

In the Council Chambers of the Municipal Building held on Wednesday, July 21, 1993 with Council President Hopkins presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
JULY 21, 1993

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

ROLL CALL

Hopkins gave the Agenda Summation

AGENDA SUMMATION

The minutes of July 7, 1993 were not approved at this time. Hopkins asked that several of the names of speakers that evening be checked for correct spelling.

APPROVAL OF MINUTES

Service thanked the Clerk for providing minutes of a 7 1/2 hour meeting despite the phonetic spelling of names, welcomed White back and reminded people of the twice monthly recycling program starting in August. She then addressed the issue of referendums and representative government and how representatives do indeed differ on certain issues. There is no way that a representative can speak for all of their constituents all the time so you have to depend on the judgement of your elected officials. She quoted Edmund Burke, a member of Parliament in 1774 on the question of judgement. She went on to say, if you don't agree with us that's fine, don't re-elect us, but don't say we are not doing our job as representatives.

MESSAGES FROM  
COUNCILMEMBERS

White said he was glad to be back from National Guard duty.

Kiesling said that she had been following the Mississippi/St. Louis flooding situation and said that the Red Cross and Salvation Army are authorized to distribute monies and emergency items to that area.

Hopkins recognized the BCAT television crew and thanked them all for their wonderful coverage and endurance of the long council meetings. He introduced Kenley Burke, Kathleen Gregg, Shawn Covely, John Ward, Wes Lasher, Craig Large and asked them to focus the cameras on themselves for a change.

Service read an encomium for Cori Vannatta, Research Assistant for the Environmental Commission, thanking her for all her hard work.

Mayor Allison introduced Cathy Rogers, VITAL Coordinator and newly appointed Regional Coordinator of the READ Program and read a proclamation from Governor Bayh. Rogers said this is the first time there has been a cohesive program to look at all people who need some type of assistance in reading education. Volunteers are needed for the program.

MESSAGE FROM THE  
MAYOR

The Mayor introduced Captain Hanson and Cadet Tooley from the Salvation Army and read a proclamation regarding Bloomington, Indiana adopting Burlington, Iowa for flood relief assistance. Local businesses participating are JC Penneys, Westside Shell, Highland Village IGA, Krogers, Marshes, Ellettsville IGA, Banc One and Rose & Walker. Contributions can be sent to P.O. Box 1412 (02).

Deb Bowman of the Regional Coordination Office for the Governor's Commission for a Drug Free Indiana presented Mayor Allison with a letter of commendation from the Governor, as well as a plaque for the Controller's Office and Sue Wheeler and the Human Resources Department for all their assistance and support for their office.

Dan Combs talked about the hazards of open quarries in our community and how, following a tragic accident last winter that resulted in a death, the open quarries, especially near roadways have been filled or barricaded. He urged the city to do something about the Lake Lemon's 18' wide causeway with no shoulder and riprap sides that drop right off into the water. Every year they

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haul cars out of there. Recently other topics have been debated and the point has been made that no matter what it costs, if it saves just one life, it is worth it. It will cost half a million to fix this, and in the interest of being consistent in our personal lives and our governmental lives, it will be worth it.

It was moved and seconded that Resolution 93-21 be introduced and read by title. Clerk Williams read the resolution by title only.

It was moved and seconded that Resolution 93-21 be adopted. The synopsis and committee recommendation of 6-0 was given.

LEGISLATION FOR  
SECOND READING  
VOTE  
RESOLUTION 93-21

Jim Lang, Shelter Director was available for questions.

White said this is a good example of cooperation between city and county government.

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

It was moved and seconded that Resolution 93-25 be introduced and read by title only. Clerk Williams read the resolution by title only.

It was moved and seconded that Resolution 93-25 be adopted. The synopsis and committee recommendation of 6-0 was given.

RESOLUTION 93-25

Nancy Brinegar outlined the provisions for the loan to Great West Casualty Company for their corporation headquarters to be located here in Bloomington.

