Passed 9-0

RESOLUTION 13-15

SUPPORTING MARRIAGE EQUALITY IN INDIANA
(Opposing House Joint Resolution No. 6 and Calling for Repeal of Indiana Code §31-11-1-1)

WHEREAS, on November 19, 2013, Speaker of the Indiana House of Representatives, Brian Bosma, reaffirmed his intent to pursue House Joint Resolution No. 6 (HJR-6), a proposal to enshrine into the Bill of Rights of the Indiana Constitution an enduring ban on both same-sex marriage and any legal status identical or "substantially similar" to that of marriage for unmarried individuals;

WHEREAS, the provisions of HJR-6 are discriminatory and dangerously unclear:

- HJR-6 purports to define legal marriage as between one man and one woman. This subjects same-sex couples to unequal treatment, unequal treatment that is currently codified in State statute: Indiana Code §31-11-1-1 prohibits same-sex marriage and declares that a same-sex marriage legal in another State is void in Indiana;
- HJR-6's language prohibiting any legal status identical or "substantially similar" to marriage is vague wording whose full effects are not fully known. While HJR-6 would prohibit civil unions, it may also impair the ability of unmarried couples to enter into legal agreements, and may threaten the ability of the City of Bloomington and other employers to extend domestic partner benefits to employees;

WHEREAS, Bloomington is a community that cultivates and celebrates diversity -- any State action that harms any of our residents, harms us all;

WHEREAS, the City of Bloomington has a long and sustained history of protecting the human and civil rights of its residents;

WHEREAS, while protecting equity and fairness, government has a positive obligation to ensure that citizens are able to fully realize their basic human capabilities – including capabilities for love and intimacy, represented by marriage;

WHEREAS, adopted twenty years ago, the City of Bloomington's Human Rights Ordinance declares that denying people rights because of their sexual orientation is "contrary to the principles of freedom and equal opportunity and is contrary to the public policy objectives of the City"(Bloomington Municipal Code 2.21.020);

WHEREAS, Mayor Kruzan is a signatory to the *Mayors for the Freedom to Marry Statement*, a declaration signed by 400 U.S. mayors from 37 States, supporting the freedom of same-sex couples to marry;

WHEREAS, our Bill of Rights protects the fundamental liberties of the minority from the whim and tyranny of the majority;

WHEREAS, the Indiana Bill of Rights, Article 1, Section 23, directs that "[t]he General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens;"

WHEREAS, if passed, HJR-6 would be located in the Indiana Bill of Rights; HJR-6's embodiment of marriage inequality undermines Article 1, Section 23 of the Indiana Bill of Rights by denying equal rights to an entire group of Hoosiers;

WHEREAS, as recognized by the United States Supreme Court, the right to marry is a fundamental civil right;

WHEREAS, in the Court's recent ruling on Section Three of the federal Defense of Marriage Act, the Court held that denying federal recognition of valid same-sex marriages, "places same-sex couples in an unstable position of being in a second-tier marriage. The differentiation demeans the couple, whose moral and sexual choices the Constitution protects... And it humiliates tens of thousands of children now being raised by same-sex couples." *United States v. Windsor*, 133 S.Ct. 2675, 2694 (2013);

WHEREAS, Bloomington is home to numerous lesbian, gay, bisexual, and transgendered (LGBT) residents and is a tourist destination for thousands of LGBT visitors each year:

- According to the Williams Institute's analysis of 2010 U.S. Census data, approximately 497 same-sex couples reside in Monroe County, 16 percent of whom are raising children; approximately 274 same-sex couples live within Bloomington's corporate boundaries;
- historically, Bloomington has boasted one of the highest per capita populations of same-sex couples in the nation;
- Bloomington has been ranked as the fourth gayest city in the U.S.; and
- Bloomington is identified as one of the top ten small cities friendly to LGBT travelers, travelers who infuse the local economy with hundreds of thousands of dollars annually while adding to State and local tax coffers;

