



South Bend
Redevelopment Commission
 227 West Jefferson Boulevard, Room 1308, South Bend, IN

**SOUTH BEND REDEVELOPMENT COMMISSION
 RE-SCHEDULED REGULAR MEETING**

September 8, 2022 – 9:30 am
<https://tinyurl.com/RDC9822> or BPW Conference Room 13th Floor

Presiding: Marcia Jones, President

The meeting was called to order at 9:30 a.m.

1. ROLL CALL

Members Present:	Marcia Jones, President – V Donald Inks, Vice-President - IP Troy Warner, Secretary – V Eli Wax, Commissioner - IP Vivian Sallie, Commissioner – IP Leslie Wesley, Commissioner - V	IP = In Person V = Virtual
Members Absent:		
Legal Counsel:	Sandra Kennedy, Esq. Danielle Campbell-Weiss, Esq.	
Redevelopment Staff:	Mary Brazinsky, Board Secretary Joseph Molnar, RDC Staff	
Others Present:	Caleb Bauer Laura Althoff Erik Glavich Michael Davita Tim Corcoran Amy Paul Rachel Boyles Leslie Biek Zach Hurst Kara Boyles Charlotte Brach Aaron Perri Alyson Herzig Rachel Tomas Morgan	DCI - IP DCI – V DCI – V DCI – V DCI – V DCI – V DCI – V DCI - V Engineering – V Engineering - IP Engineering - V Engineering - V VPA - V Resident/Chamber – V Council/114 Chapin St - IP

Others Present:	Erica Futa Dan Gauthier Jordan Smith Rich Harte David Francisco Matt Barrett LaRissa Biggs Conrad Damian Thomas O’Grady Kevin Futa	Resident – V Resident – V Resident – V Resident – V 710 N Hill St - IP 110 S Niles - IP Nexus Center - V 718 E Broadway - IP 320 E Colfax #602 – IP 545 Crescent Ave - IP
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2. Approval of Minutes

- **Approval of Minutes of the Regular Meeting of Thursday, August 25, 2022**

Upon a motion by Commissioner Sallie, seconded by Vice-President Inks, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, August 25, 2022.

3. Approval of Claims

- **Claims Submitted for August 23, and August 31, 2022.**

Secretary Warner asked about the August 31, 2022, claim; there’s a payment for Reith Riley pavement is that payment for the zoo?

Ms. Althoff responded that the zoo parking expansion includes stormwater, sewer, sidewalk, and seal coating. This was round one of the contractor pavement and was contracted to Millstone Contractors.

Secretary Warner asked if the Reith Riley payment was part of the rebuilding our streets that was funded approximately six weeks ago.

Ms. Althoff replied yes.

Upon a motion by Secretary Warner, seconded by President Jones, the motion carried unanimously, the Commission approved the claims for August 23 and August 31, 2022, submitted on Thursday, September 8, 2022.

4. Old Business

5. New Business

A. River West Development Area

1. Budget Request (Muessel Grove Restroom)

Mr. Hurst, Engineering presented a Budget Request (Muessel Grove Restroom). This budget request for \$240,500 is to contribute towards the construction of a new restroom facility at Muessel Grove Park. A bid from Gibson Lewis, a local contractor came in a little under \$400k. This budget request would augment existing funding from VPA and would give a small construction contingency to be able to move forward with the project. Commission approval is requested.

Commissioner Wax asked what the timeline would be.

Mr. Hurst responded due to the market being tight, the city gave the contractor next calendar year to solicit enough interest to complete the project.

Upon a motion by Commissioner Sallie, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Budget Request (Muessel Grove Restroom) submitted on Thursday, September 8, 2022.

2. Budget Request (Linden Avenue Streetscape & Design)

Ms. Biek, Engineering presented a Budget Request (Linden Avenue Streetscape & Design). This budget request is for the design and inspection of the Linden streetscape project from College to Birdsell. The project is in coordination with the Dream Center. The schedule is to have engineering design the project; this would be ready to bid and start construction next fall and be completed with the Dream Center Spring 2024. Commission approval is requested.

Secretary Warner asked if there is a total cost or is this the design cost; if so where will the remainder be funded from?

Ms. Biek answered once BS Engineering is onboard, we will have a more detailed estimate. The project would be funded through TIF.

