Final Vote 7-0

ORDINANCE NO. 92-39

TO REFINANCE THE FOURTH AND WALNUT STREET GARAGE BOND AND TO FINANCE THE ACQUISITION AND CONSTRUCTION OF ADDITIONAL PARKING FACILITIES FOR THE SHOWERS PROJECT

WHEREAS, the need exists to finance certain parking facilities and related appurtenances ("Project") located at 312 W. Seventh Street in the City of Bloomington;

WHEREAS, the Common Council has previously recommended, and the Board of Public Works ("Board") of the City has previously approved the creation of the Bloomington Municipal Facilities Corporation ("Corporation") in order to finance several municipal facilities and capital projects, including the Project;

WHEREAS, the Board has previously accepted a petition signed by fifty (50) taxpayers of the City requesting the City to finance several municipal facilities and capital projects, including the Project;

WHEREAS, the City, acting by and through its Board of Public Works ("Board"), has previously executed a lease dated January 30, 1986 ("1986 Lease") with the Bloomington Downtown Parking Development Corporation ("BDPDC") for a parking facility in the City (the "1986 Project") and the BDPDC now desires to assign the 1986 Lease to the Corporation;

WHEREAS, the Board adopted a resolution on September 8, 1992, approving the assignment of the 1986 Lease to the Corporation, which resolution is attached as Exhibit A;

WHEREAS, the Board, after a public hearing, adopted a resolution on September 8, 1992, authorizing the execution of a lease ("1992 Lease") between the Board and the Corporation for the construction and acquisition of the Project, which resolution is attached as Exhibit B;

WHEREAS, the Common Council hereby finds that the execution of the 1992 Lease is necessary and wise, will provide services that will serve the public purpose of the City and is in the best interests of the City's residents, and further finds that the lease rentals provided for in the 1992 Lease are fair and reasonable;

WHEREAS, the Corporation has been organized under Ind. Code 23-7-1.1-1 et seq., as repealed and superseded by Ind. Code 23-17-1-1 et seq., for public purposes, including constructing and leasing the Project and the 1986 Project and has demonstrated the Corporation's ability to acquire funds to construct and lease the Project and the 1986 Project to the Board on such terms and conditions that any construction bids or contracts can be assigned to the Corporation and contracts let for the construction of the Project;

NOW, THEREFORE, BE IT ORDAINED BY THE BLOOMINGTON COMMON COUNCIL THAT:

1. The execution of the assignment of the 1986 Lease to the Corporation as more particularly described in the resolution attached as Exhibit A, is hereby approved.

2. The execution of the Lease between the City, acting by and through its Board of Works and the Corporation, as more particularly described in the resolution attached as Exhibit B, is hereby approved.

3. It is hereby determined to be proper and in the public interest to reaffirm its approval of the incorporation of the corporation known and designated as the Bloomington Municipal Facilities Corporation for the purpose of, among other things, financing, constructing and equipping the Project and the 1986 Project and leasing it to the City, acting by and through the Board.

4. The Council hereby reaffirms its approval of the Articles of Incorporation and By-Laws of the Corporation presented to and now before this Common Council.

5. Providing for the financing, construction, acquisition and equipping of the Project and the 1986 Project by the Corporation and the lease of the Project and the 1986 Project to the Board is in the public interest of the citizens of this City and it is a proper public purpose for which this Common Council agrees to cooperate with the Corporation to assist in fulfilling the requirements of all agencies of the Federal, State and City Government.

6. The issuance, sale and delivery by the Corporation of bonds designated "Parking Facility Lease Rental Bonds of 1992, Series A" ("Series A Bonds"), in the aggregate principal amount not to exceed $1,300,000, to finance the Project, is hereby approved.

7. The issuance, sale and delivery by the Corporation of bonds designated "Parking Facility Lease Rental Bonds of 1992, Series B" ("Series B Bonds"), in the aggregate principal amount not to exceed $3,000,000, to finance the acquisition of the 1986 Project, is hereby approved. (The series A Bonds and the Series B Bonds are referred to collectively as the "Bonds").

8. The City reasonably expects that tax exempt obligations issued by or on behalf of the City, including the Bonds, as well as bonds, tax exempt leases and temporary loan warrants of the City (excluding private activity bonds other than qualified 501(c)(3) bonds), will not exceed $10,000,000 in calendar year 1992. The Common Council hereby approves and authorizes the designation by the Corporation of $4,300,000 of the Bonds as qualified tax exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended ("Code").

9. The City reasonably expects that tax exempt obligations issued by or on behalf of the City, including the Bonds, as well as bonds, tax exempt leases and temporary loan warrants of the City (excluding private activity bonds), will not exceed $5,000,000 in calendar year 1992. Pursuant to Section 148(f)(4)(D) of the Code, the City irrevocably allocates to the Corporation up to $4,300,000 of the City's $5,000,000 limit for purpose of qualifying the Bonds for the small governmental exception to the rebate requirement.

10. Upon the redemption or retirement of Series A Bonds to be issued by the Corporation, the City, acting by and through the Board, will accept from the Corporation title to the Project (including any additions to the Project) free and clear from any and all liens and encumbrances thereon.

11. Upon the redemption or retirement of the Series B Bonds to be issued by the Corporation, the City, acting by and through the Board, will accept from the Corporation title to the 1986 Project (including any additions to the 1986 Project) free and clear from any and all liens and encumbrances thereon.

12. The Common Council hereby approves the following to continue to act as Directors of the Corporation: S. Tracy Clay, William J. Finch, Lee Ann Merry, Frona M. Powell and James William Tabor.

13. The Corporation, being duly organized to conduct business, may issue, sell and deliver its bonds, pursuant to the applicable laws of the State of Indiana; may encumber any real property or equipment acquired by it for the purpose of financing the construction and equipping the Project and the 1986 Project; and, may enter into contracts for the sale of bonds and the construction and acquisition of the Project and the acquisition of the 1986 Project.

14. This Ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 16th day of September, 1992.

Pam Service

PAM SERVICE, President
Bloomington Common Council

ATTEST:

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 17th day of September, 1992.

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED AND APPROVED by me upon this 17th day of September, 1992.

Tomilea Allison

TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This Ordinance approves the assignment of a lease between the Bloomington Downtown Parking Development Corporation ("BDPDC") and the City of Bloomington, acting by and through the Board of Public Works, to the Bloomington Municipal Facilities Corporation ("Corporation"). The Ordinance also approves the execution of a lease for the construction of a parking facility between the Corporation and the City, acting by and through the Board of Public Works and approves the issuance of not more than $1,300,000 of the Corporation's Parking Facility Lease Rental Bonds of 1992, Series A for said Project; and approves the issuance of not more than $3,000,000 of the Corporation's Parking Facility Lease Rental Bonds of 1992, Series B, to finance acquisition of the parking facilities assigned to the Corporation by the BDPDC.

Signed copies to
Legal
BPW
Controller