

In the Council Chambers of the Showers Municipal Building held on Wednesday, December 4, 1996 at 7:30 PM with Acting Council President Cole presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
DECEMBER 4, 1996

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

ROLL CALL

Vice President Cole gave the Agenda Summation.

AGENDA SUMMATION

There were no minutes for approval.

MINUTES FOR APPROVAL

Pierce commented on his attendance at the Telecommunications Council meeting. TCI has made the decision to take WGN off the system and replace it with Animal Planet and it triggered the largest public outcry he has ever seen. "TCI has done a lot of things to trigger public outcry", Pierce said, "but never anything like this." The anger was boiling over and really becoming ugly watching TCI make a corporate decision, foist it upon the local community and pretend it has something to do with customer preference and they get their way. The local TCI employees are really the ones that suffer trying to respond to the public and answer hostile questions based on some lame executive decision. There isn't an ounce of concerned customer consideration or service in the bones of the corporate TCI system and they tar the entire cable industry. Their stocks have devalued and strapped their cash flow and then decide they can cut back in systems like Bloomington that are scheduled for rebuild and they can also make a decision to drop a major channel, bring in someone that really doesn't know the basics of the decision, it becomes an easy way for TCI to keep this shell game going. In truth TCI is being paid \$5-8 per subscriber, as a bonus, for putting Animal Planet on line and thereby making it a valuable advertising commodity. Animal Planet is probably also packaged with The Discovery Channel and so they are paying nothing for that addition. The public does not understand why the city keeps giving TCI exclusive franchise and keep renewing it. That just isn't the case and we have tried desperately to get someone else to come in and compete with them. He apologized for his "diatribe" and said he will authorize a resolution to be sent to corporate and that the full council will have an opportunity to be one record.

MESSAGES FROM  
COUNCILMEMBERS

Service supported Pierces' comments. She thanked the many people who make Bloomington look as beautiful as it does at this holiday season.

Sabbagh had several important announcements: first, the birth of his first grandson, with all the important details and statistics; reported on the 7th Annual Hockey tourney that took place last weekend, reminding folks about the Skating Rink Open House next weekend; and finally, his concern about moving the Farmers Market, why is it being moved, the cost and the justification for spending \$250,000. This amount of money does impact the budget through debt service and this council has that budgetary responsibility. The interest on this money is approximately \$25,000 a year and could pay the salary for an additional worker.

Pizzo updated the council on the Community Advisory Board meetings: there are 23 agencies requesting \$362 thousand dollars and we have \$163 thousand to allocate so we will be a bit short. He said that all of these agencies are worthy and he desperately urged citizens to give what they can at this time of year. \* \*

Kiesling echoed Pierce's comments saying that she too was disappointed at the poor cooperation on the part of TCI toward their customers and the

manipulation that is going on.

Banach with what is a very positive comment, informed the council that he became engaged last weekend. Hoorays and congratulations all around!

Cole wished everyone a happy advent season as we move toward Christmas and this time of peace and civility.

Kiesling wished everyone a Happy Hanukkah.

Mayor Fernandez reminded the public about board and commission opportunities as a way of serving our community. He then said that the French government has terminated the proposal to sell Thomson to one of the "suitors" recommended by the privatization commission, the major hangup being the selling off of the electronics division to a S. Korean company. All of the politics of this situation have really created havoc for the employees of this company and it has been hard for the administration to organize the necessary community effort to work with whomever the new "owner" will be.

MESSAGES FROM THE  
MAYOR

Scott Tibbs wholeheartedly agreed with Matt Pierce about TCI and he predicted that within 20 years will cease to exist because of the way cable companies have treated their customers.

PUBLIC COMMENT

It was moved and seconded that Resolution 96-19 be introduced and read by title only. Clerk Williams read the legislation by title only. It was moved and seconded that Resolution 96-19 be adopted. The synopsis was given.

LEGISLATION FOR  
SECOND READING/VOTE  
RESOLUTION 96-19

It was moved and seconded Resolution 96-19 be tabled until December 18, 1996 at the request of the administration.

Dan Sherman said that this request comes from both the attorneys for the school corporation and the city.

The motion to postpone received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Appropriation Ordinance 96-5 be introduced and read by title only. Clerk Williams read the legislation by title only. It was moved and seconded that Appropriation Ordinance 96-5 be adopted. The synopsis and committee recommendation of Do-Pass 8-0 was given.

APP. ORD. 96-5

Jeff Underwood, Controller, said that the Council Office has requested the transfer to address necessary additional funds for the salary budget line to accommodate overtime earlier in the year, the other two parts relate to telecommunications. One is a pass through from TCI to BCAT of \$10,000 and the other is a matching allocation of \$17,500 from an increase in the franchise fees. There is no budget impact and sufficient funds are currently on hand.

