apply to the generator. Mulvihill stated that the more specific provision applied therefore the generator standard would take precedence.

Rollo stated that 70dBA was comparable to a vacuum cleaner. He asked if the 60dBA would prohibit most generators. Mulvihill said that the vendors indicated that they could not meet the 60dBA standard. She indicated that other cities ranged from 60dBA to 100dBA. She said staff considered that businesses had already invested money into generators and allowing modification would allow vendors to continue to use those generators.

Neher said that there was also a distance standard added in the amendment.

Volan stated that his interest in the amendment was the set measurement distance. He commented that both brick and mortar establishments and mobile food vendors had invested heavily in their businesses, and he wanted to split the difference with noise. He pointed out that the issue could be brought up again to correct details that turned out not to work.

Rollo asked if there were noise complaints about vendors. Mulvihill stated that staff had received feedback that generators were too loud.

Public Comment:

Darlene Gonzalez stated that the National Institute of Health website indicated that hearing loss occurred at volumes greater than 85dBA. She also said that manufacturers measure volume at twenty-three feet instead of four feet. She said that vendors would need to purchase generators that were set at 55dBA to only produce 60dBA at four feet. These generators would not be able to operate a food truck.

Steve Swihart, Director of the Bloomington Independent Restaurant Association (BIRA) stated that the organization did not take a stand on the issue at hand. He said that decibels were not the way this should be

measured because ambient traffic noise was 85dBA. He did not have an alternative way to measure.

Chad Sutor, owner of the Big Cheeze, stated that the further away from the source of the noise the measurement was taken, the lower the decibels. He said that fifty feet away from the source, a 70dBA noise dropped down to 48 dBA.

Gregg Rago, Nick's English Hut, stated that 70dBA was a reasonable place to start. He urged the council to start somewhere and revisit the issue if it proved to be a problem.

Darlene Gonzalez spoke again to say that the Amendment was not reasonable and that the limit would damage business.

Sturbaum asked if the methodology of the measurement would work.

Volan stated that they needed to come up with a standard. He said the most important aspect to him was an established distance at which to measure the noise, but he was not set on the distance as it was laid out in the amendment. He said he had experienced both being annoyed by the noise of food trucks and enjoying the food they provided. He said he was willing to withdraw the amendment.

Spechler stated that he spoke with a noise engineer on the topic. He said that the council would have to revisit the issue when more subjective comments came in during the summer months.

Volan said that the council had the same problem with the Neighborhood Noise Ordinance. He said the previous standard was so hard to enforce that it was useless. He said the standard was changed to work in neighborhoods, but the standard could not apply to the downtown area. He said mixed use areas needed to be more specific.

Sandberg said that the issue was about context. She said that while carnivals should be loud, activities in the downtown needed to be respectful to everyone using the area. She said she would support the amendment as long as there would be a revisiting of the issue when more comments came in.

Granger said that she was not comfortable with 80dBA, and she was unhappy with 70dBA. She said she did not want to restrict mobile truck vendors out of business. She cautioned people to keep in mind that the decibel requirement was not just made for people walking in the downtown area but also for the customers of the trucks. She said she would vote for the amendment.

Mayer said the discussion about the noise was the wrong direction for the conversation to take. He said the environmental risks of food trucks were more important to discuss. He said the limits should be as low as possible. He said he would not support the amendment.

Sturbaum revisited the comment about 70dBA measured at four feet being more stringent than 60dBA without a clear distance of measurement. He said he could not support the amendment when he did not fully understand the change.

Volan recalled the issue of pornography businesses that were at risk of being restricted out of business. He said that these restrictions were unconstitutional. He said that focusing on environmental issues was outside of the purpose of the council, and the council needed to take every issue into consideration. He reiterated that he was willing to withdraw the amendment.

Amendment #6 to Ordinance 14-24
(cont'd)

Neher asked staff what condition the ordinance would be in without the amendment. Mulvihill said if the amendment did not pass, the limit would be set at 60dBA without a definitive distance at which to measure. She expressed concern that without a standard, staff would have difficulty with enforcement. She said that the ordinance needed to start somewhere and make modifications if necessary.

Neher said he did not want to put something into place that created a conundrum. He said he would make a motion to withdraw the amendment.

Volan asked that councilmembers be given another opportunity to comment.

Sturbaum said they needed more time on the issue.

Granger said Mayer changed her mind, and she needed more time to think about it. She intended to pass.

Sandberg supported withdrawal of the amendment. She said she was concerned about the environmental and noise effects.

Volan said his goal was to reduce ambiguity to help staff and the public to know the law clearly.

Rollo said that specificity was important. He said the council was responsible to set the standard. He supported the stringency of the amendment.

Volan said he wanted to correct the issues as soon as possible. He would be willing to wait until the first cycle of 2015 if necessary.

Mayer said that language should be added to require that the least polluting equipment be used.

Spechler stated the issue of the amendment was to make the ordinance as strong as possible and then examine if the ordinance was acceptable.

It was moved and seconded to withdraw Amendment #6.

