

AGENDA

COMMON COUNCIL SPECIAL SESSION

WEDNESDAY, SEPTEMBER 12, 1984, 7:30 PM

COUNCIL CHAMBERS

- I. ROLL CALL
- II. AGENDA SUMMATION
- III. MESSAGES FROM COUNCILMEMBERS
- IV. MESSAGES FROM THE MAYOR
- V. PETITIONS AND COMMUNICATIONS
- VI. LEGISLATION FOR SECOND READING--DISCUSSION AND VOTE

1. Ordinance 84-30 An Ordinance Amending the Bloomington Municipal Code to Add a New Title 3 and Chapter 3.02 Entitled "Cable Communications Systems", Regulating the Procedure for Granting of Cable Communication Franchises

Committee Recommendation: Do Pass 5-3-1

2. Resolution 84-¹⁸14 To Approve and Authorize the Advertisement of a Request for Proposals for Cable Communications Systems

Committee Recommendation: Do Pass 7-2

IV. ADJOURNMENT

AGENDA

COUNCIL COMMITTEE OF THE WHOLE

(Immediately following Special Session)

COUNCIL CHAMBERS

1. Ordinance 84-50 To Amend the Bloomington Zoning Maps from RS to BG re: 215 West 14th Street (Dunn Realty)

Asked to Attend: Tim Mueller, Planning Department
Pete Dunn, Petitioner

2. Resolution 84-20 To Approve Application of the Federal Section 8 Housing Provisions to the Bloomington Housing Authority

Asked to Attend: Peggy Gudal, Housing Authority
Doris Sims, Redevelopment

In the Council Chambers of the Municipal Building held on Wednesday, September 12, 1984 at 7:30 P.M. with Council President Gross presiding over a Special Session of the Council.

COMMON COUNCIL
SPECIAL SESSION
SEPTEMBER 12, 1984

Roll Call: Service, Porter, Register, Olcott, Gross, Mayer, Murphy, Foley, Young.

ROLL CALL

Council President Gross gave the agenda summation.

AGENDA SUMMATION

Mayer read from a prepared statement (attached) regarding the PCB issue.

MESSAGES FROM
COUNCILMEMBERS

Olcott introduced Denise Miller, the new director of the Convention and Visitors Bureau.

Gross also welcomed Miller to the Bloomington Community.

Service endorsed Mayer's statement and said that the "just around the corner syndrome" regarding PCBs is frustrating and becoming increasingly difficult to rationalize. She also reminded the public of the trash pick-up schedules for fall clean-up.

Mayor Allison addressed the issue of PCBs. Her prepared statement is attached.

MESSAGES FROM MAYOR

Olcott moved and Foley seconded a motion that Jim Register be reappointed to the Monroe County Economic Development Commission as the Bloomington Common Council representative to that Commission. The motion was approved by a voice vote.

COUNCIL APPOINTMENT TO
THE MONROE COUNTY
ECONOMIC DEVELOPMENT
COMMISSION: REGISTER

Olcott moved and Foley seconded a motion that Ordinance 84-30 be introduced and read by title only. Clerk Williams read the ordinance by title only.

SECOND READINGS:
ORDINANCE 84-30

Olcott moved and Foley seconded a motion to adopt Ordinance 84-30. Young gave the committee report.

Gross suggested that Ordinance 84-30 and Resolution 84-14 be discussed together.

Mayor Allison read the text of a letter that she sent to Jerry Birge, Area Manager for TCI.

Murphy moved and Foley seconded the following amendments to Ordinance 84-30.

- # 1 Section 3.03.110 Final Action by the Board
(c) changed the time from 10 days to 20 days for acceptance of a franchise contract by the applicant following the Board's recommendations. The amendment was requested by Horizon/TCI in its letter to the Mayor, dated 9/5/84

The amendment received a roll call vote of Ayes:9, Nays:0.

- # 2 Section 3.02.140 Contents of Application
shall be amended to delete paragraphs (g), (h), (i), (j), and (k), and to add the following paragraphs (g), (h), (i) and (j).
(g) A statement of the corporation's current financial strength and ability to carry out the proposed franchise agreement
(h) A statement of the financial projections upon which Bloomington subscriber rates and system expenditures will be based.

