

In the Council Chambers of the Showers City Hall on Wednesday, July 2, 1997 with Council President Pizzo presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
JULY 2, 1997

Roll Call: Banach, Mayer, Young, Cole, Pizzo, Service, Sabbagh, Sherman, Pierce.

ROLL CALL

Council President Pizzo gave the Agenda Summation.

AGENDA SUMMATION

The minutes of May 21 (as amended) and June 19, 1997 were approved by a voice vote.

APPROVAL OF MINUTES

Sherman discussed a number of things: it's been an outrageous month with the uproar associated with the biting incident in a boxing match regarding Mike Tyson; the US National Test Scores in Science showed that the US was barely above average compared to a lot of other countries and the real outrage is that this was declared a success and when will we begin to really seriously fund education and teachers; the confiscation of a home video in Oklahoma City and the lack of a right to privacy; and raising the Medicare starting age to 67, leaving people without coverage or people can't retire at the expected age of 65 and the biggest outrage is that people fall for all of this.

MESSAGES FROM  
COUNCILMEMBERS

Sabbagh added to the discussion by expressing his disappointment in Hand Gun Control legislation that has changed to eliminate the waiting period for gun purchase from seven days to no waiting period at all. He said that on a recent visit to Purdue University he was surprised to discover that the university is actually building parking garages in the community.

Service gave the theater update and audition opportunities that any citizen can participate in and enjoy..

Cole discussed an early concept for Single Payer Health Care Plan and how we need to keep abreast of health care issues and make sure we take every opportunity to make inroads into the options and plans available.

Young urged people to enjoy the 4th of July but to exercise care regarding fireworks and the potential injuries that can occur. He also responded to a recent letter from a vendor who was not selected at a bidding process and he spoke in support of the Utilities Dept decision.

Mayer welcomed Sara Lee/PYA Monarch to our community and thanked everyone who worked on this "mission". All units of government worked together to make this happen.

Pizzo explained that he has been in Russia for the last two weeks, that average Russian citizens are guardedly optimistic and that he was glad to be back in Indiana.

Clerk Williams talked about a recent editorial about citizen's rights to know and a juxtaposed cartoon that states that a council meeting is none of the peoples business.

John Freeman reported on the utility problem on the Brummett property on Moores Pk. The problems have been resolved and the seeding and strawing will be done as soon as the ground is dry enough and as soon as the work is complete, the council will be informed.

MESSAGES FROM CITY  
OFFICES

Robert Lemon talked about the recycling program and said that he wants some options or alternatives for apartment dwellers who do not have access to the

PUBLIC INPUT

city's recycling services. Sherman explained the city's policy regarding apartment complex recycling. It is not possible for us to take care of the big complex dumpsters and he offered various suggestions for initiations and establishing recycling programs. Banach related some of his experiences as a member of a homeowners board and how expensive the recycling process would actually be.

It was moved, seconded and approved by a voice vote that Mike Cagle be appointed to the Arts Commission.

It was moved and seconded that Resolution 97-6 be introduced and read by title only. Clerk Williams read the resolution by title only.

It was moved and seconded that Resolution 97-6 be adopted. The synopsis was given.

Peggy Gudal, Acting Director of the Housing Authority, explained that once again the Housing Authority is requesting this resolution to waive tax payments by the authority. She outlined the various services that the authority provides for themselves in lieu of using city staff and services (trash pickup, snow removal) and this pilot money would be used for these services.

Cole asked Gudal to clarify what she meant by the pilot amount. Gudal said the dollar amount is about \$33,000 for trash removal. However all the "pilot" is requesting is \$5,000. Cole thought that was a lot of money for trash collections.

Mayor Fernandez thanked Gudal and the Housing Authority Board for the good job they are doing to move this operation forward.

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

It was moved and seconded that Ordinance 97-23 be introduced and read by title only. Clerk Williams read the ordinance by title only.

It was moved and seconded that Ordinance 97-23 be adopted. The synopsis and committee recommendation of Do-Pass 7-0-1 was given.

It was moved and seconded that the ordinance be amended to upgrade the Planning position from Grade 406 to Grade 413 for a Senior Zoning Planner.

