

AGENDA
COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, SEPTEMBER 20, 1989
COUNCIL CHAMBERS

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR SEPTEMBER 6, 1989

IV. REPORTS FROM:

1. Councilmembers
2. The Mayor and City Offices
3. Council Committees

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Resolution 89-28 To Approve the Sale of City Held Property to the Indiana State Department of Highways.

2. Ordinance 89-33 An Ordinance To Establish a Special Non-Reverting Risk Management Fund and To Create the Division of Risk Management Within the Department of Law.

Committee Recommendation: Do Pass 7 - 0

3. Ordinance 89-35 To Amend the 1989 Salary Ordinance for Appointed Officers and Employees of the City of Bloomington.

Committee Recommendation: Do Pass 7 - 0

4. Ordinance 89-42 To Establish a Cumulative Building and Capital Improvement Fund.

Committee Recommendation: Do Pass 6 - 0 - 1

5. Resolution 89-27 A Resolution Expressing Intent to Purchase Land for the Construction of a Downtown Fire Station.

Committee Recommendation: Do Pass 1 - 1 - 5

6. Ordinance 89-43 An Ordinance Transferring Funds from Fund 301 - Parking Meter to Fund 101 - General.

Committee Recommendation: Do Pass 5 - 0 - 2

7. Appropriation Ordinance 89-5 To Specially Appropriate from the General Fund, the Cumulative Capital Development Fund and the Substance Abuse Fund (new) Expenditures Not Otherwise Appropriated.

Committee Recommendation: Do Pass 6 - 0 - 1

8. Ordinance 89-37 To Grant Outline Plan Approval re: 2273 West Second Street (Michael Pauly, Petitioner).

Committee Recommendation: Do Pass 6 - 0 - 1

9. Ordinance 89-38 To Grant Outline Plan Approval re: 1300 Block of West Allen Street (Ed Hewitt, Petitioner).

Committee Recommendation: Do Pass 7 - 0

10. Ordinance 89-39 To Grant Revised Outline Plan Approval re: Southeast Corner of East Tenth Street and State Road 45-46 Bypass (Jerry Gates, Petitioner).

Committee Recommendation: Do Pass 5 - 2

11. Ordinance 89-40 To Amend the Bloomington Zoning Maps from RE to MG re: Property to the West of 301 North Curry Pike (General Electric Company, Petitioner).

Committee Recommendation: Do Pass 7 - 0

12. Ordinance 89-41 To Amend the Zoning Maps from RH to BL and To Grant Outline Plan Approval and Designate PCD/PUD re: the Southeast Corner of Pete Ellis Drive and John Hinkle Place (R. Istrabadi and C. Curry,

Petitioners).

Committee Recommendation: Do Pass 6 - 0 - 1

VII. LEGISLATION FOR FIRST READING

1. Ordinance 89-36 To Amend Chapter 10.08 of the Bloomington Municipal Code, Entitled "Wastewater Rates and Charges."
2. Ordinance 89-45 The 1989 Wastewater Refunding Bonds Ordinance.

VIII. PRIVILEGE OF THE FLOOR (This section of the Agenda will be limited to 45 minutes maximum, with each speaker limited to five (5) minutes.)

IX. ADJOURNMENT

In the Council Chambers of the Municipal Building held on
Wednesday, September 20, at 7:30 P.M. with Council President
Regester Presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
SEPT.20, 1989

Roll Call: Kiesling, Hogan, Gardner, Olcott, Regester, Young,
White Absent: Service, Fernandez

ROLL CALL

Regester read the agenda summation.

AGENDA SUMMATION

The minutes of September 6, 1989, with an addition by White, were
approved by a voice vote.

APPROVAL OF
MINUTES

Kiesling wished Young good luck with the Festival of Trees which
Young is chairing and which benefits Bloomington Hospital.
Kiesling urged residents in the relevant neighborhoods to set out
their recyclable materials for pickup.

MESSAGES FROM
COUNCILMEMBERS

Hogan said that since members of the City administration were
present, this would be a good time to address an issue that
concerned him. He said: Earlier in the year we discussed
annexation of various properties, and it was my understanding that
we were trying to get most of our annexations wrapped up this
year. Last week (Planning Director) Tim (Mueller) indicated that
the Hyde Park area would not be annexed until March. If in fact
these areas are not annexed until March these people won't be
allowed to vote in the 1991 election. These people have been ready
to be annexed for a number of years and I think it's most
appropriate to try and get it done this year and if not I'd like
to know why not, unless it's for political reasons. I think if the
people are going to be annexed they should be allowed to vote in
the upcoming elections.

Mayor Allison responded to Hogan's remarks: It really is not a
political reason. The Hyde Park is not contiguous and we have to
get some land in between. The other reason is that if you annex
bare land, and I think we've talked about that before, you don't
get the assessed evaluation. The part of Hyde Park is finished and
we will start on Hyde Park as soon as we can get amount contiguous
and from that move on.

Hogan: What will be contiguous between now and March that is not
contiguous now?

Mayor Allison: I think we're going to come through Spicewood and
try to get it to go across the street to get to them. They want to
come in, it's not that they don't want to, but the state law has
it that they have to be a certain percent contiguous.

Hogan: There's going to be a lot of very upset people when they
find out they're annexed and they can't vote. I think we should
try to be more expedient in that somehow, if we have to take in
some vacant land.

Mayor Allison: Their vacant land isn't what's making them not
contiguous. But as we annex them we would like to have them
already built on the land, rather than the bare land, because we
will get the assessed valuation of bare land rather than a house
on it. I am not saying that Hyde Park won't vote for the
administration. I hope that you're not saying that. (Laughter)

Hogan: I hope that that doesn't enter the picture, but I don't
believe there will be that many properties completed or built on
between now and March that it would be ok in March and not now. I
would like to see it pursued now, as quickly as possible.

Mayor Allison: The missing link is a new development on the other

side of the street that's coming in just south of Spicewood that will allow us to go across the street and get to them. Otherwise, we're not contiguous. That's been our problem all along with Hyde Park.

Hogan: Why can't we annex from the north?

Mayor Allison: There's Pizzo's property, but there's more than Pizzo's property. There's a long strip there. Then Bitner Woods is a problem. It has its own peculiarities. It's not enough contiguous, enough land.

Corporation Counsel Linda Runkle: In the past were based on what we would call corridor annexations. They are not invalid or illegal annexations, but you cannot base subsequent annexations on them. Bitner Woods was taken in two different parcels. But we cannot use that for contiguity purposes to take Hyde Park. So we've been waiting for there to be a buildup from Spicewood so we can go north of Spicewood and across to get Hyde Park. To get the one-eighth contiguity we'll probably have to do Hyde Park in two phases as well. We also have to consider the capital costs of taking Hyde Park and going across the street there because we'll take some responsibility for Sare Road, the additional police and fire protection. So we're working on a fiscal plan as well. But we were hoping we could have more build-up on the books. Because, quite frankly, if you take annexations with bare land, but you're providing the police, fire, sanitation and road services and you don't get the assessed valuations from build-up, you lose money. We don't want to annex if we're going to lose money.

Hogan: There's another concern that was expressed to me by a constituent this past week. There was a young man killed on Sare Road this week. If we improve that intersection at Moore's Pike and Sare Road and encourage traffic to use it, and Sare Road isn't our responsibility, it needs to be improved. That's something we really need to address, because there's some really dangerous hills and turns there.

Runkle: That's obviously one of the problems looking toward the future annexation of Hyde Park, taking on the liability of Sare Road.

Hogan: It's something that as we improve that intersection we have to address, whether it's county or city, because that will see a lot of traffic.

Message from Gardner: I was delivered a petition today, signed by 150, not just my constituents, but our constituents. It's actually in resolution form, but I did let the people who delivered it to me know that I would read it for them this evening. As I understand it there are more petitions circulating. It reads:

Lake Monroe was built primarily for flood control and recreation; and Those who purchase water from the City of Bloomington must protect their current and future interests in the quality of that water; and Early warning of pollution entering Lake Monroe could provide time to safely remove corroded or opened drums, lower the level of the lake and remove contaminated sediment from the shore, and take various other remedial actions to prevent significant contamination of our water supply; and Failure to obtain early warning of pollutants entering Lake Monroe could result in contamination of the Lake Monroe water works, resulting in great financial losses to the Utilities Department and its customers; and Failure to obtain early warning of pollutants entering Lake Monroe could result in widespread sickness and death in our community; and The City Chemist supervises facilities which could be used to analyze specimens of sediment and water take from the Lake Monroe watershed to follow up on information provided by the public regarding dumping, dead vegetation, and other indications of potential threats to our water supply; and The City Chemist supervises facilities which can conveniently be used to

maintain records of background levels of potentially dangerous substances in the Lake Monroe watershed; As I (Gardner) said this was signed by 150 people on this petition there's others circulating. There seems to be a growing interest in the community that we should monitor our drinking water at its source. I've made the comment before. I think it's something that the Council at some point is going to have to address, either in petition form, ordinance form, or whatever. But it seems to be a growing movement it's people out there speaking to us. We need to listen.