The motion to withdraw Amendment #6 to Ordinance 14-24 received a roll call vote of Ayes: 8, Nays: 1 (Spechler).

Vote on Motion to Withdraw
Amendment #6 to Ordinance 14-24

It was moved and seconded to introduce Amendment #4 to Ordinance 14-24 for consideration.

Amendment #4 to Ordinance 14-24
Sponsor: Volan

Volan explained that this amendment was to change the regulation on when mobile food vendors could operate. He said it did not make sense to limit operation when any private property owner could be operating within that window. He was concerned about the legality of this restriction. He said preventing them from opening during potential business hours would cause undue strain. He said the goal of this requirement was to prevent food trucks from being able to stay in one place for twenty-four hours. The amendment would give more time to set up for food trucks while still keeping the original intention.

Allowed for mobile food vendors and pushcarts to operate on private property twenty four hours a day. It also changed the hours which they are prohibited from being located on any public property from 4:00 a.m. - 7:30 a.m. to 4:30 a.m. - 6:30 a.m. to allow for them to serve breakfast.

Granger asked if this meant that trucks could come in at 5:30am to set up or if they had to come at 6:30am. Volan said that they were allowed to arrive at 6:30am.

Public Comment:

Andrew Weissert, Nowhere Mandrews, said he liked the amendment making it more lenient for food trucks. He said it would be hard to get off of the street by 4:30am, and the amendment was still too restrictive.

Volan said that the amendment was lenient, and he was open to revisiting the issue if it proved overly restrictive. He asked for support from the council.

Amendment #4 to Ordinance 14-24 received a roll call vote of Ayes: 7, Nays: 1 (Mayer), Abstain: 1 (Sturbaum)

It was moved and seconded to introduce Amendment #3 to Ordinance 14-24 for consideration.

Volan explained that this amendment would codify officer discretion to issue a warning. He praised the spirit of cooperation so far in the evening. Sandberg asked if there could only be one warning.

Volan indicated that the language of the legislation would provide for only one warning.

Mulvihill said there would be communication between ticketing authorities about which mobile food vendors had received a warning. She clarified that the Economic and Sustainable Development Department, the Legal Department, and Police Departments would be the ticketing authorities. She said that a second warning could be issued a few years after the previous warning. She explained that the goal of the warnings and tickets were to gain compliance not to raise revenue.

Sandberg asked for staff to confirm that there would be communication among departments. Mulvihill assured the council that she would be the point person for communications.

Mayer asked for a 90 day grace period from adoption to be added to the language. Mulvihill said that the request would be reasonable. She said that staff generally tried to have a grace period after any ordinance was adopted.

Volan encouraged discussion on the grace period.

Ruff asked Mulvihill to comment on Volan's statement. Mulvihill suggested that language be added that allowed enforcement authorities to grant as many warnings as necessary in the grace period in order to gain compliance. She said that language could also be added that clarified the interim necessary between warnings.

Volan said he supported the language that would define a clear period between warnings. He requested that the council hear public comment before taking further action.

Sturbaum supported postponing the ordinance to another meeting to allow staff to write the language.

Spechler said that the ordinance had too many issues to be considered for a final vote. He said he believed law enforcement agencies needed to have discretion. He asked why further language was necessary.

Volan said the unamended ordinance would not allow enforcement authorities to issue a warning.

Granger asked if the Economic and Sustainable Development staff would find a grace period beneficial to communicate with all the mobile food vendors. Mulvihill said staff intended to communicate everything.

Public Comment:

Gregg Rago asked that the council consider creating an auxiliary enforcement entity that would be available to enforce the ordinance to prevent it from being a burden on the Police Department.

Vote on Amendment #4 to Ordinance 14-24

Amendment #3 to Ordinance 14-24

Sponsor: Ruff

Codified the ability of an enforcement officer to issue a warning instead of having to immediately issue a fine for a violation of any of the three chapters described in this ordinance. The language mirrors language found in the current Noise Ordinance.

Council Comment:

Volan said he supported creating a civil enforcement entity. He said it was necessary to create this distinction.

Amendment #3 to Ordinance 14-24
(cont'd)

Spechler thanked Ruff for including the amendment. He said the language in the amendment would not prevent an enforcement officer from issuing more than one warning. He said he would support the amendment.

Ruff commented that the wording was not perfect but the intent was clear.

Amendment #3 to Ordinance 14-24 received a roll call votes of Ayes: 6, Nays: 1 (Mayer), Abstain: 2 (Sturbaum, Sandberg)

Vote on Amendment #3 to Ordinance 14-24

It was moved and seconded that Amendment #2 to Ordinance 14-24 be introduced for consideration.

Amendment #2 to Ordinance 14-24

Volan explained that the amendment would change the fifty foot restriction measurement from the facade of a brick and mortar establishment to the outdoor seating area.

Sponsor: Neher
Clarified the fifty feet will be measured from either the façade of a ground level establishment or from such an establishment's outdoor seating perimeter.

Neher said the city went to great lengths to determine the viable amount of space that a brick and mortar establishment could use for outdoor seating.