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

\* Resolution 93-25

Chris Spiek said this is a 5 year loan for \$100,000 for 3.25% interest rate to the Great Western Casualty Insurance Company. They have begun construction on a building at Park 37 after establishing a partnership with Winger Stolberg who is constructing the building for them. The loan is from the Industrial Incentive Fund and will be used to reduce the lease payments on the structure they will occupy. There will be 50 employees with about 27 coming from the home office in Nebraska with a payroll of up to 2 million dollars per year. Eric Stolberg and Jerry Conway from Great Western were available for questions. Stolberg said the rippling effect is already occurring as people have come here and are in the process of buying homes. Conway thanked everyone for the effort they have made on their behalf and are happy to be in Bloomington.

It was moved and seconded that Resolution 93-23 be introduced and read by title only. Clerk Williams read the resolution by title only.

It was moved and seconded that Resolution 93-23 be adopted. The synopsis and committee recommendation of 7-0 was given.

RESOLUTION 93-23

Nancy Brinegar again outlines the provisions for the tax abatement request for the old Johnson Creamery company.

Cole asked about the tower and a fountain. Brinegar asked Mr. Harrell, who was present, to address that question. He said there were plans for a fountain and it was planned for the base of the smoke stack.

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

\* Resolution 93-23

Chris Spiek described the site and said it is intended for offices and special

retail. The exterior will be restored and National Historic Designation will be sought by Mr. Harrell. The abatement is for 10 years and it has been approved unanimously by the Redevelopment Commission because the historic designation takes so long.

Joe Harrell pointed out other community projects he has done, intends to use all local contractors, George Olive is interested in 45% of the space as well as a law firm and other businesses that will assure full occupancy. The smoke stack will stay.

Service asked why not the local historic designation and Harrell said it was recommended by Dee McEntire (Redevelopment Dept), there will be some demolition involved (Historic designation pertains to the exterior parts of the structure only).

Kiesling expressed some reservations about the shortage of parking and Harrell said that ratio is 2.4 spaces/1000 sqft. and with the addition of parking on 7th St. it will get it back up to acceptable numbers of spaces.

Kiesling asked that the minutes reflect the committee discussion from the meeting of July 14, 1993. Those notations are indicated by an asterisk following each of the agenda items.

It was moved and seconded that Resolution 93-26 be introduced and read by title only. Clerk Williams read the resolution by title only.

RESOLUTION 93-26

It was moved and seconded that Resolution 93-26 be adopted. The synopsis and committee recommendation of 6-0-1 was given.

Nancy Brinegar gave a brief overview of the abatement request as well as the federal HOME fund loan. A 10 year abatement is requested to be built with HOME funds, providing affordable rents for ten years beyond the tax abatement period for a total of 20 years. The homes will have to remain affordable for a 20 year period.

Kiesling asked why a 10 year abatement instead of 3 or 5 years. Brinegar said it was because of the need for long term affordability and to know that the rents will not raise above the fair market rates that it was given for 10 years. Cole asked if Section 8 would apply. Brinegar said it could be used for Section 8 but it does not have to be. The rent must be kept at the fair market rate and there must be income verifications by the owners. Cole said she was troubled by this request and concerned about the way the neighborhood is being looked at and being developed. It is a neighborhood that is in the balance, and things that go in there need to be carefully thought out. She wondered why we were subsidizing landlords with tax abatement.

Manufactured homes can be nice but placement on the lot must be critical.

Brinegar said that one reason for tax abatement for affordable housing is because there is not much available out there.

Cole said these will then be 2 lots that will not have an owner building a nice home on them.

Swain said that this lot has been underdeveloped for at least 15 years, maybe longer. Being realistic, we are not going to get a single family owner occupant for the type of money Gene Moncel is proposing. This is not a bad tradeoff and will not detract from the neighborhood.

Kiesling asked about change of ownership, the abatement and HOME loan.

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Brinegar said the deed restrictions to maintain affordability would continue even with a change of ownership.

Roy Campbell agreed with Brinegar, saying the deed restrictions would continue with a change of ownership.

Kiesling asked much HOME money is going into this project. Brinegar said \$15,000 per house. This is what has been requested but it is not finalized at this time.