- (i) A statement of applicant's policy for accomodating developers or contractors who wish to obtain engineering, material, and/or supervisory help to install feeder cable within new subdivisions.
- (j) A copy of applicant's affirmative action policies.

The amendment received a roll call vote of Ayes: 9, Nays: 0.

Gross requested questions or comments from the council and the public; there being no discussion the ordinance, as amended, received a roll call vote of Ayes: 9; Nays: 0.

Olcott moved and Foley seconded a motion that Resolution 84-14 be introduced and read by title only. Clerk Williams read the resolution.

Olcott moved and Foley seconded a motion that Resolution 84-14 be adopted. Young gave the committee report.

RESOLUTION 84-14

The following amendment was proposed:

Form H should read:

Describe the proposed system's (a) Origination equipment, (b) the distribution system, (c) the control equipment, (d) the subscriber equipment and Provisions for back-up power. Designate actual equipment manufacturer and model numbers where possible.

Sub-section "Services" of the "General Instructions" Section should include Channels 17 and 18 in the list of channels currently available.

Forms J and K should reference in the Appendix, the Telecommunication Council's recommendations on Reserved Channels.

The amendment received a roll call vote of Ayes: 9 Nays: 0.

The resolution, as amended, received a roll call vote of Ayes: 9, Nays: 0.

The meeting was adjourned at 8:00 P.M.

ADJOURNMENT

APPROVE:

Patricia A. Gross
Patricia Gross, President
Bloomington Common Council

ATTEST:

Patricia Williams
Patricia Williams, Clerk
City of Bloomington

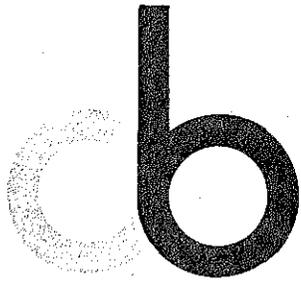
Dutton
9/2/84

In October, 1983, the City and representatives of Westinghouse Corporation proposed a tentative agreement to resolve the PCB lawsuit that had been filed in 1981 by the City against Westinghouse Corporation. That tentative agreement was that Westinghouse would build, on City-owned property, an incinerator capable of disposing of PCBs, to be fueled in part by municipal garbage. Following that tentative agreement, City attorneys along with Westinghouse attorneys and attorneys for the State and the EPA began detailed negotiations to arrive at a "Consent Decree." The "Consent Decree" would be a document that would require approval of all parties, and would resolve the pending litigation by establishing guidelines and procedures for the construction of an incineration plant to clean up this community's PCB problem.

Negotiations for that "Consent Decree" began in early 1984. While we recognize that there are many complex issues which must be addressed and resolved, it is also important to recognize that this community should not be asked to continue to delay resolution of the matter. So long as negotiations continue, a necessary veil of secrecy covers the issues under discussion, and these issues involve serious questions of public health that concern all the citizens of our community. We have been told many times in the last few months that this "Consent Decree" is just around the corner. However, it has been almost one year to date since the concept of an incinerator as a solution to the PCB problem was announced; while the attorneys continue to work, frustration and confusion in the community is mounting. Therefore, as a member of the Bloomington Common Council, I urge that all parties involved make a deliberate effort to reach agreement on the Consent Decree so that the people of this community may have an opportunity to review, discuss, and implement the same.

We have asked the members of this community to wait long enough. We must proceed, with deliberate speed, to a resolution of the PCB problem that has plagued our community since the mid 1960's when they were introduced into our environment. The confidence of this community must not be eroded by continuing delays in negotiations; however difficult and complex those negotiations may be, they must be brought to an end so that we can move forward to eliminate PCBs in Bloomington and Monroe County.

13/ Jim Meyer



city of bloomington

607-000-1000 (cable building) bloomington, indiana 47402

office of the common council
(812) 339-2261 x 229

September 12, 1984

Mr. Jerry Birge, Area Manager
Southern Indiana Area Office
Tele-Communications, Inc.
1600 West Third Street
P.O. Box 729
Bloomington, IN 47402

Dear Mr. Birge:

Thank you for your letter dated September 5, 1984, wherein you expressed questions and comments regarding proposed Ordinance 84-30 and the Request for Proposals for Cable Communications Systems. As you know, the City welcomes input from the cable communications industry, as well as from concerned citizens, and for this reason the September 5th public hearing was scheduled.

