

In the Council Chambers of the Showers Municipal City Hall with Council Vice-President Cole presiding over a Regular Session of the Common Council held on Wednesday, August 7, 1996 at 7:30 PM.

COMMON COUNCIL
REGULAR SESSION
AUGUST 7, 1996

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

ROLL CALL

Vice-President Cole gave the agenda summation.

AGENDA SUMMATION

The minutes of June 5, July 17, July 24, and July 29, 1996 were approved by a voice vote.

APPROVAL OF
MINUTES

Kiesling thanked everyone involved in the cooperative clean-up effort, City, County and WalMart, that will take place at the Payntown Recreation Area this upcoming weekend.

MESSAGES FROM
COUNCILMEMBERS

Young also thanked everyone involved with the Monroe County Fair, especially members of the Fair Board, persons who volunteer their time all year long as well as during the entire Fair Week.

Pizzo said that the Housing Trust Fund Board has met twice, written rules and by-laws and will soon be up and running and soliciting applications. He also thanked the 200 Americorp volunteers who were here two weeks ago and pitched in to help projects such as Middle Way House, Crestmont and the Community Kitchen with some of their ongoing maintenance projects.

Sabbagh returning from a short vacation to Glacier National Park said the experience alerted him to the need for us to maintain our own community opportunities.

Service announced upcoming King Lear production dates and thanked the Utility Department for responding so quickly to a call about clogged drains after a recent rain.

Cole reminded everyone that the council will recess for the month of August and meetings will resume September 4.

Deputy Mayor McNamara invited Leslie Skooglund, outgoing Director of Project Breakaway, to update the council on this very successful teen program and thanked her for the very able job she has done with this program.

MESSAGES FROM
THE MAYOR

Skooglund explained the unique program that has made a real difference in the lives of 40 young people that strives to prevent the use of alcohol and other drugs of young people between the ages of 12-14 that are already in the juvenile probation system due to earlier problems.

It was moved, seconded and approved by a voice vote that Ed Kuntz be reappointed to the Board of Directors of the Public Transportation Board.

APPOINTMENT TO
PTC

It was moved and seconded that Ordinance 96-23 be introduced and read by title only. Clerk Williams read the legislation by title only.

It was moved and seconded that Ordinance 96-23 be adopted. The synopsis and committee recommendation of Do-Pass 9-0 was given.

LEGISLATION FOR
SECOND READING
ORDINANCE 96-23

Deputy Mayor James McNamara said he wished to thank Jen Kurrie, Intern in the Mayor's Office, who is leaving Bloomington after serving in the mayor's office for over a year. This ordinance would create a full time clerical position and while interns will still be used this will be an important addition to the office.

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

It was moved and seconded that Appropriation Ordinance 96-1 be introduced and read by title only. Clerk Williams read the legislation by title only. It was moved and seconded that Appropriation Ordinance 96-1 be adopted. The synopsis and committee recommendation of Do-Pass 8-1 was given.

APPROPRIATION
ORDINANCE 96-1

Again, McNamara said this ordinance transfers monies from the Planning Dept into the office of the mayor to fund the new full time clerical employee as well as the Executive Assistant to the Mayor for Economic Development, as well as monies for the Public Works Maintenance needs.

Service said that the Economic Development position is duplicative of other groups and agencies throughout the city and there are other needs that the city could meet with these monies.

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

It was moved and seconded that Resolution 96-16 be introduced and read by title only. Clerk Williams read the legislation by title only. It was moved and seconded that Resolution 96-16 be adopted. The synopsis and committee recommendation of Do-Pass 3-0-3 was given.

RESOLUTION 96-16

It was moved and seconded that the council formally accept the Uniform Conflict of Interest Disclosure Statement filed by Deborah L. Hamilton with the city on July 5, 1996.

Randy Lloyd, Mayor's Office, apologized for the snafu on his part regarding this statement. (Deb Hamilton, Human Resources Director, is the wife of petitioner Hugh Kremer). He noted his working relationship with October Interactive that began while working at the Small Business Development Center several years ago. Through Linda Williamson of the BEDC Hugh Kremer became aware of the city's loan program. The conflict of interest issue was discussed some time ago and the administration wanted to be very up front about this with the council. The city's Legal Department advised and discussions with Dan Sherman, Council Attorney, said that legally it wasn't required to file a conflict statement, although Deb Hamilton thought it was probably a good idea to have it in the file. It was not disclosed at the last meeting due to a miscommunication of how to do that procedure and Lloyd assumed that the council had been notified. He apologized to the council and to the public for not following through and seeing that it was properly disclosed. He hoped that we could move beyond this and the bottom line is that this is a good project and should be supported.