Banach asked how the upgrade will change the position qualifications. Don Hastings said they would be looking for an experienced person, and one with a Masters Degree. It will add about \$2900 to the current budget, and the 1998 budget can absorb the senior position as it is currently drafted.

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

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

It was moved and seconded that Ordinance 97-22 be introduced and read by title only. Clerk Williams read the legislation by title only.

It was moved and seconded that Ordinance 97-22 be adopted. The synopsis and committee recommendation of Do-Pass 4-0-4.

Mayor Fernandez addressed the council regarding the need for this commission. This is being brought forward in order to deal, more effectively, with the Thomson Plant closing decision. When the announcement was first made by Thomson, a very inclusive coordinating team with people from all sectors of the community was formed and it has been very effective in trying to address the issues that we as a community need to face. This commission now needs to be formalized at this time. We need all the tools that are available to deal with this situation and other communities, like Greencastle, IN have found this particular

APPOINTMENTS TO  
BOARDS &  
COMMISSIONS  
LEGISLATION FOR  
SECOND READING/VOTE  
RESOLUTION 97-6

ORDINANCE 97-23

ORDINANCE 97-22

commission very useful. Secondly, it is important that an issue like this be dealt with in an open and accountable way and this commission will come under the Open Door provisions, and thirdly, this gives the legislative body a more formal role as they ultimately have the final approval of the commission. Indiana Code specifies the make up of the commission. Bloomington does not intend to receive property, nor do we intend to request that a tax levy be imposed. It is important to note that it is important to have a designated group dedicated to focusing on the problem and to represent the community's interest in the most effective manner. He said that he is opposed to the amendments that have been proposed and drafted. He said that inclusion is important, that the council being in the loop is important and not having an ongoing commission that loses sight of the primary purpose. But the amendments do not add value to the ordinance and he felt that he already has demonstrated an inclusive process. As far as sunseting boards and commissions, he supported the council taking a look at them, in a global way and periodically reviewing commissions, and he encouraged that the council take a look at them. However he thought this was the wrong commission to start that process on.

Pizzo said that when he was in the State Legislature the first sunset law was passed and a rotation review every 5 years was implemented. Pizzo thought we reviewed board & commissions every year at budget time in a limited way.

It was moved and seconded that Amendment #1 be introduced allowing for the inclusion of the actual statement of purpose into the text of the ordinance. Pierce explained his reasons for drafting the amendment.

Service also thought this was an important point to make, that the current ordinance is very open ended in many ways, including no stated purpose, and without specifying the Thomson plant closing/issues.

Sherman believed that the mayor who has been working on the Thomson issue from the beginning knows the issues inside and out and if he thinks the ordinance itself is preferable, then he would support that position.

James McNamara said that the administration opposes the amendment on the grounds that they feel that it does not contribute to the ordinance.

Tom Thornton, Steve Howard and Tim Wininger Jr. all spoke in support of the ordinance without the amendment

Sabbagh said everyone supports the Thomson Team and everything that has gone on, and with the administration's support of the board & commission regular review than he would not support the amendment as proposed.

Service thought that the fear is not commissions running amok, but when they are created with few parameters, it is more subtle than running amok. We have seen something like that in the past and we would just be well advised to spell out our intentions in advance.

Mayer thought the state legislation was clear and to the point.

Amendment #1 received a roll call vote of Ayes:2 (Pierce, Service), Nays:7. The amendment failed.

It was moved and seconded that Amendment # 2 be considered that would allow for a councilmember to be part of the commission.

Pierce thought that the cooperation and coordination of this commission is essential and by having a member of the council serving on this commission will

effectuate this information conduit. The commission calls for 6 members with 5 from specific constituencies, including local government and the mayor could still appoint himself for that 6th spot.

Pizzo spoke against the amendment and as a member of the current commission he did not feel that he functioned as a messenger or active member of the task force because being a councilmember is a part time job. People with job flexibility have more opportunities to travel and attend meetings. This is an administrative job.

Sherman also spoke against the amendment and at any time any or all councilmembers can attend any or all the commission meetings.

Service thought that not involving the council might lead to the council not having the background to make decisions that might come before the council and this could be reduced if a councilmember was initially involved. She pointed out the difficulty of situations when legislation is proposed, commission members have worked hard to draft a document and then councilmembers have questions and everyone is upset because questions are asked.

