

In the Council Chambers of the Municipal Building held on Wednesday, June 21, 1995 at 7:30 P.M. with Council President Kiesling presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
JUNE 21, 1995

Roll Call: Sherman, Service, Swain, Kiesling, Cole, White, Bonnell. Absent: Pizzo, Hopkins.

ROLL CALL

Kiesling gave the agenda summation.

AGENDA SUMMATION

The minutes of June 7, 1995 were approved by a voice vote.

APPROVAL OF MINUTES

Service thanked the Street Department for the quick and timely storm damage clean-up.

MESSAGES FROM  
COUNCILMEMBERS

White talked about an incident where several young people were beat up on 3rd and Walnut, and when the BPD investigated the situation, the victims gave the descriptions and possible names of who was responsible for the beating. When the police went to the school to check enrollment lists they were told they needed to get court orders. We are trying to determine, as a community, new levels of cooperative community services and after the right people started talking this incident was resolved.

Bonnell pointed out that our youth do have constitutional rights entitling them to a level of protection. He wished his son Zachery a Happy Birthday and introduced his father who is visiting Bloomington. He reported that the IU CWA had finally reached an agreement and worked out agreements on a new contract.

Swain pointed out the positions that Carl Saltzman, our County Prosecutor, is taking regarding juvenile crime and commended him for the programs he is developing.

Kiesling asked Sue Berg, Monroe County Extension Agent, to speak on behalf of the Step Ahead Council and how a network is being created to provide the necessary family services that people need in a coordinated manner from birth to recreation, mental health, employment/job counseling or adult education.

Kiesling reported on the Enterprise Zone camp program for middle school children. People can call the office for information. Kiesling then welcomed the Fairfield Inn Hotel chain establishment to Bloomington. She urged kids to utilize the Bloomington Transit summer bus passes in order to get around town this summer.

COMMITTEE REPORTS

Chris Spiek addressed a recent memo provided to the council giving an update/summary of abatements granted since 1991. The abatements noted are as follows:

1991: Madison Street Condos  
Cantol Wax Building  
These two projects are still not completed

1994: Cottage Grove Housing  
Some changes anticipated due to the dissolution of the corporation involved in the construction.  
Sterling Ventures (Allen Building apartments)

Service asked about the CFC abatement on Lincoln and 7th and asked if they were in compliance with the plan as approved. She presented a chunk of the large tree that was on the site, to which the contractor agreed to save, and which was gradually determined to be "sick or unhealthy" after the roots were drastically cut to accommodate construction of a retaining wall. This same petitioner also did the same thing at the S. Madison Condos site, said he would save a tree and then removed it when construction began. This developer always comes

to the council with statements about trust and quality and not needing to undergo the same scrutiny that other developers have to do. She asked what the council's options are.

Spiek said the tree was still there when the Redevelopment Commission approved the abatement. He then read a letter from CFC, dated June 6, 1995 saying that it is the opinion of the city arborist that tree will not be able to survive the construction activity around it. There is insufficient base and only a matter of time until it will die which will pose a risk to CFC and the city and it appears to be on a right of way line. They will replace it with a tree as comparable as possible.

Service said that at the time of the letter, the tree did not have sufficient root base, and that was because they cut the roots. It was a healthy tree when the project started. Spiek said the tax abatement process only requires substantial compliance on the part of the petitioner and there would have to be a publicly advertised meeting to reverse the decision. Service said she would have never voted for the project if she realized that they were lying about the tree.

Tim Mueller said that we do our best to preserve large mature trees. When a site is disturbed we may fail and the roots can be affected. Despite everyone's best efforts we fail and trees die and he cited other examples of trees that have died. The petitioner tried to create a plan that would work and the result was not negligence but accidental. The site plan was modified and the site plan was altered to try to preserve the tree. In short he thought there were probably better examples of malice of forethought during project constructions in the past.

Swain hoped that what we don't do is provide an out for developers who are not conscientious and might do a similar thing.

White said that if the plan wasn't realistic in the first place, then they should have known how close they really were. A plan should be able to tell you how close you are going to be in advance of the project start.

Mueller said that with root cutting and tree limb pruning, they MIGHT have been able to save the tree after the retaining walls were under construction, but that kind of diligence and care was not executed by the field personnel. The wall construction was probably pretty conventional and did not take into consideration the tree and it's particular needs.