In an effort to clarify provisions of Ordinance 84-30 and the RFP which you addressed in your September 5th letter, we would provide you with the following comments:

1. While the Company has 10 days to file an agreement to comply with variations between the franchising contract and that proposed by the Company (Section 3.02.110), it is the intention of this section to reflect our anticipation that the franchising contract will have been reached, in principle, during the preceding 90 days during which time the Telecommunications Council evaluates proposals. This 90 day period will, it is hoped, allow adequate time for "give and take" between the City and all interested companies prior to submission by the Telecommunications Council of its recommendation to the Board. While no criteria as such is spelled out in Ordinance 84-30, it is our feeling that the Request for Proposals does clearly indicate those issues of concern to the Bloomington community, and will provide direction for those issues to be discussed during the 90-day evaluation period.

2. As to your concern that the General Instructions contains the statement that "successful applicant must agree to support any waiver required by the FCC for any voluntary offer of services or technical standards that may exceed FCC requirements", we would point out that this provision does not, in our opinion, require the Company to agree to a "carte blanche" requirement that it will support all waivers." Rather, it is the intention of this language to indicate that should the City and a Company reach a voluntary agreement regarding offer of services or technical standards that require a waiver by the FCC, such waiver will be supported by the Company.

page two

3. We are aware of recent FCC rulings that hold that a basic level of service only includes the broadcast signals required to be carried by the FCC. On the other hand, the RFP does indicate that the City hopes to obtain in a franchising contract a provision that would allow continuation of current broadcast signals as a part of basic service.

4. While we appreciate your comments concerning the request for certain information required by Forms F and O (your comments numbered 5-7), the Telecommunications Council believes the information will be of some help in evaluating proposals and therefore recommends the inclusion of these forms.

5. With respect to your comments concerning Ordinance 84-30, while Section 3.02.12 allows only 10 days to petition the Common Council for a review if a proposal is rejected, it is our feeling that this time limit is reasonable since it is a notice requirement only; the Section in no way limits a Company from raising substantive or procedural issues at the appeal level by failing to include those issues in the notice. In response to your concerns with the language in the last line of this Section, the intent is to provide for exhaustion of administrative remedies, since the City could not limit further appeal such as court action, to the extent such is permitted by Indiana law.

6. Section 3.02.16(c) indicates that the City may adopt additional provisions through ordinance or regulation as necessary, provided that such are reasonable and do not unconstitutionally conflict with the rights granted in the franchising contract. This provision does, in our opinion, indicate that the City does not intend to adopt any future rule or regulation which would abrogate any existing contractual obligation to the extent that such would not be permitted under current law. For this reason, we believe the Ordinance does protect the contract rights of any franchisee. Finally, upon recommendation of the Telecommunications Council, we believe that 3.02.17(c) should not be amended as you suggested, since our intention is to allow the City to require compliance with any contractual provision, notwithstanding changes in FCC regulation, to the extent allowed by such change.

Again, we would like to thank you for your effort in suggesting areas of concern or confusion regarding these two documents, and hope that this letter clarifies some of those areas of concern. Since we believe that your concerns about the 10-day time limit for filing an agreement to comply with variations between the franchising contract and that proposed by the Company (3.02.110) are valid, we will propose that this Section be amended by the Common Council to allow for a 20-day time limit.

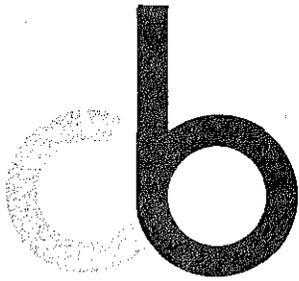
Yours truly,

Tomilea Allison

TOMILEA ALLISON, Mayor
City of Bloomington

PATRICIA GROSS, President
Bloomington Common Council

cc: Telecommunications Council
Board of Public Works



city of bloomington

City of Bloomington Building, Bloomington, Indiana 47402

office of the common council
(812) 339-2251 x 226

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Yours truly,

Tomilea Allison

TOMILEA ALLISON, Mayor
City of Bloomington

PATRICIA GROSS, President
Bloomington Common Council

cc: Telecommunications Council
Board of Public Works