Pierce said this ordinance allows the pass through of monies to be used by BCAT to air outside programming from locations, such as the Waldron Art Center. The other money is to insure TCIs current budget is not unfairly penalized after the city increased the franchise fee from 3 to 5% and insures that cable coverage of the meeting channel will continue through the rest of the year.

Michael White, BCAT Director, spoke in support of the legislation and commended the council for supporting community access television for over 20 years, 22 years to be exact.

The ordinance received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Ordinance 96-49 be introduced and read by title only. Clerk Williams read the legislation by title only. It was moved and seconded that Ordinance 96-49 be adopted. They synopsis and committee recommendation of Do-Pass 4-4 was given.

ORDINANCE 96-49

Jane Fleig, Traffic Engineer, gave a brief overview of each section of the ordinance. Grant St/6th Street would become a 3 way stop, Madison/4th Street would become a 4 way stop, multi-stop intersections code citations were deleted at Atwater and Jordan, (now signalized), Henderson and Dunn, Highland Ave and Maxwell Lane is now a 4 legged stop intersection, and adding restricted turn on red at College Mall Rd/Moores Pike at southbound College Mall Rd. Sight distance and alignment of the intersection is poor when stopped at the stop bar. The stop bar cannot be moved because it has to remain behind the cross walk. Other changes refer to No Parking zones as indicated in the ordinance and correcting errors and omissions in the current code.

Sabbagh moved that the ordinance be amended to delete Section 4 (right turn on red at College Mall Rd). The motion was seconded.

Sabbagh said that a complete engineering analysis of the intersection was not done, other remedies should be considered before we take this drastic action, and we spent over \$2 million dollars on this intersection to promote traffic flow and now this amendment tries to restrict traffic.

Pizzo said that he goes through the intersection 3-4 times a day and the northbound lane of College Mall Rd. traffic is fast and heavy and cars that are traveling and turning west on a turn arrow or green light don't expect to see a right turning car in that intersection.

Pierce said that this is a very difficult intersection for cyclists and pedestrians and at a recent Bike and Ped Commission meeting there was a extended discussion of realigning this rather new intersection because of all the changes with College Mall Rd as well as the soon to be completed Capstone project with about 1,000 students living and driving in this area.

Service thought making this intersection more pedestrian and cyclists friendly was important and that even though we have spent a lot of money , sometimes that by itself is just not enough.

Kiesling said the road design was, in part, was the result of federal monies being used at that time and we had to go with what their criteria was in terms of design. She was concerned about the visibility of a sign with the various angles at that spot. She thought other traffic lanes in that area had similar problems

Young thought the entire project is an improvement to what was there before and we also have to realize that some people can't correctly judge the distances and drive their cars properly at the same time. An extensive discussion took place about the driving patterns at various intersections.

Jane Fleig thought red turn right cars and pedestrians trying to cross the street would be a dangerous combination. She also said that the signal is traffic activated, not time estimated and so turning traffic and the stream of it is what keeps the turn arrow "live," so traffic will not back up.

Kiesling thought road markings would help. Fleig said signage saying

STOP HERE ON RED would be better than road markings.

The amendment received a roll call vote of Ayes:2 (Sabbagh, Kiesling), Nays:6. The amendment failed.

Natalie Wrubel talked about 4th and Madison STOP. She expressed concern about the traffic that whips thru there at this time and particularly the semi trucks from Maces Grocery and the increased congestion in that area as a result of new residents from the Bicycle Apartments. She offered to lie down in the street to prove her point. Cole did not think that would be necessary.

David Ferguson said that the 6th and Grant intersection is Number 1! in the number of accidents. And has someone who has first hand knowledge of the intersection with the location of his law office, as well as knowledge of the signage standards that are used to determine the placement of a sign, the 3 way sign is really needed.

Dave Bucove, Library Director, also urged the placement of the signage at 6th and Grant Streets in the interest of safety.

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

It was moved and seconded that Ordinance 96-50 be introduced and read by title only. Clerk Williams read the ordinance by title only. It was moved and seconded that Ordinance 96-50 be adopted. The synopsis and committee recommendation of Do-Pass 7-0-1 was given.

ORDINANCE 96-50

Jane Fleig said the Traffic Commission was petitioned to change this intersection to a 4 way stop. After an analysis was completed it was determined that this intersection does not meet any of the warrants that would recommend a multiple stop sign. The Engineering Department recommends against the placement of a multiple stop at this intersection.

Banach as sponsor of this ordinance, said that this is a neighborhood situation and is a rather unique situation.

Service said we don't always have to be reactive and future development is going to impact this intersection, even if the current analysis does not warrant the stop sign.