Mr. Corcoran, Department of Community Investment noted that through design, the city plans to test a couple different ideas. Each one will have a potential cost to them. We will need to work through different scenarios including utility relocation, because of that we are unsure of the cost. The overall idea is to promote Kennedy Park. Through the neighborhood planning process, the neighbors have noted how important this section of Linden Avenue is as a historic, commercial district therefore, we would like to tie both sides of the street together. The Dream Center project will help to support new development on the north side of the street.

Secretary Warner noted that the Dream Center project is very exciting and that this is a part of the effort to revitalize the Linden and Kennedy Park neighborhood. The neighbors and council are excited.

Upon a motion by Secretary Warner, seconded by Commissioner Sallie, the motion carried unanimously, the Commission approved Budget Request (Linden Avenue Streetscape & Design) submitted on Thursday, September 8, 2022.

B. South Side Development Area

1. First Amendment to Development Agreement (Nexus Center)

Mr. Bauer, Department of Community Investment presented the First Amendment to the Development Agreement (Nexus Center). The proposed amendment would increase the public commitment and commensurate increase in the private investment commitments for the Nexus Center. The Nexus Center would serve as a community center space, mental health counseling with clinical space. This community-oriented space is an adaptive reuse of a former industrial building that had office space. The original agreement approved by the Redevelopment Commission in August 2021 would be adjusted by an increase in private commitment from \$1M to \$1.6M to help fund a roof replacement which will preserve the facility and allow for a complete build out of the space. Commission approval is requested.

Ms. Buggs, Nexus Center noted Mr. Buggs was out training surgeons on robotic technology which helps to fund some of the investment. A thank you to Community Investment and their team working with them to be able to utilize TIF funds to make ADA upgrades to the entrances of the building. They are working with Kil architecture and have been able to put things out to bid. Some of the work that has been done includes painting, flooring, and new lighting. They have been able to hold meetings with groups such as 100 black men and had mental health roundtable sessions with the Delta Sigma Theta sorority. They have worked with residential neighborhoods committee of council and Alpha Kappa Alpha sorority. They've hosted other groups as well putting on a vaccination clinic and other community meetings. The Buggs want to continue to build upon the theme of creating a community and wellness center. With the mental health crisis affecting the country and our community they would like to continue to improve the health and status of the community at large. By replacing the roof, we would like to expand and utilize the entire building keeping it dry to make sure the investment is secure.

Commissioner Wax asked what part of the private investment has been utilized and what makes up the remainder?

Ms. Buggs answered currently they are at approximately \$800k but she does not have the final numbers, which have gone into upgrades including the HVAC system. They also have had help from local unions which is a continued process. They have support from community foundations and grants. With all the continued support, they anticipate being able to meet the full commitment.

Commissioner Wax asked if the full amount needed would be the total to get the Nexus Center operational?

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Ms. Buggs replied yes.

Commissioner Sallie stated that she understands that the Nexus Center is operational to a certain level as Dr. Buggs mentioned several groups have utilized the center. Even though it is not completed, you are allowing groups to come in.

Ms. Buggs answered yes, they've been able to utilize some areas as conference room space. Each group pays a fee to use the space, which in turn helps generate revenue towards completion.

Commissioner Wesley said a thank you to Dr. Buggs and believes the Nexus Center will be a great asset to the community.

Commissioner Wax asked to be reminded of the impetus increased amount.

Mr. Bauer stated that the Buggs were willing to commit to a larger private investment as they became aware of the condition of the facilities roof. The city, in an effort to protect its own investments in the property, was willing to increase their public investment. This would benefit both the city and the Nexus Center. At current there have been leaks and patches done so fully replacing the roof maintains the integrity of the building.

Commissioner Wax if that is the full extent of the city's investment.

Mr. Bauer stated yes that is the extent of the city's capital investment for this project.

The commission opened this item up for public questions/comments.

Mr. Barrett, resident, asked if the city has a policy to the percentage of city funding.

Mr. Bauer answered that there is no written policy. The city looks at providing funds to support mission-based organizations and provide strategic goals we have to participate in a project. All the above is how we bring a proposal to the Redevelopment Commission.

Ms. Broden, resident, spoke in support of the project and the increase in investment. She has been in the building and states it has great bones. In her opinion it has great potential and she believes in helping to support the roof. The conceptualization and the delivery of services will go a long way to support the city of South Bend regarding wellness, public health, violence prevention and economic development. The importance of the talent and skill sets that the Buggs bring to the table and the goals in the not for profit with the partnerships are valued as a citizen.