Hopkins noted that the current taxes for the property are \$171.28/yr. By the third year of the abatement the owners will be paying more than the existing taxes are now.

The resolution received a roll call vote of Ayes:7, Nays:1 (Cole)

It was moved and seconded that Ordinance 93-26 be introduced and read by title only. Clerk Williams read the ordinance by title only.

ORDINANCE 93-26

It was moved and seconded that Ordinance 93-26 be adopted. The synopsis and committee recommendation with several amendments of 5-0-2 was given.

Service, co-sponsor of the ordinance, said that it had been argued that we don't have statistics to support this legislation and that is not true. There are stats dealing with blood alcohol levels, impaired driving ability and judgement. Common sense has to kick in at some point when we know that any consumption of alcohol impairs a persons ability to drive effectively and if people have open containers of alcohol accessible to a driver there is a common sense connection of increasing the likelihood of the driver consuming the alcohol while in the car. She pointed out that the police department is in favor of this ordinance. She also read a letter from the Monroe County Commissioners supporting this legislation and indicating that the county will be considering a similar ordinance.

George Malacinski told of his bicycle accident on Fairfax road, caused by a drunk driver, the long process of recovery and his hope that if we make this small step now, it may take a generation or two to uncouple the drinking and driving combination.

Leesa Farkas, representing MADD, urged the council to pass the ordinance. She discussed the problem of impaired driving as well as drunk driving. She provided accident statistics, number of fatalities and the high medical and property costs as well. We need to change the behavior patterns of people who drink and drive. We are all potential victims of this problem.

Wanda Riesz spoke on behalf of Rep. Mark Kruzan and as a mother of a child who was killed by a drunk driver. She discussed the states that already have open container legislation and the accident statistics before and after passage of such legislation.

Chief Sharp said we have a policy of zero tolerance toward alcohol and driving. He cited various statistics, most notably, about 1000 arrests county-wide for alcohol related incidents and that prosecution in our county is among the highest in the state as well as convictions for drunk driving.

White asked about IU street enforcement and Sharp said we have joint jurisdiction, as with the county; IU stadium parking lots? Sharp said he supposed we could enforce, that would have to be checked into; would IU police officers enforce? Sharp said they do not enforce city ordinances.

Dan Sherman said the city would have to give them the authority to do so and it is not being done at this time.

White asked about signage and enforcement and it was determined that enforcement would not go into effect until signage was in place and the ordinance had been published according to law.

Cole asked about the procedures after a person is stopped by the police and Sharp explained each step after a driver is stopped and also stated that not everyone who is stopped is actually arrested. The average blood level is .17 and .18 of persons arrested in Bloomington.

Kiesling said it is evident that there already is consumption of alcohol on our streets at the present time and that does need to be addressed and enforced.

Hopkins asked how the police would handle the RV problem on a football weekend when hundreds of vehicles are leaving the stadium. Sharp said the same way as regular vehicles. Sharp said it will be a concern and the only way will be by identifying the vehicles' activity and then the officers will react.

Hopkins asked about road blocks as a means of enforcement. Sharp said they are very manpower intensive. The officers that are out there are trying to respond to the needs of the community and this is just one aspect of what they are dealing with. Everyone (other agencies) tries to pool their resources and that is how roadblocks are actually done.

Swain asked what the policies will be regarding leaving the football stadium. Sharp said there is a lot of discretion out there and again, the activity of the vehicles is what draws "the stop". Swain also asked about the decrease of alcohol related arrests in 1991-2 and wondered why. Sharp said it was not specific, less money for overtime to put officers out on the street perhaps. 1991 was the peak and then it dropped off in 1992.

Jim Tolen, a concerned citizen, thanked the sponsors of the ordinance and said this ordinance just as an ordinance a few weeks ago, pertaining to human rights was important to many people in this community, this too is important. This ordinance is not about drunk driving, it is about drinking and driving. He chastised the Herald Times for their weak and waffling position on this issue.

Jill Stroble, from the Governor's Office for a Drug Free Indiana discussed the various bill that were introduced in the recent general assembly. She thanked the Bloomington council for their efforts on this local legislation.