Message from Young: Just a comment to follow up on Steve's (Hogan) point about the death on Sare Road. Our office spoke earlier this week with a couple of county commissioners, highway commissioners, and they have promised that they will look into the corner there, because it is very bad and we have had several wrecks in the area. It was not the first time we have called and tried to bring attention to the area. But I think that now, unfortunately with the death, it will be taken care of.

Message from White: I would like to read a statement. I think that everyone has a copy here:

The intended guilty plea agreements by retired Bloomington Police Department Deputy Chief Max Gross and suspended patrolman Keith Eads should not be overlooked by the Bloomington Common Council. Both men were sworn police officers during the period of their accused thefts and improprieties, while serving as officers of the Fraternal Order of Police.

I share the outrage, disappointment and sadness felt by fellow citizens and other members of our police force. Our law enforcement and other public officials should be held to the highest ethical standards of moral and ethical conduct. The charge of misuse of funds donated by the public and intended for charitable purposes is disgusting. These two men, by admitting guilt, violated all forms of public trust.

Monroe County Prosecutor Bob Miller has stated that judgment on the felony convictions will be entered as misdemeanors. If that occurs, suspended patrolman Eads could be reinstated to active duty by the City Board of Public Safety. Such a move would be demoralizing to our police force and would send a confusing message to our citizens. If Mr. Eads pleads guilty, I urge the members of the Board of Public Safety to deny any request for reinstatement.

In a time when the Council has gone to the extra efforts to assure the continued stability of the police and fire pension funds, it is distasteful that former Deputy Chief Gross, who is accused of taking more than \$33,000 in FOP funds over a three year period, conveniently retired when the accusations were made. He is now receiving full pension benefits, which should be reserved for officers who have honorably served the department and community.

This entire unfortunate series of events should serve as a reminder to our City department heads, managers and employees that we are public servants. We have an ethical duty to the citizens of Bloomington who should be able to trust us in any situation at any time. The Council should not tolerate any action by any city government employee that does not hold to these high standards.

Finally and unfortunately, the victims in this situation are the citizens who contributed to the FOP and the potential beneficiaries of the FOP. But I believe the current police officers and current FOP members have also been victimized by Mr. Eads' and Mr. Gross' alleged thefts. Both the police department and the FOP now have new leadership. It is time for the public to give the members and new leadership of both organizations a chance to regain respect and

responsibility in our community. Their goals are honorable and should not be overshadowed by the past.

And now on a more positive note, I would like to remind everybody that while the students, the Interfraternity Council and the Panhellenic Association supported us in Hoosierfest, that this weekend is Greekfest. Greekfest 1989 will be held on the campus and the theme is 'Let the Games Begin'. I wish all the best to our fraternity and sorority friends who will be raising some money for some charitable causes this weekend.

Finally, last week I spent three days at the Indiana Association of Cities and Towns convention. We learned a lot. I think Iris (Kiesling) and I could talk on forever about that. A couple of good points I think should be brought out. One, the interaction that we as elected Councilmembers have with members of the General Assembly, when need be to lobby for legislation that affects cities and towns, the state representatives and senators that were present suggested that we be more visible, visit more often, and talk to them on a more regular basis. They actually said that we were not there enough and that cities and towns might have a better chance with legislation if we're there to fight for our causes. So I think that maybe during the next legislative session we should give that some consideration. Also, there is some proposed legislation that might change the way that cable television franchises are managed. Perhaps this would be something good for us to look at as well. We have some more additional information on that that we can pass around a little bit later.

Mayor Allison: At the Indiana Cities and Towns, Bloomington walked away with two awards. One was for SPEA for their cooperation with city and county government on planning. By the way that will continue on. We will start up again in the Fall, as we continue the process of the long-range planning for the City of Bloomington and Monroe County. The one that I wanted to bring your attention to is the Community Achievement Award. This I find particularly satisfying because it is truly a community achievement award. It was from Cities and Towns for our youth substance abuse prevention program. They said the award was made on the basis of creativity, innovation, and extraordinary benefit to the community. Why we were able, not only to win this award, but to have this program we are justifiably proud of, is that we have so many talented and caring people who are willing to work hard to improve the quality of life for all of us. There are several people in the audience, and I would like for them to stand up and be recognized: Delma Packard (Parents in Action), Rob Ingersoll, Jennifer Stubert, Jill Stubert, Jamie Thomas, Michelle Deckard (Teen Hotline and STAND), Bob Miller (Monroe County Prosecutor), Kirk White (CARES), Sue Wheeler (Human Resources Director), Leslie Skoogland (Youth Substance Abuse Prevention Coordinator), Barb Baker (Teen Hotline Coordinator), Scott Hutchinson (Bloomington Volunteer Action), Paula McDevitt (Parks and Rec Teen Coordinator), Jim Graft and Chief (Steve) Sharp (Project DARE). It is a very involved program. I hope that many of you took time to read the background on it. Now because this community has been able to pull together, and I think the key is the involvement of the students and their parents. With the support of the various professionals to make sure there is staff work available, we are able to have a program that has made us eligible for others. We just got notification in the last week that the Human Resources Department is going to receive a \$71,000 grant from the Governor's Commission on a Drug-Free Indiana to establish a similar program in some of the outlying counties. The Parks and Recreation Department just announced that they received a \$63,000 grant to establish a leadership training program for at-risk youth. So I think we ought to applaud Bloomington. (applause)

MESSAGES FROM
THE MAYOR

Register: Congratulations to everyone involved and we thank you from the Council for the community.

Kiesling nominated Rex Hume to be reappointed to the Public

APPOINTMENTS
TO BOARDS &
COMMISSIONS

Transportation Commission. White seconded. Motion to appoint carried by voice vote. Regester thanked Hume for his past and future service on the Commission.

It was moved and seconded that Resolution 89-28 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Resolution 89-28, To Approve the Sale of City Held Property to the Indiana State Department of Highways. It was moved and seconded that Resolution 89-28 be tabled. Motion carried by roll call vote of 7-0.

LEGISLATION FOR
SECOND READING
& RESOLUTIONS

RESOLUTION
89-28

It was moved and seconded that Ordinance 89-33 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-33, An Ordinance To Establish a Special Non-reverting Risk Management Fund and to Create the Division of Risk Management Within the Department of Law. It was moved and seconded that Ordinance 89-33 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 7-0.

ORDINANCE
89-33

Corporation Counsel Runkle addressed the Council: The purpose of this ordinance is to formalize the Department of Risk Management and the fund to manage the risk management functions as was approved in the 1990 budget hearings. Essentially the fund is set up in which we will put the monies that use to be paid for insurance premiums into our own self-funding arrangement. We'll pay the claims out of it, we'll pay our administrative expenses out of it, and any money that's left at the end of the year will stay in the fund to, in essence, help establish a trust for the payment of future claims and to build our reinsurance fund. The Division will be set up in the Department of Law and the Committee is established. It's essentially the committee that has been working for the past year to recommend the Risk Management Division. The claim settlement authority is set up for the Risk Manager at \$5,000. All claims in excess of that will be brought to the full Committee.

Olcott sought assurance that the Police Chief is eliminated from driving in the mini-car races (laughter) so that claims do not get out of hand in 1990. Runkle said the Chief would be off-duty and not eligible for such a claim.

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

It was moved and seconded that Ordinance 89-35 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-35, To Amend the 1989 Salary Ordinance for Appointed Officers and Employees of the City of Bloomington. It was moved and seconded that Ordinance 89-35 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 7-0.

ORDINANCE
89-35

Personnel Director Doris Sims addressed the Council: The purpose of this Ordinance is for us to be able to fill the Risk Manager position now and make a smooth transition when we take over and are fully self-funded on January 1st with our workman's compensation program. Although the position will then be under the Department of Law, it will temporarily be funded under the Public Works Department because, due to employee turnover, we found funding in their Salary and Benefits line item that will pay for the position for the next three months. We hope to bring someone on line by October 2nd. Effective January 1st the Risk Management Division has its own budget.

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

It was moved and seconded that Ordinance 89-42 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-42, To Establish a Cumulative

ORDINANCE
89-42

Building and Capital Improvement Fund. It was moved and seconded that Ordinance 89-42 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 6-0-1.

City Controller Ruckman addressed the Council: This ordinance formally establishes the new cumulative fund that was included and approved by the Council in the 1990 Budget. By state statute we must go through this formalizing procedure in order to have the fund established as a capital fund and a non-reverting fund. It has no impact on the maximum levy of the City and is included in that maximum levy. But for budgeting purposes we felt it was desirable to establish a capital fund so that we could more easily implement the long-range equipment replacement plan, as well as some other capital projects that we have. The fund for 1990 was approved in the amount of \$291,000 in the budget.