Sturbaum asked why a less stringent policy was necessary. Volan said that the fifty foot rule would cause enough limitation that maintaining a cap on how many vendors could be in one area would be unnecessary.

Neher pointed out that he was not a sponsor of Amendment #5 which created less stringent policy if Amendment #2 was accepted.

Spechler said that the language of the amendment needed to determine where the fifty foot measurement would end on a food truck. He said that no part of the food truck should be within the fifty feet. Mulvihill said the language indicated that no part of the food truck can be within fifty feet of the facade of a restaurant.

Granger asked if the area in front of Foodworks would be restricted. Jason Carnes indicated that it would be. He said the map of restricted areas was a work in progress.

Ruff asked how the ordinance would apply to convenience stores. Volan said that the intent behind the ordinance was to affect institutions that were regulated by the County Board of Health.

Ruff asked if there was a clear definition of which institutes would be regulated within the ordinance. Mulvihill said that the intent was clear even though the language was not.

Ruff asked if staff foresaw a problem with the lack of clarity. Mulvihill said that the complaint may be registered but the code would not apply because convenience stores sell food as an accessory, not a primary use.

Volan suggested that the phrase "and is licensed by the County Board of Health" be added to the amendment.

Granger asked if the Health Department needed to license mobile food vendors. Mulvihill said it would.

Volan asked if the map of restricted areas would be part of the code. Mulvihill said it would not. It would be updated with the opening and closing of businesses. Brick and mortar restaurants and mobile food vendors would be updated when the ordinance passed and with every map update.

Public Comment:

Alison Zook, owner of A.Z. Vintage, spoke about her partnership with mobile food vendors for events. She explained that the ordinance would prevent food vendors from setting up outside of her store. She asked if the restrictions would still apply after a business causing the restriction closed for the evening. She then read statements from Nicci Boroski, co-owner of the Back Door, and Bridgett Divohl, owner of Royale Hair Parlor. Boroski pointed out that having food available allowed patrons to cut their intoxication after attending events. Divohl said mobile food vendors build the business community, draw people downtown, and contribute revenue to the city.

Talia Halliday, owner of Gathering, spoke in support of mobile food vendors. The annual handmade market that she hosted relied on the presence of food trucks to draw in more patrons. She said that food trucks added to the overall atmosphere and considered them an asset to her business. She said that mobile food vendors were part of the art, music, and theatre scenes for the community. She encouraged the council to postpone a vote on the ordinance.

Amber Connor spoke in support of mobile food vendors. She drew attention to the difference between the clientele of mobile foods vendors and brick and mortar businesses. She said she would not choose to go to a food truck instead of a restaurant if she came downtown to go to a restaurant. She read statements from Amy Richardson, Ashley Rutter, Christine Davenport, and Cindy Bradburg in support of mobile food vendors.

Wendy McConnell said having mobile food vending as an option gave more opportunities to start up entrepreneurs. She read the statements of Matt Wickward, Marie Metelnick, Duane Robinson, and Jim Cosi in support of mobile food vendors.

Jackie Howard, owner of Bea's Soda Bar, spoke on her business' use of local ingredients and partnership with local, brick and mortar establishments. The fifty foot restriction would prevent her from participating in festivals that were in the downtown area. She said the ordinance would force her to change the way she did business. She asked the council to change the ordinance to allow owners to leave their vehicles unattended or to reduce the fifty foot rule to thirty foot. She also asked for the ordinance to not apply when a business was closed, for restaurants to be able to give written permission to use the space in front of their business, and for private property owners to be able to provide written permission instead of requiring the business to submit a site plan. She closed by suggesting the creation of a food truck lot.

Volan asked why restaurants should not be allowed to waive the fifty foot rule. Mulvihill said the concern surrounded abutting restaurants and keeping track of written permission. She said that the staff sought consistency.

Volan asked why permission could not be consistent. Mulvihill said that it would change on a day to day basis and per vendor.

Volan compared keeping track of these permissions to keeping track of warnings. Mulvihill said warnings could be tracked by two or three staff members while permissions would need to be tracked by hundreds of officers.

Volan asked why the fifty foot rule needed to be in effect when a restaurant was closed. Mulvihill said staff wanted officers to know, twenty four hours a day, if the location was permitted.

Rollo wanted to distinguish between a truck with a generator and a pushcart. He said he was sympathetic to brick and mortar establishments

that had made a considerable investment and were not able to move to another location. He supported the amendment.

Amendment #2 to Ordinance 14-24
(cont'd)

Ruff said he was sensitive to preventing too much of a burden on enforcement. He said he was not convinced there was not a way to support enforcement officers while still allowing mobile food vendors to operate in front of a restaurant after hours.

Spechler said he supported the amendment. He expressed concern that allowing permissions for some mobile food vendors would encourage people to assume that the spaces were available for everyone.

Sandberg reminded the council that at the meeting they had heard from mobile food vendors but not from the brick and mortar owners that had reached out via email. She encouraged the council to consider everyone who had reached out in order to come to a compromise between competing interests.

Sturbaum said there should be common sense when a business was closed. He asked for an attempt to add this to the ordinance.