Secretary Warner commented that he had some concern as to ration of investment to funding but there is a plan for a clinic there that the Buggs are working on. With the continued investment and opportunity to have a clinic come to fruition and life is what tips the balance and stability of the building. He would like to encourage getting the clinic to happen on that end of town and he supports the project.

Upon a motion by Commissioner Sallie, seconded by Vice-President Inks, the motion carried unanimously, the Commission approved First Amendment to Development Agreement (Nexus Center) submitted on Thursday, September 8, 2022.

6. Progress Reports

1. Tax Abatement

1. Mr. Bauer noted that one tax abatement will be coming before council which is a personal property tax abatement for Steel Warehouse. Due to schedule conflicts, the business asked that the confirming resolution be brought forth in non-consecutive council meetings.

2. Common Council

3. Other

1. Mr. Molnar Presented Resolution No. 3557 AEP Ratification. This is a ratification of Resolution No. 3557 for a settlement agreement between the Redevelopment Commission and AEP. The property is located near Ignition Park. The two lots are at the corners of Garst, Franklin and Lafayette. The commission sold the lots to AEP in July 2020 for a \$50k purchase price. In the agreement AEP was to make improvements to the lot and did not. AEP has indicated they will not be making improvements. To avoid litigation over the property, AEP has released the property back to the Redevelopment Commission for \$50k to be redeveloped. We've settled on an agreement. Mr. Molnar noted that AEP removed some debris from the property. Staff notes that there is some interest in the site.

Vice-President Inks asked what was AEP going to do with the site?

Mr. Molnar stated that it was to be utilized as a substation development to help expand electric capabilities through federal grants, which did not happen. They were also going to use it for a possible educational training program with Notre Dame but ultimately there was no job creation.

Vice-President Inks stated that he would be supportive of this. We have a relationship with AEP that needs to be maintained moving forward on other development projects. This seems to be an equitable solution.

President Jones agreed.

Secretary Warner stated that he understands this is a larger effort to go back and re-evaluate all our agreements to find who is in compliance and who isn't. We have been talking about this for months. When we sell a property and make an agreement and developers do not commit, we need to act. He is appreciative of staff going through the agreements and starting to clean them up.

The commission opened this item up for public questions/comments.

Mr. Barrett, resident, asked if all property taxes were current.

Mr. Molnar said yes. That is one of the things staff reviews when buying and selling properties to make sure we are not held liable for taxes.

Upon a motion by Vice-President Inks, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Resolution No. 3557 ratification of AEP property submitted on Thursday, September 8, 2022.

2. Mr. Bauer Presented an update on Matthews, LLC projects. Mr. Bauer had hoped that Matthews, LLC would be able to present an update about 300 E LaSalle. Mr. Bauer met with Mr. Matthews, and it was conveyed to him and asked to convey to the Redevelopment Commission that he declined their invitation to come to the meeting but instead invited commissioner's to speak privately with him and invited them to his building.

The latest report from the city on the project is that plans for the grocery store have been submitted to plan review from building, zoning, and engineering. Permitting is still under review and has not been issued to date. Mr. Matthews provided no name of a potential tenant for the grocery store, which is obviously a focal point of the development agreement. The developer has declined to share the tenant's name with Mr. Bauer but did indicate there would be a form of an announcement at some time in the future. Just a note that the deadline for all the pieces of this development agreement to be satisfied is on December 31, 2022.

Commissioner Sallie asked what the next steps will be from the city.

Mr. Bauer stated that is something we are exploring as far as the legal authority of the Commission. Mr. Bauer would like the commission's feedback as to if they would be willing to accept a written update, we could potentially inquire about that. How would the commissioner's like to move forward?

Secretary Warner commented that it is quite disappointing that Mr. Matthews has no problem coming to meetings to try to get \$10M for the building and notes that the developer has made a commitment and those commitments have not been met. The fact that he is hiding and won't

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come to a public meeting is very disappointing and concerning. These are public dollars and require some level of transparency. These are community tax dollars that are supporting a project and the city needs to be treated as a business partner for the projects. This is why things are presented in writing. Come December 31, 2022, I hope that the mayor and the city strongly consider doing a claw back for our portion of that \$10M on unkept promises.

Mr. Bauer noted that each developer is required to send updates to staff on projects. We now understand that updates were sent to a staff member that is no longer with the city, therefore, those updates went to a dead email account. The developer noted he will send those updates to staff and staff will distribute them to the Commissioner's. Moving forward, we will develop an email that will allow a change to the receiver of those emails, so this is not an issue in the future.