Kiesling asked Ruckman to reiterate what the fund can be used for. Ruckman: Primarily, it's the same type of capital projects and improvements that can be done with the Cumulative Capital Development Fund. It can be used for certain equipment purchases, including police equipment and fire equipment. It can also be used for certain public works projects: acquisition of property, construction of buildings, and so forth. I think it's our intent that we use it primarily for our equipment and vehicle replacement plan.

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

It was moved and seconded that Resolution 89-27 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Resolution 89-27, A Resolution Expressing Intent to Purchase Land for the Construction of a Downtown Fire Station. It was moved and seconded that Ordinance 89-27 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 1-1-5.

RESOLUTION
89-27

Mayor Allison addressed the Council: We are justifiably proud of our good fire rating and that's due to several factors. We've been upgrading our water lines, we make sure that our fire hydrants are placed strategically, we have full-time professional fire-fighters and, of course, we constantly upgrade our equipment. The locations of our fire stations are key as well. The Chief is justifiably proud that we have a three-minute run-time to most of the City. In fact, we determined that we had to build a station on South Henderson because as we grew to the south, we were stretching our response time. So the locations placed strategically around the city is crucially important. Our next goal, after the South Henderson fire station, was to replace the downtown fire station, because no matter how we looked at it and how we tried there was no way we could get the modern equipment in there, the equipment necessary to protect the downtown: the two or three story buildings, the seven story building. The structure of that building did not allow us to make those bays any larger than what they were. So the administration, with the help of the Projects Committee of the Council, have been dealing with this problem for over a year and a half and have been looking in the center to find a new location for a fire station. In fact, they looked at ten sites using the criteria of the Firefighters Association. In fact, a couple of the Councilmembers, and maybe even more than that, went out along with the Engineer and the Chief looking at the sites. But finding a site that met the criteria was very difficult. I won't go into the criteria. I'll let the Chief do that. But it was a difficult thing to find a location in the downtown that met all the criteria. The location at Lincoln and Fourth does meet the criteria. It's important that we build a new station for the safety of our community, because the old station cannot be adapted and made to hold the necessary equipment to protect our downtown.

Fire Chief Larry Fleener addressed the Council: For the benefit of the Councilmembers who were not able to attend last week, I'll go across some of the things we discussed. I think the first thing to

do is identify the problem. It is the 75-year-old facility that we've been using as our headquarter fire station on Fourth Street. It no longer really functions for us as it once did due to the fact that, as the Mayor said, our equipment simply won't fit in the doors anymore. It's the modernization of equipment and they build them bigger and wider and the doors don't grow. Approximately a year and a half ago, I met with the Projects Committee to discuss this problem. They seemed to be receptive, especially when I got most of them to go on tours of our headquarters station, they were even more receptive. I later met with most of them individually to even get their candid ideas which I think sometimes doesn't come out in those type of meetings. I did meet with the Mayor. I met with the Mayor's administrative assistant, Mike Davis, to discuss it. I was directed to meet with the Engineer for the City of Bloomington which was Dean Behnke. Dean and I spent several different times out and about looking at different sites that might possibly work for a downtown fire station and from time to time talked to some Councilmembers to get their opinions. I guess I wasn't naive enough to appear before the Projects Committee without first going out on my own and looking at some of these areas that I thought might possibly serve as a headquarter fire station for us. I'm glad I did because I don't think they would probably listen to someone who just had a pipe dream. As you know, the National Board of Fire Underwriters, which takes statistics all over the nation, and pretty much makes them known, have written several recommendations for the selection of fire stations, for their sites. I don't mean to repeat myself a lot but I will go across those again. I really don't think we can ignore the recommendations or their knowledge of those fire statistics because they do know what they're talking about. That's the business they're in. They do ask us to avoid building on hillsides, either the top or the bottom of hill, naturally, because of the grade. It takes too long to get those heavy trucks moving and once you get them going downhill in inclement weather, you may not stop them. We tried to avoid that right from the very start, in other words, level ground if at all possible. Avoid approaching on a one-way street. In other words, don't come out of your fire station on a one-way street. It's caused lost time, lost motion, and if you can avoid it they would like for you to do that. They want you to avoid major thoroughfares. Coming out on a major thoroughfare is basically dangerous to pedestrians and also dangerous to firefighters. So they would recommend that you build on a secondary street with good access to major arteries in practically all directions. They want you to take into consideration man-made barriers and natural barriers, I guess natural being rivers and mountains, which we don't have. We do have railroads. That's one of the man-made barriers we have tried to deal with in this city. They also want you to determine what areas really need protected the most. They definitely do put your downtown, any of your high-rises, your business districts, where there is density of buildings and density of people. Also where the buildings may not be structurally built to withstand or stop the spread of fire. They're not saying that business districts are more important than residential, but residential are usually singularly built and if, in fact, you would happen to lose one, you rebuild one dwelling rather than a quarter of a block or half a block, which is what we are faced with in our downtown area. We did look at eight or ten sites. We didn't just come up with Fourth and Lincoln. Council President Regester, Kirk White, Dean Behnke, Mike Davis, Pat Patterson and myself went to all these sites and discussed them and looked them over. I think we all came to the agreement that Fourth and Lincoln continues to surface as the most logical place for us to locate a new headquarter fire station. That's my opinion, for what it's worth.

White: I should probably go ahead and speak about some of the things the Projects Committee discussed over the past year as we've discussed this issue. What Chief Fleener said came up time and time again. One of things I found out quickly is that what you can't do with a fire station is just find an available piece of real estate and build it. The location is so important that

property damage and lives are at stake. One little mistake, in terms of what we do, is probably going to last eighty years if it lasts as long as the downtown station has so far. If nothing else we do lasts very long, this one will probably last eighty years. But I think he's hit the points quite well in terms of the fact that we have to stay in the downtown fire zone with a downtown headquarters station. We need to stay away from one way streets, stay away from hills and grades. We can't put it on a primary artery. It's best on a secondary access road or a secondary artery, but needs to have access to primary roads. Our railroad is one of the biggest problems in this whole project, in that it splits up possible locations and various fire sites so that we have to be able to compensate on both sides of the railroad track which is a man-made barrier. In our case, we looked at all these sites, backwards and forwards, for a year now. We decided that we really needed to be on the east side of the railroad tracks, frankly, as close as we could get to the current downtown station, because we felt that was a good location. In fact, in Indianapolis, if you watch what they do a lot of times, they'll condemn the property across the street if there is a station that is completely falling apart. They'll condemn the property across the street and build a station across the street if that's the place to put them in these long established urban areas. We needed it to be within two blocks of the downtown but not too far north. If we got too far north with the placement, say, Seventh Street or further, then we're starting to get awfully close to the Twelfth and Woodlawn station and starting some duplication of efforts up there. We don't really want to do that either. So that brings us in a fairly compact area and then we start to mark off the options. Seventh Street, as I said, is too far north. One of the things I thought last week that we might do is look at Seventh and Dunn. The University owns some property there. There's a vacant lot and then there's a house. But the fact is that it's just too far north as opposed to getting too overlapping with the Twelfth and Woodlawn station. It's on that edge. Sixth Street is one way, so that's out of the question. Fifth Street is an artery, always busy. Kirkwood is backed up a lot of the time and a lot of traffic in and out. So that gets us down to Fourth Street and if we want to stay within two blocks of downtown, we're in this area of Fourth and Lincoln. So it looks like, in all honesty, that this is one of our last options, really. I have a lot of sympathy for Mr. Storm and he and I have talked about this several times. I understand exactly what he's going through and his concerns in terms of why he acquired the property, but I really think this is our best site. One concern that was brought up was why don't we remodel the #2 station on Rogers Street and expand it. The problem with that is that then we move down to four stations instead of five. Now we could redeploy firemen all over the city from that extra station. But do we really want to move to four stations? I'm not sure that that's really the best answer. The #2 station location at Fifth and Rogers, obviously we would not want the station to front on Fifth because we're back on an artery again. On Rogers our frontage is limited there and already the firefighters tell me that they have trouble getting in and out of there, because the station isn't back far enough when they pull out, there's cars backed up at the intersection. What do a lot of people do when they see a fire truck with lights flashing? They panic, they don't know whether to back up, pull off the road, jump out of the car, honk their horn, they're not sure what to do. And the firefighters run into this. I want to show a quick video for about three minutes, because I think that it underlines the importance of how quickly time passes in a fire and the kinds of problems we can get into if we went to four stations and didn't get close to the downtown area and used the Rogers station as the downtown station, an option that I liked at one time too because it was going to save money and be great, if it worked. If we switched to that we could add a minute and a half to two minutes time on our response time because of the fact that to pull out of Rogers Street, if there was a train, we'd have to go under the underpass. So you'd be headed the wrong way on Rogers. Then you'd have to go east on Third and then back up north to get on Walnut to get back to the downtown and that wouldn't be good. You'd lose

a minute and a half doing something like that.