Neher said other cities had one hundred foot and two hundred foot restrictions. He appreciated the discussion around the amendment. He emphasized that the ordinance would come down to enforcement and the balance of demands on law enforcement's time.

Volan commented that all bars were required to have food available for patrons. He said the spirit of that law was to provide a way for intoxicated patrons to cut down on drunkenness. He encouraged bar owners to take caution before exporting that duty on to food trucks. He said the amendment was meant to support the reasonable assumption that two vendors would not take over the space that a brick and mortar restaurant could expect to use. He reiterated that the rule should not apply when the nearby restaurant was closed or if the vendor was given written permission. He said that this was not a simple issue.

Ruff reiterated that he was supportive of the fifty foot rule.

Vote on Amendment #2 to Ordinance 14-24

Amendment #2 to Ordinance 14-24 received a roll call votes of Ayes: 9, Nays: 0

It was moved and seconded that Amendment #5 to Ordinance 14-24 be introduced.

Amendment #5 to Ordinance 14-24

Volan said that this amendment would remove the restriction on the number of mobile food vendors that could be in an area and remove the limit on the number of licenses issued. He said the limit on the number of available spaces would serve as a suitable restriction.

Sponsor: Volan
Deleted the creation of the three specialized districts (Kirkwood, Courthouse Square and Restaurant Row) and limitation of the operation of food trucks and pushcarts within them. It also deleted the licensing caps.

Mulvihill said this would give staff the time to see how the ordinance would work and make tweaks as necessary.

Rollo asked how many vendors could be on the Courthouse Square. Volan said that vendors may not be able to sell products if they are located in angled spaces. Mulvihill said that were five spaces available on the Square.

Rollo asked how many more food vendors could be in the Kirkwood area without the limit. Mulvihill said there would be twenty-five available spaces.

Rollo asked about Restaurant Row on 4th Street. Mulvihill said there would be more spaces on the south side of the road near Indiana Avenue, one space on the north side near the City Lot and then some spaces near the fire station.

Sturbaum asked if this amendment was meant to clean up the ordinance or send a policy message to say that the city was amenable to getting more vendors on the street. Volan said that it was intended to be both. He said that all the spaces available on Restaurant Row would be a block away from brick and mortar restaurants. He said there would not be harm in having trucks parked together away from residences which would be allowed after this amendment.

Amendment #5 to Ordinance 14-24
(cont'd)

Sturbaum asked why the amendment was crucial. Volan said the limits were unnecessary.

Neher asked staff what the impact on Kirkwood Avenue from Indiana Avenue to Grant Street would be. Mulvihill said the amendment would limit spaces to six spaces instead of ten prior to the fifty foot rule and Amendment #5.

Ruff asked if eliminating the limits on the number of licenses would create an expectation of a guaranteed spot to vend. Mulvihill said that it might limit the areas downtown, but it would open more spots around the city outside of the downtown area.

Spechler asked if a food truck would be allowed to operate near Ballantine Hall on campus. Mulvihill said that would be up to the University. Spechler asked staff to speculate on the University's decision.

Mulvihill said she was not comfortable speaking on the University's decision. Spechler said the University would consider the operation of a food vendor on campus a negative.

Public Comment:

Jeff Mease, owner of One World Enterprises, said he appreciated food truck culture and the entrepreneurship that it represented. He spoke about Portland's food truck culture. He also suggested that the lot on 6th Street would be a viable location for a food truck gathering or pod. He also said providing power could cut down on generator noise.

Spechler said that he supported the amendment because the limit on the number of food trucks in one area was problematic.

Sturbaum said that the amendment would send the wrong message.

Volan asked what the right message would be. He said that the amendment would open options around the city instead of creating more competition in the downtown area.

Sandberg expressed mixed feelings about the amendment. She said she liked the idea of food truck pods, but she was concerned about damage to the special nature of the downtown area's atmosphere.

Amendment #5 to Ordinance 14-24 received a roll call votes of Ayes: 5, Nays: 4 (Mayer, Sturbaum, Sandberg, Rollo)

Vote on Amendment #5 to Ordinance 14-24

It was moved and seconded to postpone Ordinance 14-24 as amended by Amendments 2, 3, 4, 5, 7, 8 until the next available meeting.

Motion to Postpone Ordinance 14-24 as amended

Spechler said that the ordinance was very complicated and would affect sensitive areas of downtown. He said that other stakeholders needed time to be able to weigh in.

Mulvihill indicated that she could not be present if this ordinance was continued to December 17, 2014.

It was moved and seconded to allow public comment before council comment.

The motion was approved by a voice vote.

Public Comment:

Ordinance 14-24 as amended (*cont'd*)

Jackie Howard spoke in support of postponing the ordinance. She said that spending more time before the passage of the ordinance would be beneficial to the effort of reaching clarity and consistency.

Andrew Weissert said that postponing the ordinance until after the first of the year would be beneficial.

Gregg Rago, from Nick's, asked if postponing would mean enforcement would also be postponed. Neher indicated that it would.

Darlene Gonzales said that the ordinance should not be taken lightly. She encouraged the council to get it right the first time and reach the best compromise.