Cole asked Fleig if the city ever goes back and reviews the placement of stop signs and if they are still warranted. Fleig said that there are hundreds of signs in Bloomington that should be removed, given the current traffic numbers/warrants. She said it is very difficult to remove stop signs.

The ordinance received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Ordinance 96-28 be introduced and read by title only. Clerk Williams read the legislation by title only. It was moved and seconded that Ordinance 96-28 be adopted. The synopsis and committee recommendation of Do-Pass 2-3-3 was given.

ORDINANCE 96-28

The council recessed for 5 minutes.

It was requested that comments be kept to 5 minutes.

Cynthia Brubaker, Chr. of the Historic Preservation Commission, described the BMC citations providing for this process, the location of the structure,

current zoning, and, finally the designation and preservation would contribute to this important historic area that has obtained much public and private interest over the last 5 years. There are 29 other buildings in one district that are designated historic, local as well as national designation for some of them. Historic Designation also address the history of the building, not just the architecture and that is something that we don't immediately see when we look at a site. She reviewed the history of this particular building and said it is important in terms of what took place in this area at another time in our history. If the current owners wants to demolish the building, they would come before the commission and request a Certificate of Appropriateness for that demolition. If there is a specific reason for the demolition, complete with documentation, that certificate would be granted. If there isn't a specific reason, then a period of time must elapse, and then see if there is another owner can come forward, etc. The former purchase agreement called for the demolition of these buildings and while that is no longer in force, there has been an unwillingness to work to find alternatives for this building and therefore it is still in danger.

Dee McIntire, spoke of a case in which demolition of a historic carriage house was approve by the commission. Service recalled another reversal of a designation on Country Club Drive a few years ago.

Mark Baylor, representing the property owner, objected to the designation and asked that the council deny the petition. He said it would be harder to sell the property because the block would have to be subdivided. A cleanup plan was submitted to IDEM last year and at present, there has been no approval of the proposed plan.

Young asked who and how will the testing be conducted on the building. Baylor said they are currently negotiating with IDEM about those matters and IDEM has not told them what they want to have done with that building. He said his company has owned the property for 4 years.

Chris Sturbaum, Member of the Historic Commission, said he thought this building deserved a public hearing and in that way there will be answers to a number of question raised by the community and not people who do clean ups professionally. There is going to be increasing attention to Morton Street's particular character and this little building is part of that.

Dee McIntire commended the commission for bringing up such a controversial issue and bring it to a public hearing. It is important to note the symbolic nature of this structure and the surrounding buildings in the area.

Rosemary Miller, representing BRI, said that they also support this designation and emphasized that this will protect the historic appearance of the street scape along Morton Street. IU Press is also historic and the entire street scape should be saved if at all possible.

Bob Dunn, President of Bloomington Restorations, said that these buildings are saleable if they are salvageable. He said they will enhance the area if they are saved and go to private enterprises. He suggested that the county could incorporate the buildings into what they are trying to design. Those old buildings in their deteriorated condition are a lot more attractive then the fenced parking lot behind the Justice Building. He suggested that the council is used to telling people what they can and cannot do with their private property and so this would not be precedent setting.

Nancy Hiestand, Advisory Member to the Historic Commission, talked

about a meeting she had with a visitor from Turkey and his main questions and interest was how we make the decisions to save our old buildings. There has not been a lot of planning done in relation to this corridor and that is why this proposal is generating so much discussion. She said that there was a discussion of giving a Certificate of Appropriateness if the request for building demolition if the building should be too dirty to be cleaned up and if that certificate request was refused, there would be a 6 month waiting period when the building would be placed for sale.

Tim Tilton, County Commissioner, said this is an issue where reasonable people can differ, that everyone working on this is doing it in good faith, that this issue is not the be all and end all of community issues, but it also is not a trivial issue. He also said he appreciated the good working relationship with the city on this proposal. He then displayed other views of the building, besides the front view that we always see and suggested that it was not at the same level of historical and aesthetic importance as the Showers of Courthouse, to which it has been compared. The case for this is a marginal one and the council has to determine how far they want to extend the historical designation concept. He said the county is trying to contribute to the resolution of some other county problems on that space and there is a bond that runs until the year 2004 that does not allow private uses on that space and this ordinance does talk about opening this up to a private bidder. If just the facade is preserved then it has to be propped up until the rest of the project is completed. Everyone is concerned about the way this space looks and he thought there was a problem with trying to design a whole block around this one building. He urged the council not to make this project even more difficult.

Young asked about the perceived lack of cooperation between the city and the county and if someone from the mayor's office been in touch. Tilton was reluctant to answer that question, and given the three commissioner decentralized process, someone could have talked with one or another commissioner at different times. Cole said that she and the Mayor did meet with Commissioners Anderson and Polling several months ago.