(White showed a video demonstrating the importance of quick response times by firefighters.)

White: So it is important that we get the best location that we possibly can. In light of all that I think that with our past deliberations with the Projects Committee I think you could take the recommendation for Fourth and Lincoln as being the best one that we can provide at this time.

Reger: Just to add my involvement in the Projects Committee, everything that's been said here is accurate in terms of what the Projects Committee has done. It's been a very involved and detailed analysis. We did drive around downtown several times, looking at different sites. I started out wanting desperately to find an alternative to Fourth and Lincoln for various reasons, primarily one of cost. But after analyzing ten sites, the physical constraints on those sites, some of them had historical problems, one of them did. But for the most part there were significant physical constraints to those properties that the Fourth and Lincoln did not have. When you get down to dealing with the health and safety issue, that becomes critical in terms of finding the site that's going to function properly. So that was my involvement on the Projects Committee level and I felt that an exhaustive search was made for sites and this site was determined to be the best from the Fire Department's standpoint and from the recommendations of the National Association and so forth.

Gardner: If we looked at ten sites, and the East Fourth Street site was our number one site, was the Fifth and Rogers a close second?

Reger: Once you get past number one there was a divergence of opinion. My number two site was the Bank One parking lot on Fourth Street, but it was a bit too narrow and close to the railroad and backed up traffic for a train that was stopped became a problem. It was physical problems with the different sites like that that the Fourth and Lincoln site didn't have that became the number one criteria for evaluating the different sites.

Gardner: So the number one criteria became safety.

Reger: It just became the functional use of the site itself. Fourth and Lincoln is flat. It's on Fourth Street, which is a secondary street. Yet it's very close to downtown. It is between campus and downtown, which was a plus. The other sites did have some physical constraints, either with grades, too far away, one way streets that you'd have to come out onto, just a variety of different criteria that we looked at. There are other people who could tell you what their other sites were. We did meet on it quite a bit, many, many, times and went through and rehashed it over and over again.

White: We also need to note that in the long-range fire plan, one thing that we most likely need to do is move that Rogers Street fire station a little further west so we can reach some of the property further out towards the limits of the city boundary in quicker time without getting too far away from the hospital. And I would say that it's a hope of the Projects Committee that in '92, '93, when the resources are available, that that would be the next move we'd want to make. The Rogers Street station at one point had some restrictive covenants on it about what we could use it for but it doesn't anymore. So we could sell it or we could use it for other City services or whatever it might be. But I think that in the future, as we get to our next step, it would be to move Rogers Street a little further west.

Hogan: I've got two questions, one considering property across from the existing fire station. Ideally, we probably would have built a fire station in the parking lot somehow. The brick building that is right next to the parking lot, what is that used

for now?

Regester: You have the Second Story and then the Lantern House restaurant.

Hogan: It seems that if we built it next to the parking lot, that we wouldn't need nearly as much land or whatever for surface parking or we could build a facility and use a parking lot for some of the parking. The other question is when did we start looking at property? How long ago did we start looking at it?

(A year and a half ago)

Hogan: So when we were looking at this property it was for sale...we weren't looking to condemn property...the property was for sale.

Regester: Right. It was an available site.

Young: Just a couple of things. As a committee you do not actually have a second choice as a whole. The committee did not pick a second choice, a second location, because none of the others really fulfilled all the requirements as this particular property did, correct?

Regester: That is correct. There is not a clear second choice.

Young: And to further comment on Steve's (Hogan) question, Mr. Storm has only owned the property since December. It isn't something that he's owned for a long period of time, correct?

Regester: I'm not exactly familiar with when he purchased it. He's here. He can answer that.

Hogan: Following up on what I said, if the Projects Committee were going to go out and take a piece of property, my only hangup with this resolution is that we're going up in an eminent domain proceeding. The location fits the bill and if it were for sale and what not I would be all go. I don't like the idea of condemning property for it. If you were going to go condemn property for it, is that still your favorite site or would you in fact take the Lantern House or would you in fact do something in a different location and be more aggressive with what you did? Or did you even consider that as an option?

White: The Projects Committee is kind of a dreaming committee. It thinks about all kinds of things. That's one of the things I like about it. We really don't have a whole lot of restrictions when we start talking and so we can kind of go from one end of the spectrum to the other. At one point we wanted to bulldoze that whole block and put a City Hall there. We thought that was a good idea. It's the perfect location. But obviously that would cost us a lot of money and we could enhance downtown economic redevelopment by building on property that's for sale or vacant and that's why we're looking at the top of Regester Garage or at Mayflower-Johnson. So in terms of where are our priorities are I think it's true we do try to look at properties that are on the market when we are looking at various projects. In answer to your question I think that while right across from the current station has some great potential for a new station, I wouldn't necessarily pick that as a first choice, because right now the firefighters have trouble backing in and out of there as it is. You're talking about aerial ladder equipment...

Hogan: It's a lot wider than Fourth Street...

White: But it's a lot busier. And what you can do with Fourth Street is put the station back off the curb a lot further so you have more driveway in front of you so you get off the street. Which is another point when you're pulling out, you can see what's coming, which is a real problem when you have it downtown right now. When the trucks pull out they almost run over people who are

walking along the sidewalks, believe it or not, people don't realize that a truck is liable to come out of the wall and that's kind of what happens. So I wouldn't necessarily pick that as a top choice.

Hogan: You could have a setback there.

White: If you had a big enough lot you could.

Hogan: You wouldn't need surface parking.

White: The current station doesn't have surface parking. They use the parking garage.

Hogan: I guess my question is that if you are going to go condemn a piece of property is this still the piece of property you want?

White: I think so.

Kiesling: In the beginning Kirk (White) was very much in favor of the Rogers Street area. I have a couple of questions for Chief Fleener. They're small ones. You mentioned the other day to me that the current site, where the #1 station is, that there are some problems now with the traffic there, since we've had such an increase of usage of downtown. You've had more problems with pulling out and so on.

Fleener: Yes, since they put in the parking garage and the turn lane for the parking garage and they added another lane west to avoid that turn lane. We used to be able to pull our trucks out and maybe load some hose and stuff in the back of them. Now if we pull out trucks out just anywhere we're in a lane of traffic. We've got to be extremely careful. That's the major traffic problem we're creating right now.

Kiesling: The other question I had is that you do not now have a big piece of equipment down there. What would you place in a new facility that would be located downtown?

Fleener: I would hope that we would be able to bring one of our snorkel units to the downtown area. I think it probably needs to be there more than it needs to be in residential area. I would probably leave one further out in our east station, but I would like to have one in our downtown station. That's only common sense. Sometimes you use high rise equipment not just for high rises but to protect exposures. A building may be on fire and you may want to protect the exposures next to it and you can do that with a water curtain off the high tower, even if you don't use them for rescue.

Olcott: I was the anti-vote last week. My reasons were the eminent domain, which I'd hoped that we had other alternative, and the other was that I mistakenly thought that Mr. Storm owned the entire south side of the block which I've since found out is not true. I liked what he was doing for the downtown. I liked the idea of his development and I hope that a package like that either Mr. Storm would do it or if another developer came along, that here's an entire half block that would be available and readily available because we know as we were looking for sites for anything that one large block anywhere in the mile-square or two-mile-square are very difficult to come by, because you'd have to take a lot of businesses out to a half a city block anywhere else. But there's other circumstances. The Jordan River that flows underneath it is obviously a problem and a high rise would probably not fit on that corner or even near that corner. Either that or we're going to float Indiana University down the stream by blocking it off or something like that. The fire station is important. Ms. Mayor, we've probably been talking about it a year and a half that I remember and I do like the Rogers Street one. That corner is for sale by a willing seller. But Chief Fleener basically convinced me this week that the dominoes aren't ready to fall to build a west station so that we can build a number one station at Fifth and

Rogers. So it really has to go somewhere else, until we're economically ready, or until everything is in place, either size or annexation or so forth. I don't often eat my vote. I've done it before but I'm going to do it again and I'm going to support the Resolution because I think that it's probably in the best interest of the safety in the downtown.

Hogan: Just for the Projects Committee another question, because I haven't heard it voiced. Concerned about traffic and getting in and out, the United Methodist Church right there and the Post Office. Fourth Street has got to be your access to the downtown. There's all kind of double parking on both sides of the street all day long through there. Is that going to cause you major headaches and isn't going to be rather dangerous if you're tearing out to a downtown fire?

Fleener: I would say that parking will probably have to be restricted on anything east of Lincoln around the fire station. Fourth Street fortunately is fairly wide, especially by the church and by the Post Office. So any of that in there would not cause any problems or restrict travel. Obviously we would slow down when church was in session but it wouldn't cause us any restrictions.

Hogan: That's just not an easy street to drive through any time of day.

White: But it flows though, that's the key. It keeps moving.