Susan Bright, Nick's English Hut, spoke in favor of postponement.

Volan asked when the next available meeting would be. Staff indicated that the ordinance would need to be reintroduced if council waited until after the first of the year.

Sandberg asked if a meeting the next week would be possible.

Mulvihill committed to meeting with more stakeholders prior to a special session on December 10, 2014.

Sturbaum asked what was on the schedule for January. Council Attorney Dan Sherman said that there might be a tax abatement.

Volan encouraged the council to put the ordinance on the agenda for January 14th, 2015

Sandberg said she wanted to work on the ordinance before January to create a benchmark as quickly as possible.

Spechler said his memory would be better served considering the ordinance in December rather than postponing it to January.

Neher said that it was necessary to move the ordinance forward to commit to making the corrected ordinance a priority for the council.

Rollo said he was concerned about the noise element of the food trucks. He said that having more food trucks in one area could create more noise.

Volan said there needed to be more than a week to further study the effects of the ordinance.

Mayer said that a decision was needed. He said that delaying the ordinance longer than December 10, 2014 would risk the council losing focus and attention.

Sturbaum acknowledged that there was not consensus on every amendment. He asked the council to consider the message that the ordinance would send.

Granger said she wanted the ordinance moved to December 10th in order to prevent similar questions from being brought up again.

Volan said he would vote against the motion because he wanted the ordinance to be postponed until after December 10th, 2014.

Neher said that moving the ordinance to December 10th, 2014 would not mean that it could not be postponed again to allow further discussion.

Volan said that moving the ordinance to December 17th, 2014 was still an option despite Mulvihill's inability to attend.

The motion to postpone Ordinance 14-24 as amended by Amendments 2, 3, 4, 5, 7, 8 until December 10, 2014 received a roll call vote of Ayes: 7, Nays: 2 (Rollo, Volan)

Vote on Postponement of Ordinance 14-24 as Amended

It was moved and seconded to postpone consideration of Ordinance 14-25 until the meeting on December 10, 2015

Ordinance 14-25 To Amend Title 20 of the Bloomington Municipal Code Entitled "Unified Development Ordinance" (Amending Sections 20.05.110 & 20.05.111 Regarding Temporary Uses and Structures)

The motion to postpone Ordinance 14-25 received a roll call vote of Ayes: 8, Nays: 0, Abstain: 1 (Volan)

Ordinance 14-26 To Amend Title Two of The Bloomington Municipal Code Entitled "Administration and Personnel" (Amending Section 2.08.020 which Sets Forth General Provisions for the Establishment, Membership, and Operation of Boards, Commissions, and Councils, and Amending Section 2.23.090(d) to Bring the Expiration Date of the Commission on Aging in Line with Other Such Local Entities)

LEGISLATION FOR FIRST READING

Ordinance 14-26

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

PUBLIC COMMENT

Sherman noted that there was a Work Session Friday, December 5th, 2014. Neher polled the council on their intention to attend and announced that they would keep the Work Session on the schedule.

COUNCIL SCHEDULE

The meeting was adjourned at 12:05 am.