Pierce said that his interpretation of the statutes do not require this statement and believed that Hamilton was going above and beyond what was called for by law. This is just not considered a conflict in state law.

The motion to accept the Disclosure Statement received a roll call vote of Ayes:8, Nays:0.

Doris Sims, Redevelopment Director, reviewed the loan application request and process this request has taken. This application qualifies based on the criteria that we have established.

Lon Stevens, Redevelopment Commissioner, clarified the commission's vote of 4-1. The "1" was not a vote against the project but against all of the collateral that was required of the petitioner. Loans are generally secured by all assets a corporation has and in this case a life insurance policy was requested as a collateral. Kremer will also be borrowing \$50,000 for additional equipment, for

furniture. We have tried to embrace non-polluting industries and this is one of them.

Young asked if Kremer has any of his own personal money in this business. Stevens said no. Young asked if he will be borrowing more money and Stevens said no. (The statement in the above paragraph is accurate and it is presumed that Stevens was referring to the Industrial Incentive Loan monies).

Young was concerned about the lack of personal equity in this proposal. Sims said that we have never required a company or petitioner to pledge their own assets. He asked if all the former loan recipients are still in business. Sims said several are no longer in business and none of the recipients or any loan money have defaulted on their loans.

Linda Williamson said that the first loan was to Durkin Plastics and that request did have personal guarantees and those paid off the loan when the company did not make it. It is very similar to this proposal in that the owners pledged their guarantees and there were lots of questions about the collateral but the guarantees kicked in and the loan was repaid in full. The loans for all the other projects have been repaid, or are in the process of being repaid and jobs promised have all exceeded their goals.

Sabbagh asked if any of the companies have been startups? in particular hi tech startups? Williamson said yes, the plastics company could be described as such.

Hugh Kremer described the focus of his company and presented a brief history of the various projects they have worked on. He discussed his desire to remain in the Bloomington area rather than move to the east or west coast to establish his business and expand the facilities.

Linda Williamson again spoke about trying to secure businesses and whether or not the Industrial Incentive Loan Program guidelines needed to be revisited to accommodate the kinds of companies the IU Research Park, in general and Jeremy Dunning in particular, was trying to attract. Whatever program we have needs to be flexible.

David Gudaitis, AIT Producer, spoke in support of Hugh Kremer and the business he is putting together.

Pierce spoke in support of the project, noting that this is the kind of business we are trying to attract to Bloomington, it is a loan, Sunrise has already invested in it, and the Redevelopment Commission has insisted on safeguards unlike any other projects that come before us.

Young had mixed feeling about this project and if it was the right thing for the city to do. As a businessperson, he borrows money conventionally and at conventional rates. The cost of a commercial loan is not that much and could be borrowed from a regular bank. He was also concerned that the petitioner did not have his own money in this project. "He has a stake in it, but he doesn't have his wallet in it", Young said.

Pizzo asked how the interest is determined. Sims said it is determined on what the city's interest rate we would receive on a particular date. That is why the interest rate varies with the different petitions.

Sabbagh said this is the kind of development he has been trying to promote and a different model in which people are the asset, not pieces of machinery. The

big issue here is JOBS. He thought there is a difference between an established company and a start up and this is a start up with no history of finances or job creation. High tech startups are risky businesses. He questioned the 15 new jobs in 4 years and was concerned that that number could actually be met. He thought a schedule should be developed and if the number of jobs is not created, then a balloon repayment should be required. If we are going to develop new guidelines, why not table this until that is done.

Banach agreed with parts of what he has heard this evening, however, he didn't think the city should be in the business of loaning money without the guidelines we have talked about this evening.

Kiesling said she was not sure she could support this, it isn't personal, but there are too many tentative things in the request and we need to be careful about how we spend our tax dollars.

Pizzo said the money is set aside for this purpose. These are high paying jobs and we want them to stay in Bloomington.

Cole also thought these were good, high paying jobs, and there just aren't the models and history to base the decisions on. Perhaps we have to have faith and confidence that this will be successful and trust the people who have made past recommendations regarding projects we have approved.

Service was bewildered about the opposition to this. This will create more jobs and did not understand why this loan is different than other loans we have supported.

Sabbagh said that traditional industry have "machinery" which are their asset. October Interactive asset is Hugh Kremer's brain, not the software. Banks will not loan money on Hugh Kremer as an asset. A small high tech company can get a bank loan by pledging personnel assets. He repeated the need for guidelines and a job creation schedule.