Bruce Storm addressed the Council: I'm Bruce Storm. I'm here representing the partnership which Professor Carl Smith is also a major investor in this property (the Fourth and Lincoln site.) I am fiduciary manager of that as investor-manager. That's how I make my living, by trying to put projects together. I'm not doing very good in front of this particular body of people. Like I said last week, you can't imagine how I felt when I opened the letter up and it said they had chosen my property for this project. How can anybody be against the fire station. I am not against the fire station. I mean, I have a lot of properties downtown and I don't want the chief to be mad at me. (Laughter) To answer one point that you brought up Lloyd, no we don't own the property south, but with the exception of three properties, we've been working now for almost eighteen years putting plottage together. With the exception of three properties now we have acquired plottage all the way from Dunn Street to Lincoln. Now if you think that is any small task, those types of properties in the downtown, it's like putting a jigsaw puzzle together. And you always need that little piece that somebody doesn't want to sell. The thing that probably doesn't have any monetary value, that I can't put on an invoice and present to you, is how many years I worked to buy this piece of property. I mean my time is worth money also. I worked for years to buy this piece of property. Do you know how many hours I spent having tea and cookies with Mrs. Bowen (?). A long, long time. Now you can't put a monetary value on something like that. Now I kept waiting to hear since last week's meeting from the City. I thought maybe we'd get together and we'd talk. Today I finally called up the Public Works Department and said 'I thought we were going to have a meeting to get together.' Well they obliged me, patronized me, and met with me at four o'clock today. I came in with my files about this thick. And I had the first mortgage and the second mortgage and the invoices and the taxes and operating capital that we had poured into this property, knowing that we would have to subsidize this property until we got our project off the ground, which we certainly have done. We had invoices and checkbooks and everything to support that. I presented it to the city attorney, and the public works and the fact is if our partnership were to accept the offer that was made to us we are going to lose a substantial amount of cash. I mean cash. Now with the exception of one or two people on the Council I would ask any of you who among you would be happy to sell a piece of property when you are going to lose a substantial amount of cash? Now I'm not here to argue the merits of a fire station or the public health and safety of our town. I do everything I can to

promote downtown and promote development and the cooperation between town and gown. I love Bloomington. I love downtown. My office is two doors away from this property. I have worked for years trying to develop Fourth Street and salvage a lot of properties there. I mean, I should show you some of the before and after pictures of what that street looked like before I was able to work on them. Now, this is a unique piece of property. It's very unique. We didn't buy it just because, we worked, because it was available, we worked to be able to get in the position to buy this property when it became available. You know, how can you argue. There is no just argument for being against all the work they have put in, and then coming up with this is the location for the fire department. I agree. I think it's a great location for the fire department. But the one thing I can argue, and I ask each of you to look into your own soul, I can argue fairness. How many times do you go before a taxpayer and ask them, not ask, if it goes to eminent domain it will be demand, that they sell property to the city and that that person would lose money. Would you do it, ask yourself that. Would you? How can you vote yes for this knowing the figures have been presented to these people and it is a fact that we will lose money on the sale as proposed to us? What is an appraisal? Did you look at those appraisals? Did any of you look at those appraisals? 1981 sales price to Bynum Office Supply? Do you think that's relevant in today's market for establishing a price? Is that fair? All I'm asking is fairness. Now if that is the only place that the Fire Department can be, I'm not here to say that we won't sell it. But wouldn't it be fair to say if Mr. Storm has a downtown high-rise apartment project which would be good for downtown and for the town, wouldn't it be fair to say if we have to have that particular piece of property then he ought to at least be able to be compensated enough to buy a like piece of property with a like address to do his project? If that's the only place you can do your project, wouldn't it be fair to say he should at least, I'm not saying outlandish profits. I wouldn't be working in the free enterprise system if I said profit. Profit is not a dirty word. I'm now not talking about profit, right now I'm talking about a loss. But wouldn't it even be fairer to say he ought to at least be compensated for enough to buy a like piece of property to do his project? If they were going to come through and take your house, wouldn't you say that the least I ought to be able to get for my house is one that I can purchase another one just like it? Now what is the market value? Market value of real estate is what the buyer is willing to pay and the seller is willing to offer it for. I'm not even saying that I wouldn't sell the property for what I think the fair market value is. But I'm saying there should be equal compensation for like property. And certainly no loss. And if you vote for this, not saying that we can't arrive at some other mean, maybe there hasn't been enough time to get creative, but if you vote for it, you're sending a message on to the court, well the City Council thought this was fair. I'm not against what you're trying to accomplish. But I ask for fairness. Thank you.

Hogan: Bruce, let me ask you a question and Linda kind of at the same time. My feelings about this is that we're kind of in a catch-22. You're saying to us the property can be bought, you don't think the price is fair. The only mechanism that we have to buy the property is based upon a couple of appraisals that are presented to us. None of us are land appraisers or can tell you what we think your house is worth. Linda, if we go to court, I mean if Bruce wants to sell the property, can the court change those values just radically from what the appraisals are? Realistically, court is probably the place, if you're willing to sell and trying to arrive a fair price, I don't think we're able to do that. It seems like it belongs in court and let the court decide it.

Storm: It is so ridiculous, I know. It's a catch-22 for the City too. I know that. But it's so stupid for the City to have to spend for lawyers fee, even though they pay you (Runkle) at a subsidized rate. (Laughter)

Runkle: I'm cheap, but I'm good. (Laughter)

Storm: What I was going to say?

Runkle: I don't know, Bruce.

Hogan: It seems to me that it belongs in court to decide it.

Storm: It's silly for the City to pay to go to court, appraisals aren't cheap.

Hogan: We don't have any choice I don't think.

Storm: There has to be some other mechanism. Who says that you have to just take only two appraisals?

Runkle: State law.

Storm: You can't take more than two?

Runkle: No. It's the average of two appraisals. It's guidance given us by state law.

Storm: It's the average of two appraisals but it doesn't say it has to be the first two does it?

Runkle: Well, it's not that you go out there and get ones you like and then finally say let's take these two.

Hogan: If we go to court and the court decides that this property is worth \$700,000, is the City obliged to buy it at what the court establishes as fair price?

Runkle: I think the answer to that would be clearly no because we wouldn't have money available to buy it. We have the opportunity to make a settlement. Let me explain the procedure because Bruce and I had the occasion to discuss this for quite a while this afternoon in my office. I think that eminent domain proceedings, even though they often have a negative connotation that it's taking somebody's property, it's really a tool by which you can establish a fair market value. In the case where you have, in essence, a willing seller and a willing buyer, but we as a buyer are constrained by the state statute, we can only offer the average of two appraisals for our initial offer, if Bruce says this isn't a fair offer, then we go to eminent domain proceedings, and, in essence, you start over. The court will appoint three independent appraisers, not the three that we've used already, to establish between them a joint, fair appraisal, a joint recommendation as to the fair market value. Bruce has the opportunity to make the points and recommendations that he wants to make as to what about this property is important, what things should be considered by the appraisers. We have the chance to make these recommendations. When their estimate comes into the court at that time, it may be higher, we can offer that. Whatever it comes in, we have the opportunity to make a settlement offer. It may be lower. We could still offer what was initially determined to be the fair market value. If Bruce does not like the appraisal, the joint appraisal of the three appraisers, and we make the settlement offer based on that, then you can go to a full blown jury trial. You can have a proceeding where you, in essence, have experts. You talk about absolutely everything relevant to the property and then judge or the jury makes the determination on the value. So, although it obviously smacks of an adversarial proceeding because it is in the courts of law, its often used as a tool to reach a fair settlement, a compromise between the parties. We talked about it this afternoon. I said obviously we can't guarantee that the fair market value might be higher by the court, but it might be. It might be lower. Then you can fall back on this original offer or we could end up in adversarial litigation. Many times eminent domain proceedings are simply used as a vehicle to determine what is fair, and just, and equitable for all the parties.

Olcott: Once we file, Linda, we can go ahead, but in this case it would not be very logical to go ahead not knowing what the outcome would be would it? If I'm building a street and your house is in my way and the only way I can build is through your house, can't we go to eminent domain, and take that property, build a street and then come back and pay for it while it goes through the court system? That was always my understanding.

Runkle: Yes, you can do that. Obviously, it can end up being appealed as well.

Olcott: But the fire station is not like it has to be built tomorrow.

Runkle: Right.

Olcott: But we don't want to be two years in court either.

Runkle: Eminent domain proceedings are expedited proceedings in the court of law. There are specific time limitations on each thing. The judge in essence forces everybody to get their tasks done in a timely manner because very often it is a public good or a public necessity is waiting for the outcome of the proceeding. So, those are generally expedited proceedings. It could be accomplished in a matter of a couple of months, it could take six months. Six months is a fairly lengthy eminent domain proceedings.