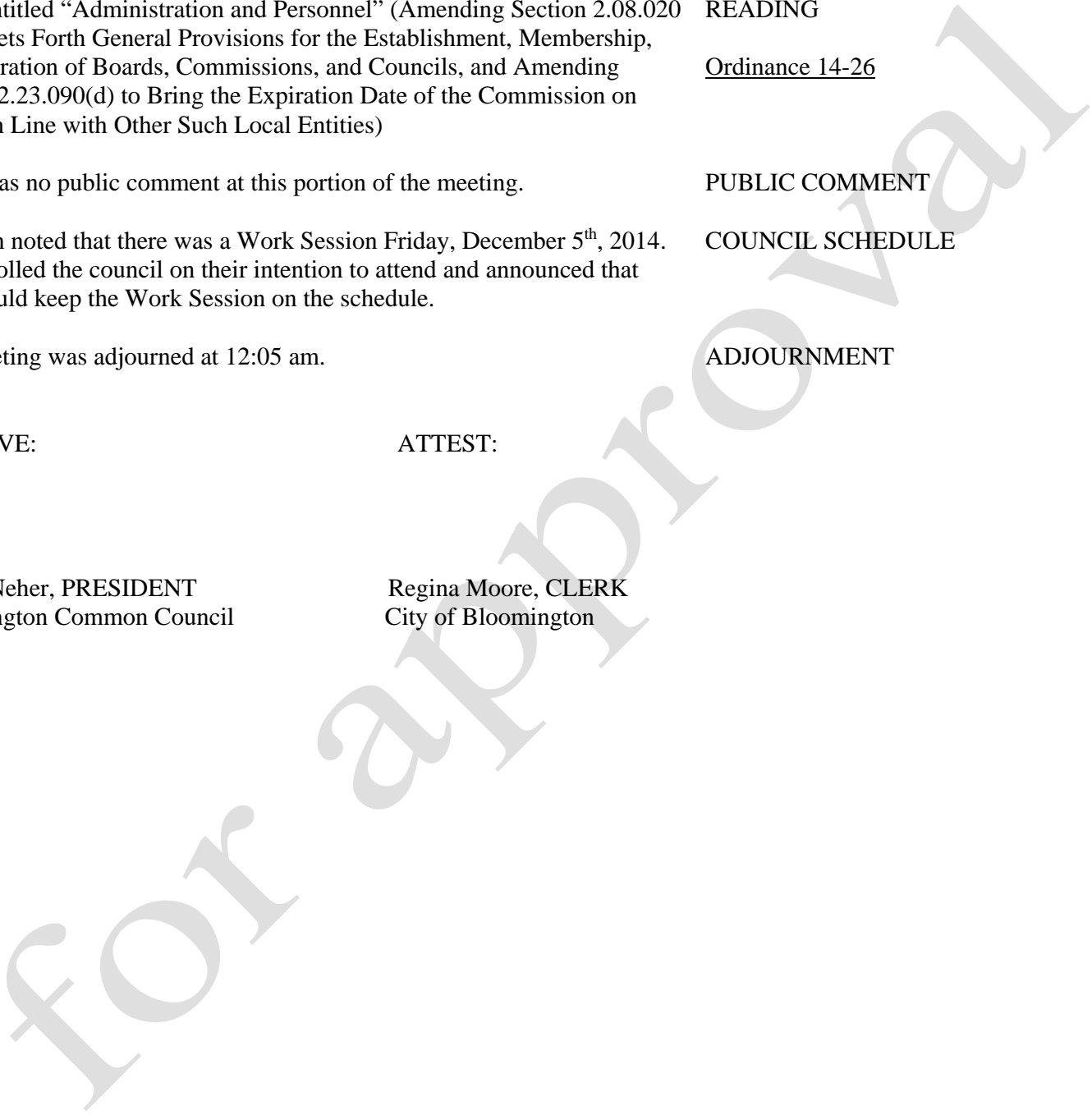
ADJOURNMENT

APPROVE:

ATTEST:

Darryl Neher, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington



In the Council Chambers of the Showers City Hall on Wednesday, December 10, 2014 at 7:44 pm with Council President Darryl Neher presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
December 10, 2014

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

ROLL CALL

Council President Neher gave the Agenda Summation

AGENDA SUMMATION

Dan Sherman, Council Attorney/Administrator, gave the interim report from the Sidewalk Committee which endorsed amending the funding recommendations for the year. He noted the revisions amended the funding recommendations to reallocate some unspent funds in 2014, and request that the Mayor propose an additional appropriation for 2015 to make unspent 2014 funds available in 2015.

INTERIM REPORT FROM
COUNCIL SIDEWALK
COMMITTEE

Sherman said that the 2014 budget for this committee was \$300,000 from the Alternate Transportation Fund. He noted the January 2014 report from the Sidewalk Committee called for allocating \$298,000 for six sidewalk projects and one traffic calming project.

He said two projects had been completed in 2014, phases of another two projects were completed, but two sidewalk projects and the traffic calming did not get completed. He said the report requested that the council allocate \$69,000 to move four projects forward and then pay for the design of the new project. He added that there was a request in the interim report that the mayor allocate an additional appropriation for 2015 to add \$56,200 to the 2015 project funding.

Sherman offered to answer questions about the projects or the interim report proposal.

Sturbaum noted the sidewalk work on Maxwell Lane had been completed. He said they had been pleased to work with the Monroe County government to complete the project at Leonard Springs. He noted that instead of hurrying to spend money this year, the committee was asking that the unspent portion of the original allocation be put towards next year's projects.

There was no public comment on the report.

Rollo noted that there were 40 sidewalk projects (representing over ten miles) that were evaluated for funding, with many more for next year, not including traffic calming projects. He said that matching funds had been lost a few years ago, and he wanted the council to know that there were several large projects that were very expensive. He said the 17th Street project alone exceeded the entire year's allocation by \$100,000. He wanted the council to make a priority of asking other entities to consider helping with some of these projects. He noted the Metropolitan Planning Organization asked for INDOT funds, as well as others.

Rollo noted that less than ½ mile of sidewalks were completed each year, therefore there was need for more funding for this purpose.

Mayer, the council representative to the Utilities Service Board, noted that Utilities provided support when they were included, but noted that they functioned on rates paid by customers, and it was not always appropriate for them to help fund a project. Rollo followed up noting that Utilities' help on mutual projects was greatly appreciated at the time, and he understood that Utilities had different priorities at this time.

Sandberg, having formerly served on the Sidewalk Committee, said she knew of the difficulties in prioritizing projects. She noted her appreciation for the work of the committee in retrofitting sidewalks.

Spechler recognized Sturbaum's third year of chairmanship of this committee. He also recognized the contributions of Granger and Rollo noting that they worked well together. He said the work was gratifying, and he appreciated the work in his district. He said the work on 17th Street was crucial for our community and said the safety issues would guide this committee in the future.