Bonnell said that there was no proof of malfeasance and realistically speaking there was no reason to deliberately cut a tree that would detract from the value of the property. He noted that CFC has planted or donated over 1800 trees in our community.

Service said she was not claiming malice or that they intentionally told us one thing and they did another. She said it was incompetence and negligence and how come the plan was so poorly designed that it could not do what they said it would do. They did not comply with the letter of the agreement and did not do what they said they would do.

Shermna asked about the Allen Building and Spiek said that the developers are reviewing whether they will be able to afford to proceed with the abatement. Looking at the numbers they may not be able to afford to rent at the lower rent and to comply with the conditions of the abatement. There were a lot of overruns in the building and we will know if they intend to file for the abatement by the next reporting period. If not, the abatement will be rescinded. They are not getting any abatement at this time.

Bonnelll asked if this was known at the time of the project and Spiek said that it was known and was understood by all the parties. Bonnell thought it was a real affront for all the parties that were concerned about working out a compromise and the fact that affordable units were going to be available. He thought that the developer should be embarrassed, and that this was a real example of "bottom line" thinking. Spiek said that there are 7 units still held under the HOME program and they stay within those rent/income parameters.

Swain said he was influenced by the low income set aside and would not have probably supported the original request.

Service announced that the Law Enforcement Committee will be holding a meeting on July 6 at 12:00 Noon and will be making recommendations to the Mayor.

Brett Morris asked Bonnell to meet with him to talk about the COIT monies.

Diana Robertson had several comments about trees, building sites, bus routes to Batchelors School. Kiesling explained that the city buses can only operate within the city limits.

Rodney Ward said that the tree issue isn't about the tree, it is about accountability. If a welfare recipient were to screw up, they are vilified. How will the city make businesses and developers accountable and keep communities from being pitted against each other.

It was moved and seconded that Ordinance 95-34 be introduced and read by title only. Clerk Williams read the ordinance by title only.

LEGISLATION FOR  
SECOND READING  
ORDINANCE 95-34

It was moved and seconded that Ordinance 95-34 be adopted. The synopsis and committee recommendation of Do-Pass 7-0 was given.

Susan Failey said that this particular project has already been approved for tax abatement. This designation simply allows the opportunity for retail use.

Duncan Campbell was available for questions and he thanked the Harrells for their efforts on behalf of restoration of these wonderful old properties in our community.

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

It was moved and seconded that Ordinance 95-29 be introduced and read by title only. Clerk Williams read the ordinance by title only.

ORDINANCE 95-29

It was moved and seconded that Ordinance 95-29 be adopted. The synopsis and committee recommendation of Do-Pass 6-1 was given.

Chuck Ruckman gave the history of this proposal for a \$1.6 million bond issue that would be repaid in a short time, in five years, as a reasonable alternative to a pay as we go process, collecting Thomson TIF monies along the way. This would cause significant delay. The other extreme would be to issue bonds payable from TIF revenue. The current proposal is a middle ground solution and reduces interest costs considerably. COIT is pledged as bond repayment although we do not intent to use COIT monies in the repayment process. This ordinance is what pledges the COIT. The option also exists to refinance at a later date if the council so desires.

Ted Rhinehart said this project has been in progress for almost four years. The first phase is W. Allen up to 2nd St. along the Indiana RR corridor accommodating Thomson traffic as well as for use as a regular public street in this growing area. Sidewalks came up last week and he restated that this is a very narrow tract with large open ditches and adjacent to flood plain. He said they would continue to work with the idea of walkways on perhaps one side without negative effects on the floodplain.

White asked how the cost of this project will play out in regards to other projects we need to consider. This is quite a good percentage of our annual allocation. Rhinehart said this would be budgeted from Capital Improvements Plan and would not impact our other projects funded from MVH fund and other highway funds.

Cole asked about the sidewalks and if a narrower walk would be possible. Walks are critical so that people can walk safely in high traffic areas.

Swain thought bicycle use would be high because it is a straightroad. Rhinehart said that each lane will be 14' instead of the usual 12' wide, so the extra width will accommodate the extra width of truck as well as the experienced cyclist who might be traveling along the route. It may not be as comfortable for the less experience cyclist to be merging in and out of traffic.

Service also supported the sidewalks and said that there is something about sidewalks and the way that pedestrian traffic is attracted to the most accommodating route that makes sense for us to take this into consideration.