Hogan: Just to give my feelings, just for right now. I don't think this body has any interest in condemning people's property or somebody's homeplace to build a fire station and I think what we're talking about is price and you can't get together with Bruce legally on price because of what you're locked into on your appraisals and Bruce thinks it's worth more money. I almost feel like we're obliged to let it go to see if it can come to something. I still don't think that the Council is sending any message of value or whatever. We're expressing a desire to try to come to terms on a piece of property, period. I don't have any interest in pursuing condemning the property. That isn't my goal. My goal is to try to arrive at a fair price. I think there are extenuating circumstances. I think that we're locked into a very unnegotiable position and we don't have a lot of choice if we want to pursue this project, from Bruce's point of view or from ours.

Runkle: The eminent domain statutes are in fact designed to insure that outside experts, that people who know what they're doing, are the ones that come up with these values. We can sit and talk about what fair market value is, but I'm certainly no expert and that's, I'm sure, precisely why it's been put into a court proceeding where professionals are appointed to make these recommendations to the court.

Hogan: Is there is any inkling of what a jury, how a jury, would react to input on what's been invested in a piece of property? It seems to me that if you could present evidence that you had an X number of dollars invested in a piece of property, even if it exceeded its actual market value that a jury would still be sympathetic if they were trying to take your property.

Runkle: Well obviously it's difficult to speculate. You don't know what your jury is, you don't know what their instructions would be. Hopefully, that would be so far down the road. Frankly, many, many eminent domain proceedings are settled after the court-appointed appraisals reports come in because this is where you've got three professionals, who just can't make their own report. They have to work together to make a report and that carries a great deal of weight. Obviously, they're compromising, they're discussing all the various aspects of the property and the ramifications and we all have input recommending to the court who they might utilize. It's advantageous to both parties.

Regester: I think we're dealing with a process here, is what we're considering here. And the fact is that we will have three independent appraisers in addition to the ones that have already been involved, using their professional knowledge and skills to work towards something fair and equitable. And that's really what I think we're considering here, if it gets to that point.

Gardner: If it would go to court and, say, look at the very worst, six months, what would be the high end of court costs that we would be incurring?

Runkle: We would have the responsibility to pay for the three appraisers. I'd say, I don't know, ballpark maybe \$500 apiece for the appraisers. I think there's statutory maximums that they can be paid which might be \$600 a piece. So we would pay for the three appraisal reports. If it went to litigation, obviously my time is the City's time so there wouldn't be an outside value on that but there would be other things I couldn't do during the meantime. Probably most of our experts would be in-house City employees. If in fact we didn't make a settlement offer before it went to trial that was a certain percentage of the final determination by the jury we could be ordered to pay Mr. Storm's attorney's expenses not to exceed, I believe, \$2,500. So I think the entire monetary costs of the proceedings would probably be in the range of \$3,500-\$4,000 and then it would be the attorney time.

Kiesling: I just want to thank Kirk (White) for doing all this hard work and homework on all this because he's gone through this I think three times, if not more. I appreciate his taking his time and energy to look into it and come back with some further recommendations and inform us all about what's good to do and what action to take. Thank you.

Olcott: Mr. Storm, do you have another in that Fourth Street, at the other corner, is there another parcel of that land, that you'd rather sell, that's flat and not over the Jordan River?

Storm: I hear all the time, master plan, master plan, on the city. How many times have I heard that down here? Well I've had a master plan. I have it drawn. I've been working for years. I've an architectural drawing. I have an art gallery plan for the back of the properties on Fourth Street, behind all those buildings we've been renovating. We plan to be very contributory to what we're trying to accomplish on that street. No, there isn't a piece of property there. When you lose one piece of the puzzle of your master plan...What about the Tom O'Daniel parking lot.

White: Again, we get back to being on a one-way street and a main artery.

Storm: Lincoln Street is a one way street and my goodness gracious Fourth and Lincoln is a busy intersection. Do you know how many accidents are at Fourth and Lincoln?

White: I can imagine.

Storm: Look at the record. Look at the record. I don't know what you're thinking if you don't think that's a busy intersection.

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

It was moved and seconded that Ordinance 89-43 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-43, An Ordinance Transferring Funds from Fund 301, Parking Meter, to Fund 101, General. It was moved and seconded that Ordinance 89-43 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 5-0-2.

ORDINANCE
89-43

City Controller Charles Ruckman: This is part of a three legislative device package to accomplish what was started with the last resolution. We've identified some funds in the parking meter

fund that could be used and transferred to the general fund to use to purchase this property. Again, the final amount would be subject to whatever those final proceedings are. At the committee hearing I had not had the opportunity to prepare a fiscal impact analysis but I have passed one out tonight to show that there is sufficient funds in the parking meter fund that are not needed this year and that they are available for transfer. The mechanism that we're using is the same that we used for the street bond. In effect, we are borrowing money from ourselves to take care of advance costs for some of these major capital projects. Where we have those funds available, it does save the taxpayers money and it means we do not have to go out onto the market and make temporary loans, borrow funds, pay interest rates and so forth. This is a more a cost-effective way of accomplishing this.

Hogan: Does this just change the bookkeeping entry on where things are, because it sounds like you're not going to get to spend the money right away?

Ruckman: Well that's true. The next ordinance appropriates the funds for this so that we will have an appropriation available, assuming that the negotiations work out.

Kiesling: I notice that you have a fiscal analysis here. I thank you for providing us with that. Two questions. What if the '89 projected revenues are not what you say they are, what you expect them to be, and what are you using, what are the expenditures for '89, what are the proposed expenditures that you were planning to use this year?

Ruckman: The '89 expenditures are basically the parking meter budget. The revenues have been coming in close to projections, so far. I think they are going to be within a percent of these figures, as of now.

Kiesling: So what is the budget for the parking meter operations then?

Ruckman: I think that is the budget for parking meter operations, the approved budget, \$273,459.

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

It was moved and seconded that Appropriation Ordinance 89-5 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Appropriation Ordinance 89-5, To Specially Appropriate from the General Fund, the Cumulative Capital Development Fund and the Substance Abuse Fund (new) Expenditures Not Otherwise Appropriated. It was moved and seconded that Appropriation Ordinance 89-5 be adopted. Young reported a Committee of the Whole do-pass recommendation of 6-0-1.

APPROPRIATION
ORDINANCE
89-5

Ruckman: This ordinance deals with three funds. One, some transfers, some additional appropriations within the general fund for several purposes. In Human Resources, the purpose of the additional appropriations is to provide the advance funding for the substance abuse grant which is provided to the City on a reimbursement basis. The accounting for this is required by state law is that we must appropriate the money at the local level and make expenditures out of the appropriation and then apply for reimbursement of those funds at a later date. This is a 100% reimbursable grant. Again, as I noted that's the reason, for the appropriations for Human Resources as well as the Substance Abuse Fund we are creating to account for this grant. Redevelopment, we are asking for an increase in the salary appropriation to comply with the CDBG regulations and the recent HUD audits of CDBG funds, they felt that additional City funding of staff salaries was appropriate. The additional appropriation for the Police Department is to enable them to purchase a new Breathalyzer. The Planning appropriations will be reimbursed on an 85% basis and for the various projects indicated in the synopsis, in the MPO agreement, I believe. Public Works, this is the appropriation

again for the purchase of the fire station land. The Cumulative Capital Development Fund projects are all listed in the synopsis and are basically the street projects and the Animal Shelter parking lot paving project. At the Committee hearing, again, we did not have the fiscal impact statement prepared but I passed it out tonight and again, in reviewing the fund balances in the CCD fund and in the general fund it's my opinion that we have sufficient funds available and that there will be no major fiscal impact as a result of this legislation.

Kiesling: Under Public Works, the \$235,000 is for the purchase of the property we just discussed. I would assume that you would need an additional appropriation if that were appropriate, if the number is different.

Ruckman: That's correct.

Gardner: I just had one question. The new Breathalyzer that we're purchasing, that's going to be in addition, it's not replacing old equipment?

Police Chief Steve Sharp: It's replacing old equipment. The current one has been rebuilt. We've had it one week out of the last three months and they totally rebuilt it. It came back and it's still not working properly, so we've been without the last month. I might add that I've contacted the Prosecutor's Office and they're going to help fund half of that machine, which I didn't know in the initial appropriation. They have what they call pre-trial diversion funds. They won't be until October and we're assuming the County Council will approve that funding. But at least right now, we should receive half returned from the County.

Hogan: Can I make just an observation since we're still with the line item for \$235,000 is still on here and I'm still uneasy about the thought of condemning property. But I want to make an observation just so that my feelings are known and known publicly. I think that the people in the City should keep their eyes open for whatever else might be available. This property could go through court and come out more expensive than what we want to buy. I think all we've done is agree that we're going to make Mr. Storm an offer to purchase it at \$235,000. We are only assuming that he is going to turn that down and all that will do is bring in three new appraisals to revalue the property. It doesn't....[tape break]....because if Mr. Storm wants to develop this property differently I still think that's the first option of any property owner and I'd hate to stomp on toes for that reason. But it does get the cards on the table, it gets the money on the table, and if it can be bought for \$235,000 and everybody's happy, so be it. If not, let's find out what the values are go from there. It may not be acceptable to us at a higher value. Enough said, I don't mean to overkill it but I think that does need to be said.