Kirk White, Commissioner Elect for District 2, agreed with Tilton and discussed the importance of cooperation between the city and county governments. He expressed concern about the designation in light of the owners objections. County government also wants to be responsible for how the downtown and the Morton Street corridor looks, this isn't just the city's concern. The county also needs the flexibility in order to solve the ever present parking problems their employees face.

Cathy Foster, BRI and Historic Commission member, said that city and county interests are the same. The facade is the only important aspect of this and the larger issue is one of flexibility. No one thinks this building is The Parthenon. It is the last piece of property on Morton St that reflects this type of architecture. A lot of cars can be packed behind that facade.

Duncan Campbell, Preservation Development President and Commission member, said it is possible to save these building that take up only 7500 sqft of an 2.2 ac site and not make a dent in the development potential on the overall site. The proposed build out to meet county needs would create over 300,000 sqft of buildable space (that's a third bigger than he entire Showers Complex) and that building could hide all the parking on that site.

Service said this a chance to give this building "a chance" and the clean up costs have not been factored into any of the discussions to date. The issue is this is the historical context of this part of town and where our City Hall

is located and give a setting to our building as well. After renovations of other buildings we are all amazed at what takes place when completed. She talked about the dead spaces along our downtown streets, parking areas and lots that do not draw people into them in an interactive way.

Banach felt that he had a strong interest in historic preservation and been involved with it in the Chicago area. The owner's objection to the designation has weighed heavily in his decision about this legislation.

Sabbagh asked Michael Flory about the limitations imposed on the owner and could it be defined as spot zoning? Flory said that historic designation has been viewed as a legitimate governmental alternative option possibility. Sabbagh said that he has talked with Realtors, asking how much private sector interest there is out there and there is virtually none for this site, because of all the unknowns that exist. Costs are of concern and renovations are typically more expensive than new construction prices. We need to be concerned about the entire block. Everyone has backed off because of the clean up questions.

Pierce said the nature of planning and zoning places restrictions on what an individual can do with their property and the principles have existed for many decades. The building can be saved, the county can meet its goals and because of the different land grades and a building can be placed on top of the parking. The county does not have an option on the land at this time and if this ordinance is passed, there is at the most, a 6 month delay and then the county can do what it wants to do.

Young said this is an example of a failure to plan very well and he hoped to see more cooperation and negotiation between the city and the county and there is a lot more than just this building to consider. This needs to be postponed for further discussion and that he said he would abstain on this ordinance.

Cole this designation is not going to dampen the spirit of cooperation with the county. She thought we should strip away all of these issues and just deal with the building. The building is one of the few that we have left from this time period of our community's history and it really belongs to all of us, not just the city or the county, but all of us. Over 5,000 people went through the Showers Building when it first opened and many of them had family connections with the original building that allowed them to really identify with the building and its past.

Kiesling said she would support the legislation.

The ordinance received a roll call vote of Ayes: 5, Nays:2 (Banach, Sabbagh), Abstain: 1 (Young).

It was moved and seconded that the following legislation be introduced and read by title only for First Reading before the Bloomington Common Council. Clerk Williams read the legislation by title only.

LEGISLATION FOR FIRST  
READING

Ordinance 96-47 To Amend Title 15 of the BMC Entitled "Vehicles and Traffic" (Parking Permits and Leases).

The following annexation ordinances were each read by title only: The Ordinances Concern the Annexation of Adjacent and Contiguous Territory:

Ordinance 96-51 (Marsh West and Big Lots Area)

Ordinance 96-52 (Kroger/West 3rd Street Commercial Area)

- Ordinance 96-53 (Shoney's Motel)
- Ordinance 96-54 (Small Parcels near the Moose Lodge)
- Ordinance 96-55 (Capstone Development)
- Ordinance 96-56 (Gentry Honours, Phase One)
- Ordinance 96-57 (Hearthstone Village)
- Ordinance 96-58 (Silver Creek)
- Ordinance 96-59 (Sherwood Oaks Christian Church)
- Ordinance 96-60 (Sare Road Park/School Area)

Ordinance 96-61 To Amend Title 17 of the BMC Entitled "Construction Regulations" (Fees for the Administration and Enforcement of Certain Construction Regulations).


Scott Tibbs asked about how much the parking fees were increasing. He was directed to pick up a copy of the ordinance.

PUBLIC COMMENT

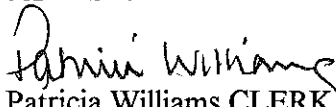
The meeting was adjourned at approximately 11:15 PM.

ADJOURNMENT

APPROVE:

  
 Anthony Pizzo, President  
 Bloomington Common Council

ATTEST:

  
 Patricia Williams, CLERK  
 City of Bloomington