Volan thanked the committee members. He noted his interest in Rollo's call for new partners and new money, and he wondered if TIF money could be used for certain sidewalk construction. Volan noted that decades of growth had left the city without certain infrastructure, and he hoped new money could be found for sidewalks. He also noted the 17th Street project and remembered an 11 year old girl who had come to the council to say there was no way to safely cross that street. He said he hoped she was heard now.

Sturbaum said that with the cooperation of Utilities and Public Works, the biggest project they funded was on East Third Street. He said 17th Street and Kinser Pike had been similarly neglected. He lauded Granger's advocacy for Kinser Pike as impetus in finding a way to complete a sidewalk from 17th Street to the Bypass. He spoke of the area around the 17th Street roundabout, the funding for some of that area, and said that this was a priority of the committee.

Mayer called for Indiana University to put in a sidewalk in front of Assembly Hall on 17th Street and noted that IU had never put in sidewalks in front of their buildings. He said that was a bothersome issue when they put millions of dollars into a building, but depended on the city to put in sidewalks to access them.

Rollo noted other people who served on the committee were Jane Fleig from Utilities, Scott Robinson from Planning, Bob Woolford from HAND, Steve Cotter from Parks and Rec, Sue Wanzer from the Clerk's Office, and Dan Sherman who assembled the report.

It was moved and seconded to adopt the Interim Report from the Council Sidewalk Committee. The report was adopted as presented by a voice vote.

It was moved and seconded that Ordinance 14-24 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 4-1-2. It was moved and seconded that Ordinance 14-24 be adopted.

Ruff asked the council's preference about introducing a motion to defer action on Ordinance 14-24 until the first quarter of 2015. He was advised that it was more about the timing of the proposal rather than the substance, and he chose to move the following:

Ruff moved, and Mayer seconded, to defer action on Ordinance 14-24 as revised until the 1st quarter of 2015 at which time it would be introduced with a new number.

Ruff said that additional issues had arisen in the discussion that even staff, with all their work and input from stakeholders, didn't anticipate. He said he was still confused about the math and some of the other issues. He noted that he felt it was better to consider this in the new year than to pass an ordinance that would need to be amended in the very near future.

LEGISLATION FOR THIRD
READING

Ordinance 14-24 To Amend Title 4 of The Bloomington Municipal Code Entitled "Business Licenses and Regulations" - Re: Chapter 4.16 (Itinerant Merchants, Solicitors and Peddlers - *deleted and replaced*); Chapter 4.28 (Mobile Vendors - *added*); and, Chapter 4.30 (Pushcarts - *added*)

MOTION to defer action on Ordinance 14-24

Volan asked what ‘defer’ meant in this instance. Dan Sherman, Council Attorney/Administrator noted that Volan might be more comfortable using the word ‘postpone.’

Volan noted that there was not a specific date for bringing back this issue and asked Ruff to state his intentions with regard to a date for consideration of the legislation. Ruff said he was defining a window of action without a specific date. Volan asked if it would be more appropriate to add a specific date to this motion. Sherman stated either was appropriate.

Neher asked if the administration supported the motion. Patty Mulvihill, Assistant City Attorney, said that the administration would support this.

Volan said he knew that there were a number of amendments that were going to be proposed by different council members and asked when they would be introduced. He noted for future discussion, it would be good to know things that council members were thinking about.

Spechler said he wanted to get this right the first time, and supported postponement. He noted that he had been thinking about an amendment regarding the operation of food trucks in the University Village Overlay while allowing them to operate in other parts of the city as well.

Mayer asked for the definition of University Overlay. Spechler said it was similar to the definition of Kirkwood and the Courthouse Square area in an ordinance previously discussed with standardized businesses.

There was no public comment on this motion.

In his comment on this motion, Volan explained for the public present what postponement meant. He advised them not to expect a discussion at this meeting. Neher clarified that the postponement would require a ‘restart’ including a new number, new first reading, and new discussion. Sherman said that the Ordinance as amended in the committee meeting would come forward in this new ordinance, with additional information if the council wished to include that.

Rollo said he’d like the staff to have the latitude to make changes, especially since the council would hear the entire ordinance again. Sherman suggested the council think about this ‘as revised’ instead of ‘as amended’ which would allow for changes suggested at the Committee of the Whole meeting or further changes that might be added.

Volan said he would reintroduce this under a new number at any time. Neher asked Rollo if he wanted to amend Ruff’s motion to include the words ‘as revised’ instead of ‘as amended.’ He agreed to that and made the motion for a friendly amendment. The change was approved by a voice vote.

Ruff noted his appreciation for all, especially staff and community members, who were willing to take more time with this discussion so that the issue could be revisited as little as possible.

Granger said it was not her first choice to delay the ordinance, but she appreciated the desire to get the legislation right, and not continually amend it.

Rollo noted he wanted to see a comparison of what similar cities did with this issue, wanted a noise level set for food truck generators, wanted to see some valuation of distance from brick and mortar restaurants, generator sounds with regards to outdoor seating, hotels, lodging, and people living downtown. He suggested a more clear understanding of the Home Rule option for emissions.