Vice-President Inks asked if we have an event of default or is that December 31, 2022?

Mr. Bauer understands December 31, 2022, is what has been determined. We are skeptical of the project being completed by that date.

Commissioner Wax asked if there is any default now? Or are you saying that the city's position would be simpler and more straightforward to the time of breach of commitments.

Mr. Bauer stated yes, because we are looking at a potential size of a claw back on December 31, 2022, before the city were to take legal action against the developer related to this development.

Secretary Warner clarified one thing, and asked for correction if wrong, that the actual deadline was April, 2021 but the RDA recently gave the developer an extension to the end of this year but technically he defaulted in April, 2021 and after quite a time period after a postal facto to extension so he has already defaulted.

Commissioner Wax noted that's his understanding, however, it is the city's position preferring not to initiate any legal action until December 31, 2022. Commissioner Wax echo's Secretary Warner's comments that the city should be ready, but it is his hope and preferred outcome that the terms of the agreement would be met, and no adverse action would need to take place. In light of what seems to be less than fully cooperative in nature, he thinks the city should be prepared for action on December 31, 2022, determining what the next steps should be or how to best effectuate them.

Mr. Bauer noted that is our current operating status for preparation of that date.

Secretary Warner states he would love to see a grocery store there but given Mr. Matthews history on other unfinished projects, well, he would love to be proved wrong and to have the grocery store there; a real grocery store not a lemonade stand. We will see what happens.

The commission opened this item up for public questions/comments.

Rachel Tomas Morgan, 114 Chapin Street shared her deep disappointment that Mr. Matthew's was not in attendance. He has been asked multiple times to meet with neighbors, the neighborhood association, and to this body to provide updates. The fact that he has yet declined another invitation to come before you is deeply disturbing, and she would recommend to the commission to take whatever action possible, exploring that with legal to compel him to come before you and to provide an update in the next month, and certainly with significant time before the end of the year deadline. She notes that the developer has continued to buy properties across the city and having held this amount of public money, we need to keep him accountable.

David Francisco. 710 N Hill Street. Mr. Francisco states that he owns the building at 712 E Jefferson where he operates his law practice. He is a concerned citizen in the East Bank neighborhood where he lives, raising his family and working. He has spoken to the Board of Zoning appeals earlier this year on at least two separate occasions related to the use of the old Madison Center as the legal homeless shelter where he was attempting to get a variance of expose facto variance to operate it as a hotel for athletes. It was quickly exposed that was not the intention. Mr. Francisco's read of the board and room can tell everyone is frustrated about Mr. Matthews not meeting commitments in the neighborhood, which is a great neighborhood. The neighborhood is thriving, but it's also littered with incomplete Matthews, LLC. projects that have been started and not finished; just letting them fester. The other buildings he owns, the Commerce Center, you drive by, and it looks dilapidated. The Emporium restaurant looks dilapidated. Obviously, we have been dealing with the Madison Center and now we have this building that was new from two years ago looks like the top three or four floors are still unoccupied and he is unsure if there is a certificate of occupancy. There's supposed to be a grocery store there but to echo Troy Warner, I would love to see a grocery store there. Prove me wrong. He is unsure why the developer was given an extension to meet his obligations. He would implore the Commission, that this is unprecedented action and implore the commission to take that unprecedented action and claw back the funds of \$10M in taxpayer money that is going to support someone who is continuing to laugh in all our faces.

Dan Gauthier, 221 E Colfax, which is part of the east bank townhomes. Mr. Matthews seemingly abandoned the structure at 215 Sycamore Street directly behind his home. While he can appreciate the difficulties Mr. Matthews encountered with suppliers during construction, this project has now been untouched for five years. Furthermore, Mr. Matthews addressed their homeowner's association in 2021 and indicated optimistically that the project would probably not be pursued for at least 10 more years and that other development projects would take precedence. One rationale that he had offered is that his construction cost would now require rental pricing that far exceeded what the current market would bear. Meanwhile, the east bank flats project continues to be listed on Matthew's website as if you could live there. Apartments.com also suggests contacting them for a quote and to schedule a site visit. The Redevelopment Commission's Charter is to study areas of the city, identify problem areas and develop a strategic plan for eliminating blight and bringing about new development within these areas. The property at 215 Sycamore is a project that has resulted in exactly the opposite. It was a development that created blight where none existed. I provided a colleague who is in attendance in person some pictures of that, but it is pretty evident that it is blightful. As a homeowner and a taxpayer, I'd ask the commission to address this issue. I think there should be a commitment and a deadline to either finish the project or return the site back to the condition that existed prior to construction.