Cole said that she supported the amendment because she felt that more representation by elected folks on these boards & commissions is healthy, good and does not detract from the commission in any way. She praised the many people who serve on all our boards & commissions for the good job they do.

Banach thought that with something this important we as councilmember should support this openness that will come with a commission and he wanted to be sure that all the appointments are people who know what they were doing.

McNamara said once again that the mayor did not support this amendment. The council is more than welcome to be involved in the deliberations of this commission at any time.

Linda Williamson spoke in support of the ordinance without the amendments and urged the council to get positive and that there has been unparalleled cooperation in this community regarding this effort.

Sabbagh said there is great unanimity and support for the Thomson Team and this discussion is not in any way detracting from the ordinance support.

Amendment #2 received a roll call vote of Ayes: 3 (Cole, Service, Pierce), Nays:6. The amendment failed.

Pierce said his two amendments were not offered to correct flaws in the ordinance, but an attempt to make it better. He said he would wholeheartedly support the ordinance as proposed.

Service expressed annoyance at the rather strong armed tactics on this ordinance, agreed with Pierce on the spirit of the amendments and that she would support the ordinance, nonetheless.

Pierce distanced himself from Services interpretation of the ordinance, and that the mayor was simply more persuasive than he was.

Banach said he will not support any special levy association with this commission now or in the future.

Young commended the mayor for working on this along with other community members and supporting sunset legislation "on the outside" so to speak and he

thanked Sabbagh for not introducing an amendment to sunset this commission and that everyone is working together in a non partisan way.

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

It was moved and seconded that Resolution 97-7 be introduced and read by title only by the Clerk. Clerk Williams read the resolution by title only.

RESOLUTION 97-7

It was moved and seconded that Resolution 97-7 be adopted. The synopsis and committee recommendation of Do-Pass 7-0-1 was given.

Randy Lloyd presented an overview of this abatement request as essentially outlined in the resolution synopsis and statement of benefits.

Sabbagh asked Lloyd about the possibility of including in tax abatement requests some memorandum of understanding about what would be the consequences if the terms of the abatement were not complied with. Lloyd said that he was preparing such a compendium of legislation and information from other communities and would be taking some recommendations to the EDC and eventually the council for their consideration.

Jack Culver, without his plastic bags, was present and available for questions and thought that the earlier confusion about benefits has been clarified.

Cole thought it has been a good day for economic development with this legislation and the announcement today about PYA/Monarch.

Service explained her abstention last week and said it was a result of our own lack of guidelines when a petitioner comes back more than once requesting abatements. She supported this particular proposal.

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

It was moved and seconded that Ordinance 97-19 be reconsidered for council action from the June 17, 1997 meeting.

ORDINANCE 97-19

The motion to reconsider received a roll call vote of Ayes:7, Nays: 1. Mayer was out of chambers.

It was moved and seconded that Ordinance 97-19 be introduced and read by title only by the clerk. Clerk Williams read the legislation by title only.

It was moved and seconded that Ordinance 97-19 be adopted. The synopsis and committee recommendation of Do-Pass 3-0 and a June 18, 1997 action of Ayes:4, Nays:2. This was a no action vote and it was determined on June 18 that the legislation would come back to the council. It was explained that if the council did not vote on this ordinance, it would automatically go into effect in 90 days and the council felt, in general, that this was not a good precedent to establish this kind of pattern of non voting.

Tom Micuda, Planning Department, presented a brief overview of the request, the multiple phased nature of the Sare Rd/Canada Farm development as part of Parcel G. This amendment would allow convalescent/nursing and rest homes to go on that parcel. Questions arose regarding the nature of the project, was it residential or an institutional type of use. It is a residential building and in essence a multi family variation. Also in use is the D.U.E. with 42 units on 2.5 acres which is a density of over 16 units /acre as opposed to 6 units/acre on the overall parcel. The impact of these D.U.E. units is much less than the 2 or 3 bedroom units and that is why the D.U.E designation is appropriate. This compares or equates to 14 two or three bedroom units (each of the 42 units is actually "worth" a third of a regular unit) or is a 14 unit development on 2.5

acres. There is a 44% open space allocation around the project as compared to a MF development of 30%. Parking will accommodate 27 spaces with one space for every 2 units and space for employee and visitor parking. (45 spaces would be required with 2 or 3 bedroom units)