Sandberg said she liked the extra time for the public to understand the nuances, and what the legislation would do. She wanted to explore the idea of food truck pods. She said this didn't need to be a zero sum game, and the legislation could be done with respect.

Mayer said his concerns were similar to Rollo's concerns. He said enforcement was critical to the success of the policy, and they needed to find a way to make sure it was fair and even handed. He added that consequences of violations needed to be clear and understood. He thanked the staff for their work.

Volan said he was grateful for the motion but disappointed that it took another week of doubt for the council to realize that more time would not harm the discussion of the issue. He said that sound – what it is and how it is measured -- was an issue within this topic. He said there were concerns about enforcement and other issues that had been surrounding this topic that could be explored. He said that everyone that had an interest in the issue wanted to see some legislation passed by the council, and said he had no doubt that all would work towards that end.

Spechler said that he supported postponement because he would like to see public areas such as parking lots, as well as private areas, used for food trucks. He asked the staff to look into that issue, mentioning specifically the parking lot behind Dunkirk Square. He said that he was in error in thinking that food trucks did not pay sales tax. He asked Carnes how much sales tax had been reported from food trucks, and what the volume of business was for food trucks.

Neher said there was no harm that the discussion was held at this meeting because the council found out that there were more considerations that needed to be taken into account for effective legislation. He supported the motion to postpone action.

Mayer added to his comments by thanking the vendors, restaurant owners, and others who were closely following the issue for their careful consideration, presentations, civility, understanding, and thoughtfulness as this process unfolded.

The motion to postpone the ordinance until the early part of 2015 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 14-25 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 7-0-0. It was moved and seconded that Ordinance 14-25 be adopted.

Ordinance 14-25 To Amend Title 20 of the Bloomington Municipal Code Entitled "Unified Development Ordinance" (Amending Sections 20.05.110 & 20.05.111 Regarding Temporary Uses and Structures)

Neher asked Patty Mulvihill, City Attorney, to present the ordinance. She asked that the council vote against the ordinance as it was tied to the Bloomington Municipal Code Title 4 changes that were just postponed. She said that taking no action or passing this ordinance would be confusing and that the administration would prefer for this to come forward in the new year.

Volan questioned Mulvihill about the timing and meaning of this action. Mulvihill said that this proposal had already been before the Plan Commission and now the council had 90 days to act on it. If there was no action, the proposal would be adopted as the Plan Commission approved it, so the changes would actually go into effect.

Volan said the changes didn't seem problematic to him. Mulvihill said that the previous ordinance would have exempted licensees under Title 4 from getting a temporary use permit. To pass Ordinance 14-25 without Ordinance 14-24 would allow rug sellers and other temporary sales groups to not get a temporary use permit. She said this was not the intent of the proposal that was passed by the Plan Commission.

Mayer verified that a 'No' vote would mean everything would remain the same as it was now.

Ordinance 14-25 (cont'd)

The motion to adopt Ordinance 14-25 received a roll call vote of Ayes: 0, Nays: 9.

LEGISLATION FOR SECOND READING

It was moved and seconded that Ordinance 14-26 be introduced and read by title and synopsis. Deputy Clerk Wanzer read the legislation and synopsis, giving the committee recommendation of Do Pass 8-0-1 from the Committee of the Whole meeting immediately preceding this special session.

Ordinance 14-26 To Amend Title Two of The Bloomington Municipal Code Entitled "Administration and Personnel" (Amending Section 2.08.020 which Sets Forth General Provisions for the Establishment, Membership, and Operation of Boards, Commissions, and Councils, and Amending Section 2.23.090(d) to Bring the Expiration Date of the Commission on Aging in Line with Other Such Local Entities)

It was moved and seconded that Ordinance 14-26 be adopted.

Neher noted this ordinance was discussed earlier in the evening at a committee meeting. He asked Wanzer if there was anything she thought needed to be added to the discussion.

Wanzer said the synopsis detailed the issue well, and she emphasized the loss of staggered terms was not an oversight or mistake by any one person, but a complication of people leaving a commission or board seat before the end of their term. She said sometimes there was a question about creating a new term for a new member.

There were no comments from the public.

Mayer noted the extensive discussion earlier and that the lack of questions and comments at this portion should not be construed as disinterest.

Volan said he would abstain from the vote because he didn't have time to study the issue well. He said he was not a fan of adopting anything in one evening if it was not essential.

The motion to adopt Ordinance 14-26 received a roll call vote of Ayes: 8. Nays: 0 Abstentions: 1 (Volan).

COUNCIL SCHEDULE

It was moved and seconded to cancel the meeting on December 17, 2014. There were no questions or discussion on this motion and it was approved by a voice vote.

Dan Sherman noted the Internal Work Session that was scheduled for December 19, 2014 at noon. He said there were things coming up in the first cycle in the new year that could be discussed.

Neher asked council members if they would be able to attend the work session, and three said they would. He recommended cancellation. It was moved and seconded to cancel the Internal Work Session on December 19, 2014. The motion to cancel was approved by a voice vote.

The meeting was adjourned at 8:46 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Darryl Neher, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

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.

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

Resolution 15-13 (cont'd)

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