

RESOLUTION 79-7

To Authorize Retaining Thomas Berry to Represent the Bloomington
Common Council in the Lawsuit Filed Against the Council by the City Clerk

WHEREAS, City Clerk Karel Dolnick has sued the Bloomington Common Council in Cause Number CV 7902-052B; and

WHEREAS, there are no attorneys currently employed by the City of Bloomington who are free of conflicts of interest or who will not serve as witnesses in the cause of action, and who therefore could defend the Council in this suit; and

WHEREAS, the Council must immediately seek outside counsel because of the impending date of March 9 set for the hearing on a preliminary injunction;

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

The Bloomington Common Council authorizes the retaining of Thomas Berry of the law firm of Berry, Smith and Bridges, to defend the Council in Cause Number CV 7902-052B brought by the City Clerk against the Council, according to the terms, conditions and fees established in the attached letter from Mr. Berry.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 28 day of February, 1979.


Tomilea Allison, President
Bloomington Common Council

SIGNED and APPROVED by me upon this 1st day of March, 1979.


Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

On February 20, 1979 City Clerk Dolnick sued the Common Council for a preliminary injunction and for a determination of nature of powers. The attorneys employed by the City have either served as advisors to Dolnick or will act as witnesses in this suit and therefore cannot represent the Council. The hearing on the preliminary injunction has been set for March 9, and this resolution would authorize the hiring of Thomas Berry to represent the Council in the hearing and in the later trial if one is required.

Attorneys at Law

701 North Walnut
Bloomington, Indiana 47401

Thomas A. Berry
Robert A. Smith
Douglas R. Bridges

812/336-8300

February 23, 1979

Ms. Tomilea Allison
Pres., Bloomington Common Council
Municiple Building
Bloomington, Indiana 47401

RE: Karel Brown Dolnick vs.
Tomilea J. Allison, et al
Cause No. CV7902-052B

Dear Ms. Allison:

This letter is in response to a request by you, as Bloomington Common Council President, and Common Council Attorney Frances Komoroske, acting on behalf of the Bloomington Common Council concerning arrangements for retaining this firm to represent the Common Council in the above case. The attorney's fees in this case would be at the rate of \$50.00 per hour, with a maximum fee of \$750.00 for representation of the Common Council in the injunction hearing scheduled for March 2, 1979. In the event the lawsuit is not terminated at that point, but continues beyond, the maximum additional fee would be \$2,000.00, again at the hourly rate of \$50.00.

It is understood that at present the Common Council has no funds appropriated to pay these fees, but that this firm will proceed to represent the Common Council without any guarantees of such appropriation, other than the receipt of a resolution, copy attached, authorizing retention of this firm on the foregoing terms. In the event the Common Council and the Mayor, upon consideration of the appropriation of funds, fails to appropriate such funds for payment of fees, our services will terminate immediately.

Ms. Allison, we are complimented that the Common Council has sought out our services to represent it in this matter, and we appreciate the opportunity to be of service to the Council.

Yours truly,

BERRY, SMITH & BRIDGES

Thomas A. Berry
Thomas A. Berry
TAB/msl

Berry Smith & Bridges