Richard Harte, 804 N. Hill Street. He is a citizen of the east bank neighborhood and speaks to you today as a concerned citizen, a homeowner, and a taxpayer. He would like to echo all the previous comments and encourage the commission to develop an immediate strategy at the December 31, 2022, deadline. We all hope something will be done by Mr. Matthews, but in his experience, hope is not a strategy. He believes that this unprecedented action should be strongly considered and taken by this commission and by the city. Everyone here has laid out Mr. Matthews' history of developments and promises made, and public dollars taken and promises broken, failures to be held accountable for and to be transparent about his actions. He urges the commission and applaud Troy Warner and some other members that have spoken to this in the past. He plans to continue to attend the meetings to urge the commission and the city to hold Mr. Matthews accountable and to continue the strong development that has happened in the city.

Matt Barrett, 110 S Niles, resident stated that the commission and the city may not be able or prefer not to take action on the 300 LaSalle Street project until January, but it can take action on two other matters. He would encourage the city to take action on 228 Sycamore, which is a blight situation. In addition, he believes there's been a violation of that contract, which was to be completed within two years. There's a non-assignment clause. The contract was originally with the East Bank, South Bend Development Company, the property is now titled in the name of the Commerce Center, so he believes there is an illegal assignment without written approval of the commission. Mr. Barrett believes this gives the Commission the ability to take action on 228 Sycamore. In addition, he reminded the commission that they issued a notice of default on September 22, 2021, for the vacant lot on the corner of South Niles and Jefferson Street. He notes that there have been a series of code violations. There is an illegal unpaved and undrained parking lot that has not been addressed. Fines continue to accumulate. In addition, there is an illegal dumpster in the vacant lot behind the 10 townhomes and it is just time for the city to let Mr. Matthews know that they are serious about enforcing his contractual commitments. Mr. Barrett pointed out that the \$5M that the city advanced for a grocery store and a pharmacy; if we say there are approximately 100,000 residents in South Bend, that means that every resident of South Bend has a \$50 investment in that grocery store and pharmacy. And right now, we have received exactly zero for that investment.

Jo Broden, resident presented two quick points. In Mr. Matthews' offering to go directly to commissioner's to give updates raises the question of the open-door law and the commission's duties. Second, she suggests accepting a written update would be wholly insufficient in regard to the public investment that has been set forth. The inability of the public to respond or the developer to be help accountable by choosing that record would be skirted. I would suggest not to accept a written update. Ms. Broden suggests, as others have, to have a plan in a claw-back plan of this investment.

Commissioner Wax agrees with the sentiment of a written response being insufficient and the same with a developer/commission private meeting regarding the open-door law. He would seek confirmation from our legal counsel, but he does not believe an individual commissioner meeting with anyone relates to the open-door law. It would require a majority of a quorum for it to be in violation of the open-door law. Whether it is a good idea for the commissioners, we trust the commissioners to make their own decision.

Commissioner Wesley stated that when we talk about equity that other developers and other investors in the community would give their left and right arms to receive any dollars from the city. She wants to understand why Mr. Matthews is being given special privileges, because that is what it sounds like. There have been other investors that have applied for dollars and were turned down. What type of presence are we showing by giving him this chance after chance. She wants to make sure that we're equitable and agrees with every comment that has been made as fairness. How fair is this to other developers that follow the rules. We want to be sure that we are being consistent. This is taxpayer money and I just want to say it is not a good look.

Commissioner Sallie states that if all the commissioners agree that a message should be relayed to Mr. Matthews through Mr. Bauer that we are not in agreement with an individual meeting with him and that unless he presents in person that it is disrespectful for him not to come and present to the commission. Unless he is willing to meet with at a Redevelopment Commission meeting, we are not interested in meeting individually.

3. Mr. Molnar stated that Redevelopment Commission staff will be distributing a draft proposal for the Lafayette building. Staff have been working on this project for months. As you are aware, we have moved some property around to make the office building more appealing to developers. This is just a draft of the RFP. The goal is to have this go live on the September 22nd meeting so the RDC can act. Mr. Molnar states the bidding period will go into the end of January 2023 to hopefully get a great use and renovation for this building.

7. Next Commission Meeting:

Thursday, September 22, 2022

8. Adjournment

Thursday, September 8, 2022, 10:39 a.m.

Troy Warner, Secretary

Marcia Jones, President