WHEREAS, civil marriage carries with it an abundance of legal, social, and practical benefits, and imposes a host of legal and social obligations. Students at Indiana University Maurer School of Law have identified 614 rights and obligations that attach to Indiana civil marriage, family, and spousal relationships – rights and obligations that are denied under both HJR-6 and the current State statutory scheme;

WHEREAS, the benefits of marriage equality and the harms of marriage inequality are systemic and well documented;

WHEREAS, marriage inequality is bad for business. To attract, recruit, and retain top talent, a community must offer residents a good quality of life, one that is welcoming and fair. Overt discrimination against a group could deprive Indiana, its businesses, and schools of the talent of both LGBT and fair-minded straight people who will choose to live and work elsewhere. For this reason, Indiana business leaders such as the Indianapolis Chamber of Commerce, Eli Lilly and Company, Cummins, Inc., Emmis Communications, Indiana University, DePauw University, Wabash College, Hanover College, Ball State University, Butler University, the Christian Theological Seminary, and the Purdue University Student Senate strongly oppose HJR-6;

WHEREAS, marriage inequality is bad for innovation. As urban studies theorist Richard Florida points out, a community that is welcoming to the LGBT community is a community where people of many different backgrounds and experiences feel at home. Florida has shown a close correlation between a strong LGBT presence in a community and economic growth in the high-tech sector. Bloomington is home to a vibrant gay community and a thriving technology sector. Any State action that sends the message that Indiana does not welcome difference, threatens our economic vitality;

WHEREAS, marriage inequality is bad for economic development. Numerous economic impact studies point out that marriage equality translates into positive fiscal effects and increased economic activity in the private sector and increased revenue for State and local governments, that would otherwise be lost. For example:

- Only one year after New York State passed the Marriage Equality Act, same-sex marriages generated $259 million in New York City alone;
- Five years following marriage equality in Massachusetts, same-sex marriages provided an estimated boost of $100 million to the State economy;
- In the year following marriage equality in Iowa, total spending on wedding arrangements and tourism by same-sex couples and their guests added a $12-$13 million boost to the State and local economies; and
- In the three years following their States' implementation of marriage equality, same-sex weddings are estimated to generate up to $15.5 million in Maine, $62.6 million in Maryland, and $88.5 million in Washington;

WHEREAS, marriage equality is good for children. As recognized by the American Academy for Pediatrics (AAP), decades of peer-reviewed research makes it clear that a child's well-being is more affected by the strength of the relationship between parents, and by a couple's socioeconomic resources, than by their sexual orientation. Studies consistently demonstrate that children raised by same-sex couples are just as successful and well-adjusted as those raised by opposite-sex couples. As declared by the AAP, all children have a right to the financial, psychological, and legal security that inheres in legal marriage of their parents;

WHEREAS, marriage equality is good for the elderly.

- Same-sex couples often face inequities in retirement, and tend to have less retirement income than different sex-couples. In States that provide for marriage equality, this inequity is mitigated by receipt of Social Security spousal, survivor, and death benefits. In States that do not provide for marriage equality, LGBT elderly are excluded from this important benefit. Older LGBT adults have a right to the same benefits enjoyed by their heterosexual counterparts;
- Identified by Forbes in 2012 as one of the top 25 places to retire, Bloomington is home to many aging LGBT residents. Indeed, according to a recent survey conducted on behalf of Area 10 Agency on Aging, six percent of survey respondents age 60 or over in Monroe and Owen counties identify as lesbian, gay, bisexual, or transgendered. Through their professional and life experience, older residents enrich the quality of our community life. Because Indiana does not recognize same-sex marriages, LGBT retirees may choose to retire to a marriage equality State. This would be a loss for our community;

WHEREAS, marriage equality is good for the physical and mental health of LGBT residents, a fact recognized by numerous professional medical organizations, such as the Indiana State Medical Association, the American Medical Association, and the American Psychological Association:

- Legal marriage confers numerous financial and legal benefits, including access to health care. Improved access to healthcare translates into improved health outcomes. Same-sex households have reduced access to health insurance; as a consequence, these households suffer from significantly worse physical health outcomes compared with the community at large. While marriage inequality already harms the health of LGBT residents, HJR-6's prohibition of any legal status "substantially similar" may eliminate domestic partner benefits, injuring the health of LGBT Hoosiers even further;
- In response to institutionalized discrimination, the LGBT community suffers significantly from minority stress, a stress that results in substantially higher rates of depression, anxiety, substance abuse, suicide attempts and actual suicides. In a study evaluating the psychological health of LGBT participants subsequent to the approval of constitutional amendments banning same-sex marriage in 14 States, participants reported a 36 percent increase in mood disorder, a 248 percent increase for generalized anxiety disorder and a 42 percent increase for alcohol use disorder;

WHEREAS, many faith traditions in Bloomington support same-sex marriage and wish to solemnize legal same-sex marriages; over 300 Indiana clergy and faith leaders have indicated their opposition to HJR-6;

WHEREAS, full marriage equality in Indiana respects religious freedom – no religious denomination would be required to solemnize a marriage in violation of his or her right of free exercise of religion guaranteed by the First Amendment;

WHEREAS, the institution of marriage and the ability of people to form families of their own choosing is not static and has changed over time. At previous junctures in history, women were considered property and interracial marriages were prohibited by anti-miscegenation laws;

WHEREAS, we are now at a new juncture. In the space of just ten years, sixteen States and the District of Columbia have recognized the legal right of same-sex marriage. At present, Indiana is currently one of a handful of States that could provide equal marriage to same-sex couples by amending State statute; and

WHEREAS, this is an opportunity. By supporting marriage equality, Indiana has the opportunity to enhance our economic competitiveness, support Hoosier families, and to be on the right side of history.

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

SECTION I. As public officials elected to protect the health, welfare, and safety of Bloomington residents, we find that a ban on same-sex marriage threatens our economic vibrancy, harms same-sex families who call Bloomington home, and is antithetical to our community's commitment to inclusiveness.

SECTION II. We affirm that same-sex couples within the City of Bloomington have a fundamental right to marry and to have a marriage that is legal in another State, recognized in Indiana. Therefore, we call upon Indiana legislators to repeal the provisions of Indiana Code §31-11-1-1.

SECTION III. We condemn any effort to enshrine discrimination into the Indiana Constitution and call upon Indiana legislators to reject HJR-6.

SECTION IV. We call upon members of the Bloomington community and all Hoosiers to support marriage equality and to voice their opposition to HJR-6.

SECTION V. We direct the City Clerk to send a copy of this resolution, duly adopted, to members of the Indiana General Assembly representing Bloomington, to the Governor of Indiana, and to the Greater Bloomington Chamber of Commerce.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 4th day of DECEMBER, 2013.

DARRYL NEHER, 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 5th day of DECEMBER, 2013.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 5th day of December, 2013.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution is sponsored by Councilmembers Susan Sandberg, Darryl Neher, and Tim Mayer. The resolution calls for marriage equality in Indiana, by both rejecting the proposed amendment to the Indiana Constitution, known as HJR-6, and by repealing Indiana's statutory prohibition of same-sex marriage. Asserting that marriage equality is a fundamental civil and human right, the resolution documents the systemic harms of marriage inequality and the overwhelming benefits of marriage equality. The resolution finds that a ban on same-sex marriage threatens Bloomington's economic vibrancy, harms same-sex families who call Bloomington home, and is antithetical to our community's commitment to inclusiveness. The resolution calls upon all members of the Bloomington community to support marriage equality and for the Bloomington City Clerk to send a copy of this resolution to members of the Indiana General Assembly representing Bloomington, to the Governor of Indiana, and to the Greater Bloomington Chamber of Commerce.

Signed copies to:
Indiana Delegation (State) representing Bloomington
Governor