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

[Council took a ten-minute recess]

It was moved and seconded that Ordinance 89-37 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-37, To Grant Outline Plan Approval re: 2273 West Second Street, Michael Pauly, Petitioner. It was moved and seconded that Ordinance 89-37 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 6-0-1.

ORDINANCE
89-37

Planning Director Tim Mueller described the site and the proposed development.

Kiesling: I had a question from the neighbors and I want to make sure that I had understood you last week correctly. Sewer, that's not City sewer, right?

Mueller: This will be on the City sewer. Our sewer line runs down from north to south in the vicinity of Weimer Road. He'll have to run a line from his facility down to Weimer Road. His site sits pretty much at the top of the ...(inaudible)

Kiesling: There was a dispute about the number of acres. Did you finally figure out what it was?

Mueller: We were talking about 6.75 at the Plan Commission level and then he found he had some surveying discrepancies. We now have a survey that shows 6.5 acres.

Hogan: Just a crazy question. How far out is Bloomfield Road considered Second Street and doesn't that get confusing? It's called Bloomfield Road but it's all documented as Second Street and it goes back and forth.

Mueller: That's a good question, Steve. I'm not really prepared to answer it. Some day it would be a very difficult and controversial project, but a very worthwhile one for police and fire protection and ambulance service, if the City and County would get together and eliminate all the duplicities that we have in street names. There are some that change names four or five times and a lot of duplication. Put this on the list.

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

It was moved and seconded that Ordinance 89-38 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-38, To Grant Outline Plan Approval re: 1300 Block of West Allen Street, Ed Hewitt, Petitioner. It was moved and seconded that Ordinance 89-38 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 7-0.

ORDINANCE
89-38

Planning Director Tim Mueller described the site and the proposed development.

Mueller added: I guess I'll something to both my presentations, this one and the last one. I think we'd like to see some diversification of locations we build on in the community. So much of what we've seen has always been in the Southeast Quadrant. So it's good for the community to see new development branching out into some other areas of the community.

Regeister: To add to that I think it's important that we try to guide adequate housing for the west side and the southwest side to provide adequate housing for the work force that works on the west side.

Olcott: And spread the traffic.

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

It was moved and seconded that Ordinance 89-39 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-39, To Grant Revised Outline Plan Approval re: Southeast Corner of East Tenth Street and State Road 45-46 Bypass, Jerry Gates, Petitioner. It was moved and seconded that Ordinance 89-39 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 5-2.

ORDINANCE
89-39

Planning Director Tim Mueller described the site and the proposed development.

Hogan: Last week you pointed out that on the trip generation, that doesn't create necessarily new traffic, but takes from the traffic that's already flowing by. So when you create that many trips, that people aren't going to get into that traffic jam just for the heck of it. They're probably going to be on their way to or from where they live.

Mueller: Essentially, we think that's true for a convenience grocery. We doubt that anyone is going to drive past the Jewel store or Krogers to get to the 7-11 at 10th and the bypass. So basically they will be capturing traffic that's already there or maybe servicing the area immediately to the east. The problem that we have with the street though is essentially that despite all the lanes that we have at this intersection, if you look at the configuration of lanes, we're still dealing with only one through lane in each direction. So we're dealing with well over 20,000 daily trips which would warrant two through lanes in each direction, plus turn lanes, and we're squeezing it into one through lane. So while there are a lot of lanes at the intersection, we're far short of the capacity we need to serve the area. It's true that the center would probably attract mainly people who are already there and moving. But the turning movements are the ones that introduce conflicts in the lanes. So it's these turning movements that we're concerned about, right turns much less so than the left turns. The one left turn that we're particularly concerned about left turn on the bypass. There's a lane allocated to that and there's a cycle in the signal allocated to that. The longer that left turn cycle has to be to accommodate the trips, the movements, the shorter all the other cycles will be for all the other traffic movements in the intersection. Now this is not probably the kind of factor that's going to make or break the intersection. But from our point of view, it's still a problem intersection and we would prefer not to do anything to exacerbate the problem. As I pointed out in the preliminary, the State's thinking that it may be making more meaningful improvements here in three years. We'll know when we see the State committing to that, but that would certainly open up opportunities.

Kiesling: If you have a convenience store there, would you not attract more traffic from the apartments in the area, especially those around the corner on the other side of the railroad tracks?

Mueller: It's possible. (inaudible)

Richard Martin (citizen): Tim, can you tell me what was the result of your continuing negotiations about the sidewalks for this particular development?

Mueller: Sidewalks are required of the developer on both the bypass and 10th St. They were an element of the original approved plan and for various reasons haven't been implemented. The State indicated that Mr. Gates would not be allowed to put a sidewalk in the 45/46 right of way. Mr. Gates asked the City if he could be relieved of the 10th St. obligation on a temporary basis because his sidewalk would terminate at a ditch at the property line and people crossing there to get to the sidewalk on the north side would confront a fence between that sidewalk and the street on the University School property. These were issues that certainly need to be considered in determining whether or not the sidewalk should be put in. But when we discussed this revised approval at the staff level we discussed whether or not this relief should be granted by the Commission as part of its consideration of this plan. The Commission declined to do so. We explained the problem to the State in terms of the fact that we have a pedestrian/bicycle path along the railroad track that outputs on the 45/46 bypass on this location. Then most of the pedestrian traffic goes north here to 10th in 45/46 right of way. We feel it would be far better for that traffic to be accommodated on a sidewalk rather than have them follow their usual procedure of not having a sidewalk on a limited access road. As far as 10th Street, we realize that there is that problem, but our policies in a situation like this would continue to dictate that the sidewalk be put in. Generally we grant a waiver only in those situations where we feel that the prospects for linking up to other sidewalks in the near future are rather remote. In this case we feel that this is prime developable land and we'd be surprised to see it still vacant in a few years. So we expect that sidewalk would be continuous and therefore we feel it should be installed. There is a safety problem at the end of the sidewalk. We can accommodate with some sort of barrier or sign. There is no relief from the

sidewalk requirement that's involved in this request.

Martin: Nor is there any resolution of the sidewalk problem on the bypass area?

Mueller: We've discussed it with the state and they have it under advisement. We would like to see them say go ahead and do it.

Martin: From an engineering standpoint, is there enough room for a sidewalk there once they would go ahead and widen that?

Mueller: If they widen the road they would have to consider the location of the sidewalk. There's room for a sidewalk now, in the present framework. Obviously, if this can't be resolved ... (inaudible) ... then we'll have to come back to the City for approval of deleting the sidewalk from the plan, but right now that's not under consideration.

Martin: Is there any other method for those people using that bike path to gain access to 10th Street?

Mueller: There's no sidewalk on the other side of the bypass either, so the only other method I could really think of would be crossing of the bypass at this location with the sidewalk on the other side. I don't expect that we'll see the State endorsing a pedestrian crosswalk here. What we really do need to do is get the pedestrians from the bypass to 10th Street adjacent to Mr. Gates' project.

Martin: In the discussions that occurred at the Plan Commission about this, that occurred to me as being a critical element of the site plan that was perhaps overlooked when it was originally proposed. Part of the problem is that the way the lot has been developed itself, there is a large cut that was made such that it is now impossible to put a sidewalk connecting that area from the railroad tracks to 10th Street without being on the State's highway easement. If that easement is expanded such that there is no room for a sidewalk on the easement because of safety reasons, which is why they don't want to put it there in the first place, there simply is no way to put a connection between there. You've got about a six or seven foot drop from the railroad track level down to the pavement which runs behind that building and there's simply not enough room there. That I see as a long standing problem that we're going to have to solve. One of the things that concerns me about changing the uses at this point in time, is that those uses, those permitted uses are one of the few elements of leverage that you have in terms of negotiating with the property owner for resolution of that problem at some point in time. It seems to me to be imprudent to put ourselves in a position where the State of Indiana is going to dictate to us how we're going to deal with that particular problem in our community and that we may need more leverage in dealing with that in the future and that to change these uses at this time would reduce the only leverage you have at the present time in dealing with this property. The other comment I would like to make is that, while I understand that it is sometimes the case that there is a difference of opinion between those of you who are on the City Council and those who serve on the Plan Commission, I have found that in the last several years in which I have been attending their meetings and working with them, that in most cases where they do not express a definite opinion, you have, as your legislative role, made a decision one way or another. I do not recall, however, instances in which they have made a definite suggestion to you in terms of whether you should approve or deny something, and you have made a decision that in effect tells them that what they did was incorrect. They have spent many years deliberating about this situation and I think that they have discussed it in many ways, to the extent that you should accept their decision in this particular instance. You send them a signal which makes their job, which is already very difficult, much more difficult to do when the recommendations that they make to you are not brought into effect. There's is a very difficult task and you make it more

difficult for them when you don't have a clear statement in support of their efforts. Thank you.