Bonnell said that there is an irony to the fact that just at the time that Thomson is getting out of the trucking business, and that 60 jobs are currently in jeopardy, we are discussing funding for a truck route. These full time jobs have the real value of \$3.2 million dollars for our economy. These jobs only represent about 10% of the trucking jobs but the current labor dispute is regarding the rights of successorship and if those jobs will remain union jobs. The road is good for safety reasons but the jobs are a concern right now.

Diana Robertson asked about the number of houses that would be taken and the interest rates for the bonds. No housing will be taken and the bond rate range is round 4.8%

Rodney Ward thought that approval of this ordinance sent the wrong message to Thomson as they try to bust the union. He asked that the council table this until

the labor issue is favorably resolved.

Marc Cornett also supported the bicycle paths and sidewalks. He urged the council to take the time to make it work. We need to accommodate multiple transportation process and to make ourselves do what we expect others to do.

Chuck Winkle reiterated Ward's comments and urged the council to table.

Todd Barnell said the council needs to allow the solution to be worked out.

Adam Krueger said this is an opportunity for the city to take a more decisive role in how they use their public funds and what they give tax abatement to.

Bonnell asked Rhinehart what the original reasoning was regarding sidewalks and Ted said that because of flood plain and the need for such heavy fill, as well as concern for water flow downstream, sidewalks were not considered. There would be substantial cost, it might be possible to do but he was not optimistic. Rhinehart said when the costs come in he would be happy to share them with the council. He said that the consultant for the project would be contacted regarding this issue.

Sherman asked (Ward) that since everyone involved seemed to support the concept of the road how does the council vote, now, effect one side or another in the dispute that is going on. Ward responded that it is a public benefit, when negotiations are in progress, and send a clear symbolic message to Thomson that we don't care about those jobs.

Keith Dayton said the contract was over in May. He thought that labor should be able to sit down with local officials and work things out before they come to this state. No one is against the road, but at a time when this critical negotiation is going on we should be talking.

Cole thought that out of respect for the process the council could postpone their vote on this.

Kiesling said that this issue is not part of the negotiation. The contract was over in May and effort has been made to move forward and this is not supposed to be used as a bargaining chip and in the end we certainly may not have local control of this dispute.

Bonnell thanked Kiesling for her discussions regarding this issue. He said that labor has been "at the table", so to speak, and there has been communication between all the parties. The issue is not the negotiations that are going on, we are not a part of them. At this point workers have been given WARN notices, this discussion centers around a truck route and the workers to be dismissed are truckers. He thought the sidewalk issue was still unresolved and thought that we needed more information as to the cost with/without sidewalks.

Bonnell moved that this matter be continued for two weeks with the instruction that a preliminary letter regarding sidewalk feasibility/cost be requested. Cole seconded that motion.

Rhinehart said that he could not have a letter in two weeks (next meeting time) He said that because of the time frame for construction, this would almost be a

separate project. We need to move on right of way acquisition. Sidewalks are not impossible, and it isn't just money, it is also the problem of drainage.

White said he was worried about jobs too but he need to understand that we may be sending a message to Thomson about whether this community wants to support them on this site. This truck is not just another infrastructure project in Bloomington, we initiated it because neighbors were concerned about trucks rumbling through their neighborhoods and that is why we are here tonight discussing this ordinance. We need to realize the asset that Thomson is to our community, and that we don't want to lost those jobs and what Thomson means to us by the messages we are sending. This is an infrastructure project that benefits the site. The company does not realize any financial benefit by us building this road. This makes it possible for our citizens to accept the negative externalities of a plant like this. A delay is a negative message on all our economic development fronts and might also bump it into next year's building schedule. The sidewalks are important and if Mr. Gates is putting sidewalks in, then we should not settle for anything else.

Sherman thought this route benefits the safety of the community and asked if the negotiations don't go the way we want them to go, are we not going to support this? This should be voted on for the merits of the project itself and from all points of view, the vote should be yes. He thought sidewalks should be provided. We vote now, or we vote later and what is really lose is valuable time.

Service said that she was willing to delay the decision for two weeks in order to consider the sidewalk issue.

Cole thought the negotiations issue should be a separate point but she wanted assurances that sidewalks should be done so that people could use the route safely.

The motion to table the ordinance for two weeks received a roll call vote of Ayes:4, Nays:3, (Sherman, Kiesling, White). The motion failed. Five votes are necessary for passage of any motion according to our council rules.

