

In the Council Chambers of the Municipal Building held on Wednesday, April 3, 1991 at 7:40 P.M. with Council President Fernandez presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
APRIL 3, 1991

Roll Call: Foley, Kiesling, Fernandez, Regester, Service, White. Absent: House, Olcott, Hogan (will be late).

ROLL CALL

Fernandez gave the agenda summation.

AGENDA SUMMATION

The approval of minutes was deferred until the next meeting.

APPROVAL OF  
MINUTES

Kiesling said that next week is Disabilities Awareness Week and she hoped people would consider their needs more carefully. The week of May 7 will bring Good Will to our community and collect from 2100 households. Arbor Day and Earth Day are April 12 and 13. Various activities will take place.

MESSAGES FROM  
COUNCILMEMBERS

White reminded everyone that the IU Bloodmobile will be here next week. The fire station construction is moving along with July as a move-in date.

Service gave the specifics about Arbor Day and noted the art work on the council wall as the work of Harmony School students. The school will also have a yard sale this weekend.

Fernandez congratulated Debra Fraser and Marcella Padgett on their award as Social Workers of the Year given by the Monroe County Association of Social Workers. Dan Foote, an IU senior, is taking items donated by the students at the Collins Center to our Sister City in Posoltega.

Mayor Allison introduced the Batchelor School students who won awards at the recent Science Olympiad 1991 state level competition. Batchelor Middle School finished 5th in the state. She also talked about the Commit to be Fit Employee Health Day here in the City. She also presented a proclamation to David Schleibaum on behalf of the Homebuilders Association for New Homes Month.

MESSAGES FROM  
THE MAYOR

Schleibaum said the association will be breaking ground for a new home in Gentry Estates and the proceeds will be donated to Shelter House, Inc., and Middle Way House. He thanked the Mayor and Council for the proclamation.

It was noted that there are still vacancies on the following commissions: Environmental, Traffic, Housing Quality Appeals Board, and Board of Zoning Appeals.

It was moved and seconded that Ordinance 91-23 be introduced and read by title only. Clerk Williams read the ordinance by title, the synopsis and committee recommendation of 7-0.

LEGISLATION FOR  
SECOND READING/  
VOTE  
ORD. 91-23

Bill Riggert described the area for the reduced speed zone as a school area with a large concentration of children.

The ordinance received a roll call vote of Ayes:6, Nays:0.

It was moved and seconded that Ordinance 91-18 be introduced and read by title only. Clerk Williams read the ordinance by title.

It was moved and seconded that Ordinance 91-18 be

adopted. The synopsis and committee recommendation of ORD. 91-18  
4-0-3.

Service, as sponsor of the ordinance, said the reason behind this has nothing to do with antagonism toward smokers but the health of our employees and it has been irrefutably shown that secondary smoke is also a hazard. In the past we have always talked about public health, but this is different. While people go to restaurants by choice, where one works is not necessarily voluntary or for short periods of time. Many studies verify this position and more and more cities and businesses are adopting this position. We have an example-setting posture to assume.

Kiesling said she would not like to see a October 1 deadline, January 1 is much better. We need to set an example. She hoped that there would be a policy established for this and that we amend the ordinance some time later and let the employees and administration work out the details.

Doris Sims requested the council to table the ordinance. She said that about 1/3 of the work force are smokers and she hoped that the council would let the administration make the policy and plan for the eventual ordinance. AFSCME and the FOP unions thought the designated smoking areas are working out well. She talked with the county and Bloomington Hospital and the IU Credit Union and there are many, many different policies for each and every area.

Steve Hogan arrived at 8:10 P.M.

Ted Rhinehart said we need more time to determine what some alternatives might be. The Health Department recommends more analysis of the building air.

Richard Jackson urged the council to pass the ordinance tonight. By not doing anything you impact 2/3 of the city employees. It isn't a rights issue, it's a health issue.

Leslie Henke, agreed with the team concept for policy development but there also needs to be a time limit on that policy process.

Jennifer Staub urged the council to make the decision now.

Service moved that amendment "A" be introduced, that is to delay the implementation until January 1, 1991, encouraging the administration to set up various programs to establish this policy. The amendment was seconded.

Hogan said there is a consensus for a smoking policy, it is just a matter of when, we should pursue it as quickly as possible and set a deadline as to when the policy is enforced.

Kiesling said that she thought we should have had a resolution and asked the administration to come up with a policy, she also suggested that there is nothing that keeps us from amending our code as to how it's best to be implemented and enforced. There are other ways of dealing with this.

Mayor Allison said that she felt that this was an administrative decision and she hoped that various work units could bring more information to the decision-making process. But more importantly, if the employees

are involved in the decision, they will feel better about what is proposed. Smokers and non-smokers have been separated in this building. We should move to a non-smoking environment, but she also did not want people at odds with each other.

Hogan wondered if we could change it to a resolution and assign a date at which time we would expect a plan from the city administration. Register suggested we table this until July 17 (Personnel suggested this date).

White agreed that we should do some participatory directing as the city's board of directors. We should at least set a date for this employee committee.