Olcott: Mr. Martin, my only argument to that is that when only about 60% of them show up that they're not going to dictate my decision and I have a real problem with that.

Martin: Well I don't know that you show up to their meetings either.

Olcott: That's not my job, Mr. Martin.

Becky Clendening (for the petitioner): I won't reiterate everything that we said last time. To respond to Mr. Martin's comments about the Plan Commission, I think the minutes clearly reflect that there was no agreement one way or the other and that the Commission wanted the Council to be sure to understand that they weren't making a definite approval or definite denial. We asked for a no vote just so we could move it on. The reason why we are doing what we are doing here is so that we do not have to keep coming back every time either situations change with the intersection, situations change with the tenency out there. Any time you have a list of specific uses you can't possibly contemplate everything that's going to come along. We chose the BL list because it is the most restrictive business zone there is. And as I read last time, it's for the convenience of the neighborhood, for the convenience of the community to provide a transitional area between business zones and residential zones. The Code itself is what lists the grocery store as a BL zone and the reason why that's in there and is protected is because it's only 3000 square feet. Our citizens are protected from major shopping centers with a BL zone because we have the square footage limitation. We didn't make up the convenience store or add that as a list, it was already in the BL list and we are asking for all of those so that we can have a nice category to use. Once again, as Mr. Fernandez did point out last time, and Mr. Hogan brought up again, what we're really doing here is redistributing traffic, not generating traffic. The traffic is already there, we submit that. We are just merely asking them to stop on their way home. There is a convenience store right across the street, a liquor store right across the street, there's BA businesses right across the street. We feel like we're not asking for anything that's unreasonable or out of character with what's already out there.

Kiesling: I followed this petition I think almost from the beginning. I wasn't on the scene necessarily, but I have followed it for a long time. Tim, I don't remember when it originally started but it seems like it's been a long time. And I think there's been a lot of neighbors and a lot of public, not just in the area, who have been involved in this, people throughout the community. I would like not to abrogate all the hard effort that has gone into trying to create a facility that doesn't scar the land more than necessary and that stays within the integrity of the people who have worked so hard to try to make it look good, but also who live in the area. As long as we still do not have improvements on the bypass and because of the history of this area, I cannot vote for this and I think it's wrong to be voting for it because it's so long that we've worked for this and I think we need to make it work the way it is as much as we can.

Hogan: If the problem is traffic, and entirely traffic, then the next ordinance down that we're going to talk about is probably going to generate a hundred times the traffic of putting a convenience store in here. I'm in favor of that one too. But I don't think the issue here is just traffic. I think it goes deeper than that and I think the deliberations go deeper than that and I think you're talking about stopping existing traffic to go to a convenience store, you're not generating it. A massive housing project generates traffic, new traffic. If those arguments would apply here, then I think those arguments should apply there also, and we aren't using those arguments there.

Mueller: I'll comment on that. I wasn't wanting to get into too many things because I think the Council pretty well expressed itself at committee, but I did hear this from other locations as well. Why are we so concerned about traffic here, when we haven't been for all the apartments on East Tenth? The main reason is that those were zoned multi-family already. This is a change. We can only address the impact of changes of zoning. When development is proposed on land that is already zoned, obviously we have to approve them when the technical issues have been satisfied with a site plan. With no exception, every single multi-family project on the East 10th Street-Pete Ellis Drive area has been zoned multi-family dating from 1973. In '73 we cut back the amount of multi-family zoning from what it had been zoned in the 60's. The site we're looking at later for Istrabadi and Curry, is already zoned RL and RH. There's no doubt in my mind that the elderly project that's being proposed is going to generate far less traffic than the permitted RL/RH pattern of uses that is already zoned. So, you're absolutely right, Steve, we've generated a lot more traffic with existing apartment zoning in the area that we ever will with Mr. Gates' shopping center proposal, but the difference here is that this is a requested change and those were availing themselves of established rights.

Gardner: One of my comments would be in reference to what Lloyd said about 60% of the Commissioners being present. That does reflect the final vote of the Planning Commission although there was a previous hearing and there was opposition, more members at the previous hearing and a lot more opposition, which does not reflect here. I do not support this proposal. My reason why I don't support the proposal is looking back at the history of the project and looking back at the area and the improvements in the roads. There have been no improvements in the roads. We see in 1980 the limited uses and an obvious concern by the Planning Commission at that time that there was a traffic problem in that area. We have increased our population. We are continuing to increase the traffic in those areas. And it's 1980, 1984, 1986, 1988, 1989, we are still coming back for more and more uses without any more improvements in that area. If it were three years from now and there were improvements in the roads I could see going ahead and approving all uses. At this time, without any further improvements, with the traffic problems, and we all know there's traffic problems in that area, I don't see how we can approve this proposal.

The Ordinance received a roll-call vote of Ayes:5, Nays:2.
(Kiesling, Gardner)

It was moved and seconded that Ordinance 89-40 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-40, To Amend the Bloomington Zoning Maps from RE to MG re: Property to the West of 301 North Curry Pike, General Electric Company, Petitioner. It was moved and seconded that Ordinance 89-40 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 5-2.

ORDINANCE
89-40

Planning Director Tim Mueller described the site and the proposed rezoning.

Regester: I wasn't here at committee, but is the General Electric plant zoned Residential Estate?

Mueller: The front part is in the MG zone, the back 40 acres is vacant. They've only begun to use it recently. We ran into some problems when grading began for their project. The neighbors complained and made us aware of the fact that this was zoned RE and GE had a problem. That was when we learned that their property was not all zoned MG. We accommodated their continued work through a variance from the Board of Zoning Appeals because that was a quicker process than the rezoning. Now we're bringing it to a conclusion through the rezoning process so that they can have an industrial zoned property in its entirety.

Regester: Is the west side of that accessed by Wayne's Lane? Are there going to be any improvements to Wayne's Lane? It's all going to be accessed off of there.

Mueller: Right now they're only plan for use of this at the present is parking for their trailers and those will access through the facilities coming off of Curry Pike. In the future there may be additional plant development there and we'll have to take that as it comes. We would anticipate that the prospects for this vacant land is industrial. This is the Kennedy farm 150 acres now being developed as Park 48, so it is entirely likely that this will also be industrial. Then, if that happens, we'll have to plan for road access.

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

It was moved and seconded that Ordinance 89-41 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-41, To Amend the Zoning Maps from RH to BL and To Grant Outline Line Plan Approval and Designate PCD/PUD re: the Southeast Corner of Pete Ellis Drive and John Hinkle Place, R. Istrabadi and C. Curry, Petitioners. It was moved and seconded that Ordinance 89-41 be adopted. Young read the synopsis and reported a Committee of the Whole do-pass recommendation of 6-0-1.

ORDINANCE
89-41

Planning Director Tim Mueller described the site and the proposed rezoning.

[tape break]

Hogan: I'd just like to say that I think it's a very interesting design for a project. I think the concept is unique and it would be attractive in Bloomington. I'm very supportive of it.

The Ordinance received a roll-call vote of Ayes:6, Nays:0, Abstain: 1 (Regester).

It was moved and seconded that Ordinance 89-36 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-36, To Amend Chapter 10.08 of the Bloomington Municipal Code, Entitled "Wastewater Rates and Charges". Regester read the synopsis.

LEGISLATION
FOR FIRST
READING

ORDINANCE
89-36

It was moved and seconded that Ordinance 89-45 be introduced and read by the Clerk by title only. Motion carried by voice vote. The Deputy Clerk read: Ordinance 89-45, The 1989 Wastewater Refunding Bond Ordinance. Regester read the synopsis.

ORDINANCE
89-45

There were no petitions or communications from the public.

PETITIONS &
COMMUNICATIONS

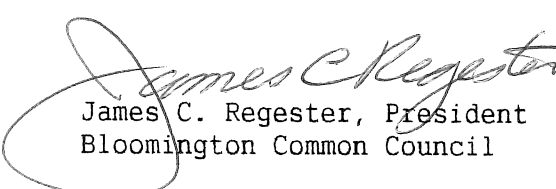
It was moved and seconded that the Council Committee of the Whole meeting scheduled for September 27, 1989, be cancelled. Motion carried by voice vote.

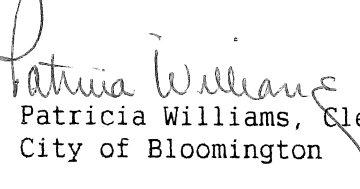
The meeting adjourned at approximately 10:30 P.M.

ADJOURNMENT

APPROVE:

ATTEST:


James C. Regester, President
Bloomington Common Council


Patricia Williams, Clerk
City of Bloomington