The ordinance received a roll call vote of Ayes:4, Nays:3 (Service, Cole, Bonnell). The motion failed.

It was moved and seconded that Ordinance 95-10 be introduced and read by title only. Clerk Williams read the ordinance by title only. ORDINANCE 95-10  
It was moved and seconded that Ordinance 95-10 be adopted. The synopsis and committee recommendation of Do-Pass 7-1 was given.

Tim Mueller presented the details of the petition as stated in the synopsis as a 140 ac + tract on Whitehall Pike at 37 By-Pass that extends to Curry to the ABB plant and takes in all the ABB land not currently used by ABB. The plan calls for about 70 ac for retail shopping with a row of outlots along the Bypass, a main north/south road to the railroad tracks and extending north to Industrial Park Drive. The petitioner will put up \$150,000 for 5 years from the start of commencement for the cost of crossing the railroad.

There will be another road out to Curry Pike with entrance improvements at both Whitehall and Curry Pk. The 70 ac around ABB will be an industrial park with a range on industrial uses. The retail uses are what you would expect with a development this size. The fundamental question has been if we should transfer industrial land use as called for in the Growth Policy Plan to retail. This decision is based on specific circumstances surrounding this case and should not be construed as setting a general precedent to rezone industrial land for other land uses.

Bill Finch, representing the petitioner, said this is the culmination of a very long process, that there have been numerous revisions and this plan agrees with the provisions of the new zoning ordinances. This is a quality proposal with broad based community support. This plan utilizes existing infrastructure and will bring infrastructure to the industrial site itself, it will keep Hall Signs in our community and is compatible with the surrounding neighborhood. This plan really makes the goal of redirecting our growth to the westside possible.

Jeff Fanyo said the mall would not be an enclosed facility. Each unit is about 35,000 to 85,000 with one at 135,000 sq.ft.

Cole asked why not an enclosed mall. Fanyo said an enclosed mall would require a single architectural style, but this would allow each building to have their own identity. Cole thought that people were happy to have a mall but preferred an enclosed mall.

Jim Tolen spoke in favor of the project and thanked Finch and Fanyo for working so well with neighbors and everyone else that is involved and he thanked the council for not turning their back on this project for the west side community.

Sherman reminded people that four years ago the expansion in the SE part of town was turned down and the council at that time said that this direction (west) was the direction we should go to develop. People said it would not work, the council said it would and it is happening and this development is the capstone to growth in the entire area. He was happy to support it.

Service said the master plan's designation of this area as industrial was in part because we have been told for years that there was a need for more industrial land with highway access and free of environmental problems. Her position is not anti-growth, but simply that one type of development is preferable to another type. She thought it was only fair to consider the economic downside of yet another area to shop, bringing competition to other businesses, if we are always supposed to consider the economic benefits of a particular development we need to remember that there is an economic gain as well as a loss and even if people want this type of development we are losing the economic benefits of really good paying industrial jobs.

Swain thought this was the kind of growth people want and he would support it. He asked that the second Kerasotes letter be made part of the record of this

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discussion as he tried to explain his company's position after an earlier letter sent to councilmembers.

Cole said people want more shopping on the west side and she said she was happy to support it.

White said this promotes the right kind of development on the west side of town. While these are not the high paying industrial type jobs, they do provide employment opportunity. This project really mitigates traffic because the infrastructure is already in place. The petitioner, the city and the community have worked together to make this project a reality in the good spirit of compromise

Kiesling thanked everyone for making this all happen.

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

It was moved, seconded and approved that the council would not meet next week.

There was no legislation for First Reading.

Jim Tolen criticize Service for her comments about CFC and a tree that was removed on the 7th/Lincoln St project at an earlier meeting. Service said that the discussion regarding the tree was a valid one. The point she was trying to make is when people promise something in this chamber and say they will do something and everyone votes according to what they say, and then when they do not do that and they are not held accountable, that is a problem if we want to have a believable city government that people can rely on.

PUBLIC INPUT

The meeting was adjourned at 10:55 P.M.

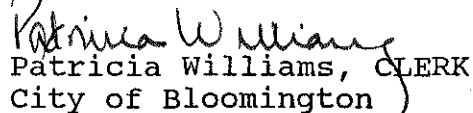
ADJOURNMENT

APPROVE;



Iris Kiesling, President  
Bloomington Common Council

ATTEST;



Patricia Williams, CLERK  
City of Bloomington