Frank Villardo, Director of the Transportation Research Center at IU, said that it is difficult to scientifically evaluate such ordinances because on a local level alcohol related fatalities are relatively infrequent events and it is difficult to show the impact with perhaps 6-9 incidents a year. A lack of research in this area should not be interpreted as a lack of interest in this issue. This ordinance does give the police another tool in the effort to stop drunk drivers. The 1963 Borkenstein Study is still the most definitive study linking the cause of a motor vehicle crash and the consumption of alcohol. He also discussed the Grand Rapids study findings as it relates to the levels of alcohol consumption, frequent drinkers, heavy drinkers, social drinkers and the different effects of alcohol impacts related to driving. Also the younger one is the greater the effects of alcohol.

Dan Combs asked that certain statistics such as the age of the driver cited, the year and make of vehicle and any other alcohol related citations given at that time. This would determine who is getting ticketed and if it is doing any

good. We pass laws and we never look back to see if they are doing any good. We need to be able to look back and see if this works in a year or two and we will have some data to evaluate this.

Larry Haywood spoke in support of the ordinance. His daughter and grandson were killed by a person who had been drinking just a little bit all day, the day the accident and deaths occurred.

Mary Ellen Dickoff, Deputy Prosecutor, regarding tailgaters on IU stadium parking lots; this ordinance would not apply in the IU parking lot, because the ordinance only applies to public highways.

Kent Moore opposed the ordinance.

It was moved and seconded that Amendment A be introduced, suggesting the removal of recreation vehicles from the allowed exemptions in the ordinance in Section I.

Amendment A received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment B be introduced, suggesting that Section I would delete the fines being dedicated to police training funds.

White asked how the \$50 fine was established. Dan Sherman said it was the maximum fine that could be levied without the matter going to court, in other words, handled administratively. White said the initial intent was good and there could be concerns that the enforcement might be used as a tool and enforced in an over aggressively manner in future administrations. He agreed with the amendment, regretting that it had to be done this way. He hoped, that say 20% of the revenue from fines, might be requested by the police department to be returned to their budget next year.

Pizzo said if the Police Department needs funds, then let's give them the funds they need, but dedicated funds are against the public good, in general, because they are then lost to the future.

White said let the record reflect that training funding is important to the police department and additional training money is needed and perhaps in the 1995 budget we might look favorably toward taking a portion of these monies from the fund for a police training program. Hopkins agreed as did Kiesling.

Amendment B received a roll call vote of Ayes:8, Nays:0.

It was moved and seconded that Amendment C be introduced, with Councilmember Swain addressing the need for a record keeping section to the ordinance that will provide statistics that would be important as we evaluate this ordinance. Chief Sharp said this is not unduly burdensome and can be facilitated. Kiesling suggested that this is one way of gathering statistics.

Amendment C received a roll call vote of Ayes: 7,Nays:0, Abstain:1 (Pizzo). Pizzo did not believe that year old figures would be particularly helpful.

Swain said with the amendments the ordinance is much improved. He still was concerned with some language dealing with "may help deter", the basic infringement upon people's civil liberties with the most well meaning of intentions and the knee-jerk reactions of people to fix things by legislation rather than by education. He felt we were rushing to judgement much too soon and this will be an ordinance that will be on the books for a long time. He hoped for people who have suffered a loss that this will do some good. If we continue to pass laws with an emotion-laden basis based upon what they

might do, then we will find ourselves under a morass of laws and find ourselves in trouble.

Pizzo said as County Coroner, he did a 10 year study; there were 176 fatalities and 48% were alcohol related. Many studies have indicated impairment in reaction times, tunnel vision, night vision. Most european countries have a legal limit of .05. We still can drive, in Indiana if it is under .10, as if we were sober. This is ridiculous and .10 is not valid medically and physiologically. If we make mandatory sentences and loss of driver's licenses based on blood level then we really bite the bullet and we'll see a real reduction of alcohol related crimes.

Service said almost everything has been said, she had no problem with the emotional component playing a part in a reasonable decision making process, and she hoped the day would come when this legislation would be in place state and nation wide.