Sherman addressed a point in a memo that "allows a convalescent rest home". Allows is not the same as mandate and he wondered if that means that these units don't have to be occupied by elderly persons. Micuda said that no age restrictions have been imposed on this development. The petitioner has been taken at his word that senior citizens would be the occupants. Micuda said that future usage was discussed and what would happen if it turned into a different target market/parking ratio and would the site be adaptive. The petitioner is required to demonstrate that additional parking related to efficiencies could be put on site within setbacks without compromising the open space.

Cole asked the size of the units. Micuda said they are a little less than 400 sf. She also asked about the entrance location. Micuda said there is a drop off point on the east side.

Steve Smith, representing the developer, said the staff has carefully scrutinized and site impacts as well as the D.U.E. He compared several variables with this plan with the impact of other uses for trip generators at AM and peak hours traffic times; parking needs were compared as well as open space requirements. The D.U.E. was a logical plan to consider for this tract.

Sherman asked why there was all this sudden interest in this type of housing and what are the demographics. Smith said there is a big demand as the population ages and it is being done in a lot of cities our size. Sherman expressed concern about the rent being a minimum of \$900/month for 340 sf and thought that was a lot of profit for the developer. He suggested that perhaps the growing interest in this type of housing is influenced by the larger margin of profit for the developer. Smith said it is a business opportunity and there will not be a large profit for long because the market has a way of evening itself out. Sherman asked that we remember the purpose of why we put the D.U.E. in place was to create more affordable housing opportunities. Sherman said that he thought this ordinance should be amended to include provisions to include criteria that the affordable aspect be maintained.

Smith countered with costs associated with nursing home care being higher than \$900 a month and other developers are coming in with 600 sf units that will be very expensive if they are treated as whole units. Market forces and costs always go back to the renter.

Sherman said that he understood what Smith was saying, but that he had to be able to justify if the D.U.E. proposal as laid out here is actually meeting the council's purpose.

Service said this is an example of where the purpose of legislation was understood at the time, but was not fixed in numbers and words and has mutated over time. She said she did not have any particular problem with this proposal but she was against the entire plan in general which she voted against initially because of the commercial development so close to Jackson Creek. This is just one more part of the plan which, if implemented, would still not change the location of the commercial, which Service thought still could be changed if the developer was willing to do so.

The ordinance received a roll call vote of Ayes:4, Nays:5 (Mayer, Cole, Service, Sabbagh, Sherman). The motion failed.

It was moved and seconded that the following legislation be introduced and read **LEGISLATION FOR FIRST**

by title only before the Bloomington Common Council for First Reading. Clerk Williams read the legislation by title only.

READING  
ORDINANCE 97-24

**Ordinance 97-24 To Amend Chapter 2.34 of the BMC Entitled "Firefighters Collective Bargaining.**

Linda Williamson, Executive Director of the BEDC, said that the final report from the Urban Land Institute is now available, there is a tape of the BCAT Press Conference of the PYA/Monarch, and that the Monroe County Auditor has all the Tax Abatement reports that are filed on an annual basis, and finally she appreciated the support for the Industrial Development Commission..

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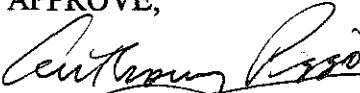
Service apologized for her earlier comments and her use of the term "strong arm tactics", that she does respect the mayor and the administration, but what she resented was the inflexibility and of the situation.

Williams urged or rather pleaded with the council and the public to help encourage people to apply for board and commission vacancies. She listed the various openings.

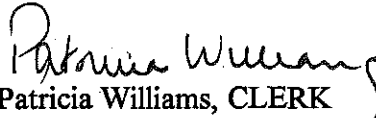
The meeting was adjourned at 10:20 PM

ADJOURNMENT

APPROVE;

  
Anthony Pizzo, President  
Bloomington Common Council

ATTEST:

  
Patricia Williams, CLERK  
City of Bloomington