Hugh Kremer said he has had other job offers, didn't have a chunk of capital, and he found an investor (Sunrise) who essentially did provide him with "his money". Trying to make it happen in Bloomington has required a substantial monetary investment in this community on his part.

Kiesling said that the councilmembers have been very persuasive and that she might be willing to take the risk and support this, but she found it offensive that councilmembers were not more informed about the details of this petition.

The resolution received a roll call vote of Ayes:6, Nays:2 (Banach, Young).

It was moved and seconded that Ordinance 96-19 be introduced and read by title only. Clerk Williams read the legislation by title only.

ORDINANCE 96-19

It was moved and seconded that Ordinance 96-19 be adopted. The synopsis and committee recommendation of Do-Pass 0-6-2 was given.

Lynn Friedmyer, Planning Department, described the site and proposal for a rezoning from Q to IL. The 13 acre tract is west of Packinghouse Rd off Vernal Pike. It is densely wooded site, containing Karst, sinkholes and to the north quarrys. While light industrial is called for in the master plan as well as the zoning ordinance, it also determines that whatever development plan comes forward, that it come forward as a PUD in order to keep control of the scenic corridor. When this came forward, the IL zone had some allowed uses that were

of concern for this particular site, thus the desire for a PUD rather than an IL designation. The Plan Commission looked at the criteria from the master plan and then recommended denial of this rezone request.

Banach asked why the petitioner wants a rezone if they are not planning to do anything with it. Friedmyer said there is a request for a tree clearing permit in at this time and whether this goes forward or not, the petitioner plans to remove the vast majority of trees. Her understanding is that the petitioner wanted to put his office and eventually his trucks in that location. Even in the IL zone, there is no outdoor storage allowed. Trucks would have to be in some kind of shelter.

Service asked if reasons for tree clearing have to be given when a permit is applied for or issued. Friedmyer said they do. Service wondered if the petitioner do not comply with what he said he would do. Friedmyer said it would be very hard to respond if compliance was not honored. If they then came in with other requests, then they would not be allowed unless they had complied with earlier regulations.

Kenton Robinson, petitioner, said he has no plans for the property and wants the rezone because it is an investment property.

Service asked why he was applying for a grading permit, if there are no plans for the property. Robinson said the property is worth more money without the trees. He simply wants a rezone, everything else that has been said is just conjecture.

Friedmyer said the comment about an office and parked trucks came from Kevin Spicer, a realtor, not the petitioner.

Randy Cassady spoke in support of the petition and said he didn't know anything about the property and Mr. Robinson will create jobs that will help the community. He reminded people of the top notch job Robinson has done with such projects as Winslow Plaza.

Pierce was concerned about the wide range of IL uses and in sensitive areas the PUD designation allows the greatest opportunity for review of planned uses rather than a rezone with future minor site plan reviews.

Service said the site demands certain constraints and that special care must be taken about it's development, thus the PUD. She also was concerned about the immediate proximity to a PCB site and that this was a speculative rezone request with no reason or plan in mind. When a PUD request comes forward, then we consider it.

Banach asked if the property owners could clear cut the existing trees. Friedmyer said that is what he is asking for now and a grading permit is required. Tree removal is considered grading when it is done in mass quantities.

Kiesling asked if we have received some kind of certificate from the state indicting that the quarry is no longer a viable use. Friedmyer said no.

The ordinance received a roll call vote of Ayes:1 (Young), Nays:7.

There was no legislation for First Reading.

John Seufert, President of Woodhaven Estates Homeowners Association, said that Phase I, Phase II, were developed by Carl Smith. Phase III was developed by Citation Homes. Phase IV was also done by Citation. He commented on the

FIRST READINGS
(NONE)
MESSAGES FROM
THE PUBLIC

Risk Management response to his original letter. The problem has been that Melody Homes (builder) allowed siltation to occur in the sink holes and the city did not enforce silt control adequately due to lack of staff. He asked about bond requirements for Phase IV and why it was not in place. In 1994 the Home Ass. reverted to the property owner. Questions and concerns to the city were met with silt fence repair for awhile and it would then get overloaded. Street trees have not been planted. The sidewalks are only along Leonard Springs Rd and about 350' is missing. He also asked about Garden Acres and the silt that occurs because of poor grading. Hopefully the dry well construction in the sink holes will correct some of these problems.


Pierce asked Dan Sherman to work with the administration to determine what should be done.

Cole thought a small committee Council and Risk Management might be a good idea.


The meeting was adjourned at 10:05 PM

ADJOURNMENT

APPROVE;


Patricia Cole, Vice-President
Bloomington Common Council

ATTEST;


Patricia Williams, CLERK
City of Bloomington