Foley said the ordinance is desirable for the city facilities, but he said the number of amendments that are offered for consideration speak to the lack of specificity and resolve regarding this ordinance. He thought we were doing too much, too fast, too soon. He did not think we are going to change people's habits with a electric shock-type therapy. The administration is in a better position to facilitate the cessation of smoking rather than the city council. He said he would introduce the motion to table. We have just made this too complicated, and it is encouraging animosity and division between city employees and possible lawsuits to the city.

Service said that resolutions are statements of sentiment and it is the council's responsibility to set policy and then let the administration administer their role, do the fine-tuning and make it happen. If the administration comes forth with a proposal to modify what we've done, we can put together more amendments. The amendments that are available for this ordinance were put together to cover any possible changes in the original ordinance, and they do not express major factions.

Jim Fielder agreed with the Mayor and Foley saying there are rights involved for everyone. In the county, they have separated the two groups.

Mayor Allison urged the council to give the employees a chance to be involved in the process, otherwise the council will only be making a token effort, and it will all turn out to be a token effort. The smoking cessation clinics will be a token effort and our attempts at enforcement will turn out to be token.

White said it would be best if the employees would work this out, the council is only saying it has to be done by a certain date.

Allison said if the council really wants the employees to buy into the goal, they have to have the chance to make the suggestion. If the council says it's an absolute, you are not involving them at all.

Foley asked how many complaints there have been about smoking in the building. The mayor said that she has had one complaint.

Kiesling suggested that they amend the ordinance, and then table it and ask for recommendations when it comes off the table and then implement it after everyone has had input.

Doris Sims said the policy development team would look toward a smoke-free environment, review union contracts

and then come back June 5 with survey results, with a plan for July 17.

The amendment "A" received a roll call vote of Ayes:6, Nays:1 (Foley).

Dr. David Byrne urged the council not to table the ordinance.

Richard Jackson spoke against the ordinance as did Anita Larimer.

Fernandez said that while he is concerned about the health and safety of city employees, he is also concerned that they are micro-managing.

Jeff Underwood asked that the council approve the ordinance as amended and said he would be willing to work on any committee that is established.

Doris Sims said the committee would work towards a smoke free environment. She defined that by work situation, allowing for designated smoking areas in the building and the July date would give the committee enough time to work on the plan. Kiesling asked if nine months is enough time to work out a plan. Sims said that depended on what the council wanted to have implemented. Kiesling said given the proposal before us and then implementing of the policies that you would be recommending, would that provide enough time. Sims asked if the council wanted some type of proposal brought back to the council, like non-smoking by January 2? Sims hoped that the policy development committee, as a team, would come back with a proposal and after that, it would be hard to say, depending on what the policy team comes up with, whether it can be done by January 2.

Service said this ordinance is not micro-management, it sets out policy. Doris may or may not come up with a policy and this is a policy and a date, and it could change if the committee comes up with a report that these are not reasonable dates. The administration can do all of the managing, and surveying and planning that is needed, but it is the council's responsibility to establish a policy and nothing that the administration is proposing is a policy, or indicates that they are working toward a policy. People do have a right to smoke, and people have a right to own guns but they don't have a right to aim those guns at other people or shoot them. She called for the questions.

Hogan objected to the vote at this time, and thought the council has little choice at some point in time to do something about smoking, but the question now is how to find the middle ground. We need to send a strong signal that we want a policy for a smoke free work place, even with a smoking room with proper ventilation. We need to say when and what we want. Regester agreed with Service and thought it probably should have been a resolution and further amendments can always be considered at a later date.

Regester moved that the ordinance be postponed until July 17, 1991. Foley seconded that motion. The motion was amended to read the first meeting in July and Foley seconded accordingly.

Service noted that she called for the question a few moments ago.

White said that he understands the need for employee input and participation, but he suggested that far too frequently we tend to delay decisions and form committees to make decisions.

Regester supported the ordinance, as amended and agreed that tabling would be an effective compromise.

Kiesling said this is a good move, that this will be successful process and we will have a good ordinance when it's finished.

The amendment to postpone received a roll call vote of Ayes:4, Nays:3.(White, Service, Hogan). The amendment is denied for lack of majority. Five votes is required for action.

Hogan moved that Amendment "D" calling for designated smoking areas in property owned by the City of Bloomington. The motion was seconded.

Jennifer Staub said the council is complicating the issue, the need for a smoke free environment has been established and question is how.

Barbara McKinney said that designated areas don't work. Service said that we are using taxpayers money to subsidize a lounge for a positive contribution.

Regester said we are going too far, we are into the micro-management. He thought we should send a signal that it is the council's sentiment that the building be smoke free by January 1 but do not officially enact that and leave something more than a token opening for future amendment and put the onus upon the committee to come back with some kind of plan. The committee would come up with a good plan, this ordinance comes off the table and it's voted on.

Sherman said that to reconsider the postponing of an amendment requires a 2/3 vote of the council.

Amendment "D" received a roll call vote of Ayes:0, Nays:7. The amendment was defeated.

Regester moved that we reconsider the motion to postpone. The motion received a roll call vote of Ayes:4, Nays: 3 (White, Service,Hogan). The action is denied.