Cole said it seems like we have been on a charging horse and wondered why we are doing this right now. But after watching the tape of last week's meeting and hearing the argument about young people and separating alcohol from vehicles there is the need to change a culture, in a way. This does more than just send a message, but takes big steps in how we think about alcohol and driving.

Kiesling said this is a county-wide issue, not just a city issue and her goal was to have this accomplished as quickly as possible. She urged a good education program, perhaps through the BMV, as a way to get the message out.

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

It was moved and seconded to suspend the rules to allow Resolution 93-29 to be introduced. RESOLUTION 93-29

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

It was moved and seconded that Resolution 93-29 be introduced and read by title only. Clerk Williams read the resolution by title only.

It was moved and seconded that Resolution 93-29 be adopted. Swain said the purpose of this resolution is to send a message to our legislators to enact a state wide referendum for a state-wide anti-container and anti-consumption law. This would answer the problem of uniformity with open container laws in Indiana.

Service said, as a former Californian, she did not believe that referendums are the way to govern, despite the probable support here in Indiana for this point. Kiesling added a friendly amendment after the last line, on public highways. She agreed with Service and thought we should encourage the general assembly to act on this.

Pizzo thought this was all a moot point. The open container law has been introduced in two general assemblies and they are sure to do it again. The average number of introductions of a point before passage in the general assembly is about 7-8 times. Referendums are not the right way to do this.

Leesa Farkas said official are elected to listen to us and to enact legislation. There is already enough lobbyist influence, never mind a referendum. If legislators listened to their constituents they would support the legislation.

Service said that elected officials are supposed to keep in mind the general common good. When people vote in referendums they vote for what they personally want rather than the general public good and that is why they run into problems with the referendum style of government. Hopkins agreed.

Swain said that if there are not referendums from time to time on a well chosen issue, then legislators can stymie or deadlock an issue (like gambling, for example) and referendums can unlog-jam those issues sometimes.

The resolution received a roll call vote of Ayes: 3 (Swain, Miller, White), Nays:5. The resolution was defeated.

It was moved and seconded that the following legislation be introduced and read by title only, by the Clerk for first reading before the Common Council. Clerk Williams read the legislation by title only.

LEGISLATION FOR  
FIRST READING

1. Ordinance 93-38 To Reauthorize the Cumulative Capital Development Fund.
2. Ordinance 93-40 To Amend Title 9 of the BMC Entitled "Water" (Rate Adjustments)
3. Ordinance 93-41 To Amend Title 15 Entitled "Vehicles and Traffic", Title 16 Entitled "Housing Inspections", and Title 17 Entitled "Construction Regulations" of the BMC (Adjustments in Fees and Fines).
4. Appropriation Ordinance 93-5 An Ordinance for Appropriations and Tax Rates for the Civil City Budget for Bloomington for 1994.
5. Appropriation Ordinance 93-6 An Ordinance Adopting a Budget for the Operation, Maintenance, Debt Service and Capital Improvements for the Water and Wastewater Utility Departments of the City of Bloomington, Indiana for 1994.
6. Ordinance 93-33 To Fix the Salaries for all Elected Officials for the City of Bloomington, Monroe County, Indiana for 1994.
7. Ordinance 93-34 Salary Ordinance for Appointed Officers and Employees.
8. Ordinance 93-35 Salary Ordinance for Police and Fire Officers.
9. Ordinance 93-36 Salary Ordinance for Appointed Utilities Officers and Employees.
10. Ordinance 93-37 An Ordinance Reviewing and Modifying the Budget of the Bloomington Public Transit Corporation.

There was no public comment.

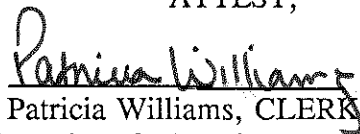
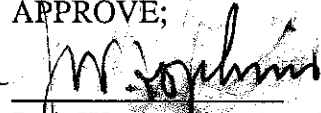
PUBLIC COMMENT

The meeting was adjourned at 11:20 P.M.

ADJOURNMENT

APPROVE;

ATTEST;



Jack W. Hopkins, President  
Bloomington Common Council

Patricia Williams, CLERK  
City of Bloomington