Regester moved that Ordinance 91-18 be tabled. It was seconded and defeated by a roll call vote of Ayes:4, Nays: 3 (White, Service,Hogan). The motion to table was defeated.

The ordinance, as amended, received a roll call vote of Ayes:6, Nays:1 (Foley).

It was moved and seconded that Ordinance 91-19 be introduced and read by title only. Clerk Williams read the ordinance by title.

ORD. 91-19

]t was moved and seconded that Ordinance 91-19 be adopted. The synopsis and committee report of 3-2-2 was given.

Tim Mueller discussed the need for the vacation between Morton and Madison and the fact that it would have to allow police and fire access. The specific site plan to the north of the right-of-way was also uncertain. The petitioner needs the vacation in order to sell, with clear title, the parking spaces that are parallel to the Smith Rd right of way. One suggestion is to vacate only the strip of right of way that is necessary for the parking area. There is such room for such a dedication. The petitioner is not ready with a revised legal description and we need to determine how to proceed as there is a time limitation after Plan Commission approval as well as the statutory provision that if denied, the petitioner cannot return the request for two years.

Ted Ferguson reiterated the earlier details, said that the partial vacation has not been fully considered and therefore requested the ordinance be postponed. Bill Thompson, the Projects Coordinator for CFC was available for questions and discussed why the large tree that was on the lot was removed to make way for development. Everything possible was tried to work around the tree.

The motion to postpone until April 17, 1991 received a roll call vote of Ayes:7, Nays:0. This is a legally advertised meeting and such notice is sufficient for the April 17th meeting. There was no public input.

It was moved and seconded that Ordinance 91-22 be considered next received an unanimous roll call vote.

It was moved and seconded that Ordinance 91-22 be introduced and read by title only. Clerk Williams read the ordinance. ORD. 91-22

It was moved and seconded that Ordinance 91-22 be adopted. The synopsis and committee recommendation of 3-0-4.

Tim Mueller described the tract and said that the petitioner has requested that the ordinance be postponed.

Herb Kilmer, representing the petitioner, said that the State Road 46 plans have arrived and the environmental assessment is also available. The petitioner requested the postponement so that a little more time can be available to study the proposals.

Service suggested that we should postpone the vote until after the master plan vote. We should not encourage the state to locate the road in an environmentally sensitive area as well as encourage an employment center.

The motion to postpone until the second meeting in May (15th) received a roll call vote of Ayes:7, Nays:0.

It was moved and seconded that Ordinance 91-20 was introduced and read by title only. Clerk Williams read the ordinance by title. ORD. 91-20

It was moved and seconded that Ordinance 91-20 be adopted. The synopsis and committee report of 6-0-1.

The petitioner is requesting this amendment of the outline plan for a home improvement store.

The ordinance received a roll call vote of Ayes:7, Nays:0.

It was moved and seconded that Ordinance 91-21 be introduced and read by title only. Clerk Williams read the ordinance by title. ORD. 91-21

It was moved and seconded that Ordinance 91-21 be adopted. The synopsis and committee recommendation of 5-2.

Tim Mueller said that this project modifies the PUD outline plan adding 5 acres to the PUD. The plan for the 15.5 acres calls for 74 units. Access would be via John Hinkle Place, not 10th Street and a 50' right of way has been agreed upon by the petitioner as well as retention ponds with sedimentation control, also the development plans will be referred to the Environmental

Commission before they go to the Plan Commission. The petitioner has worked with the Grandview residents. Looking ahead, we will be approaching the capacity for 10th Street fairly soon, suggesting that we need to be pretty cautious as we approve future development. Projects of this sort are within our capability.

Mike Probst from Smith Quillman was available for questions.

Kiesling asked if Grandview Neighborhood Association was informed. Probst said that all legal notices were carried out. Don Mitchell said there was a meeting at his home, the association was invited and numerous people did attend.

The ordinance received a roll call vote of Ayes:6, Nays:1 (Service).

It was moved and seconded that the following ordinance be introduced and read by title only for first reading by the Clerk before the Bloomington Common Council.  
Ordinance 91-25 An Ordinance to Transfer Appropriations within the Motor Vehicle Highway and Local Road and Street Funds.

LEGISLATION FOR  
FIRST READING  
ORD. 91-25

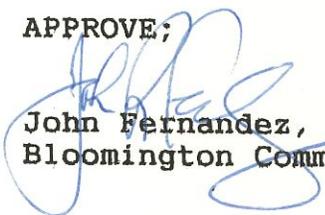
Jim Fielder discussed health issues within the municipal building and also eliminating the incinerator as a major health concern within our entire city.

PETITIONS

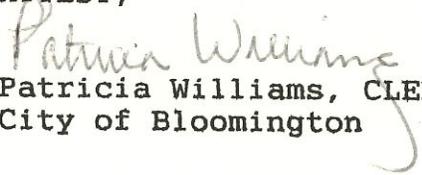
The meeting was adjourned at 10:20 P.M.

ADJOURNMENT

APPROVE;

  
John Fernandez, President  
Bloomington Common Council

ATTEST;

  
Patricia Williams, CLERK  
City of Bloomington