

In the Council Chambers of the Municipal Building held on Wednesday, February 20, 1991, at 7:30 P.M. with Council President Fernandez presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
FEB 20, 1991

Roll Call: House, Foley, Kiesling, Olcott, Fernandez, Register, White, Service, Hogan.

ROLL CALL

Fernandez gave the Agenda Summation.

AGENDA SUMMATION

The minutes of February 6, 1991 were approved with a correction by Kiesling.

APPROVAL OF
MINUTES

Foley thanked the Mayor and City Engineer Bill Riggert for their assistance on the "Bermuda Triangle" traffic problem as well as Eric Stolberg and Tim Winger. He also thanked Bean, Longness and Neff for their presentation at the American Legion regarding that intersection for the general public. He asked for a report from the consultants and engineers regarding the site.

MESSAGES FROM
COUNCILMEMBERS

Kiesling thanked Thomson Consumer Electronic for donating a bailer to the Monroe County Solid Waste Management District.

Olcott said that two American flag billboards were damaged by paint this week. He noted that the taxpayers will pay over \$2100 to have stop signs replaced because of "stop war" slogans painted over them. He expressed the willingness to listen to different points of view when expressed; but thought it was unfair to use tax monies to clean up protest slogans.

Register submitted a Conflict of Interest disclosure statement regarding Ordinance 91-10.

Said statement was approved by a voice vote.

White discussed an amendment in the state legislature regarding relief for National Guard/Reserves who are called to active duty. If they are governmental employees, then they should be paid the salary difference between military and civilian salary. Service thanked the commercial radio/tv stations for their coverage of the war and the public spirit in which they have done so.

Fernandez gave the Master Plan hearing schedule: March 1, 18, 21, 25, 28, a joint meeting of the Plan Commission and Council for April 8 and approval on April 15. He also reported on an afternoon meeting with Governor Bayh. Mayor Allison led a delegation to discuss the PCB issue with Department of Environmental Management personnel and the governor to stress our concerns, particularly about our belief that the O'Connor incinerator is not the best technology for the clean-up and that we need a united effort to lobby the EPA and move the process forward and to consider alternative technologies to destroy PCBs.

We asked that IDEM in cooperation with EPA to undertake a comprehensive study of alternative technologies that may be suitable in the clean-up and to encourage IDEM and EPA to perform a formal risk assessment comparing the risk of going forward with the cleanup by Westinghouse and the risk of using alternative technologies. Thirdly we suggested that IDEM oppose the use of the O'Connor incinerator and that Westinghouse be encouraged to consider alternatives. The governor was receptive to our concerns and he encouraged us to lobby our congressional delegation and the technical staff of IDEM.

Mike Davis said that Personnel is already working on an adjusted policy for our city personnel who are also serving in the reserves/guard. We are now flying a POW/MIA flag on the municipal flag pole. We have put

forth an application for All American City designation using the following criteria/programs: The downtown revitalization program, the Master Plan process and the COMPASS needs assessment.

Mayor Allison introduced the Academic Decathlon teams from Bloomington High School North (5th Place) and Bloomington High School South (1st Place). Bloomington was the only district to have two schools in the finals.

MESSAGE FROM THE MAYOR

She then read an encomium for the BHS South decathlon members wishing them success in the national competition in Los Angeles in April as they represent the state of Indiana.

Allison also said that the Governor reminded us that the EPA is in the drivers' seat regarding our PCB problem, and she responded that we intend to use the consent decree to get the very best leverage we can get.

It was moved, seconded and approved by voice votes that the following persons be reappointed to the specified board or commission:

APPOINTMENTS TO BOARDS AND COMMISSIONS

Traffic Commission	Doug Porter	2yr
	Anne Palmer	2yr
Human Rights Commission	Robert J. Dunn	2yr
Historic Study Commission	Dee McIntire	2yr
	Cheryl Underwood	2yr
Animal Control	Cynthia Neidhart	2yr
HQAB	James Coveney	2yr
Human Resources	Carole Blemker	2yr
Environmental	John Foster	2yr

Arts Commission	Lydia B.Finkelstein	2yr
Womens Commission (new)	Lorelei Meeker	2yr
Redevelopment	David Walter	1yr
	Patricia Gross	1yr.

It was moved and seconded that Resolution 91-8 be introduced and read by title only by the clerk. Clerk Williams read the resolution.

LEGISLATION FOR SECOND READING/VOTE
RES. 91-8

It was moved and seconded that Resolution 91-8 be adopted. The synopsis and committee recommendation of 8-0 was given

Mayor Allison said that at a morning EDC meeting it was determined that we should give more public information about the importance of our existing industry and RCA Thompson has been one of our earliest industries. Modern machinery is necessary to be competitive in the market place.

Glenda Morrison said the abatement is for 10 years for the new building (\$13.1 million) and 5 year abatement for new equipment (\$3.2 million) for new warehouse equipment and \$1.8 million is manufacturing equipment for the current plant. The tax abatement over the ten years would amount to \$1.5 million dollars and over the five years would be about half a million dollars. Representatives of the company were available for questions.

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

It was moved and seconded that Resolution 91-7 be introduced and read by title only. Clerk Williams read the resolution.

RES. 91-7

It was moved and seconded that Resolution 91-7 be adopted. The synopsis and committee recommendation of 8-0 was given.

Glenda Morrison said that this resolution is for the advancement of funds so that an engineering firm could begin the design work on the convention center parking lot as well as buying options on two pieces of property not under the control of CFC.

Olcott said that at this time we have no hotel to go with the convention center and it would be foolish for us to tie up a million or so dollars in a parking lot when we don't know when or if a hotel will ever come. The city has other needs and that the people who are building the convention center should put in the parking lot and they can, in turn, sell it to the hotel.

The resolution received a roll call vote of Ayes:7, Nays:2 (Olcott, Foley). Foley said he agreed with Olcott and was changing his vote from last week.

It was moved and seconded that Ordinance 91-8 be introduced and read by title only. Clerk Williams read the ordinance.

ORD. 91-8

It was moved and seconded that Ordinance 91-8 be adopted. The synopsis and committee report of 9-0 was given.

Mayor Allison reviewed several important aspects of this request: namely high tech jobs with well trained workers that benefit our community, the universities long term interest in the research park complex concept, federal, state and local governmental units of government, and proximity to county government. This is also a historic building and important to the history of Bloomington. The area is open to development, under-used and with some buildings standing empty. Rehabbing this site will upgrade the entire area.

Chuck Ruckman stated that a recent projects committee meeting suggested that our financing plan be reviewed and John Mikesell from SPEA did so. Mikesell's report said that our projections were conservative and reasonable under the circumstances. This is a COIT pledge with no property tax involved.

Bob Barker thanked everyone for their support and Kiesling thanked him for all his efforts. Fernandez voiced support for the project and was pleased that at last week's meeting we had a 9-0 committee approval. White also expressed pleasure with the fact that this is finally happening. We have looked at so many options at so many meetings that passage this evening seems almost simple. Foley said we are making an investment in Bloomington and I.U. is a good partner in this venture and the benefits to the west side will be tremendous. House thanked Barker for his role. No one could do the project alone, but by bringing everyone together it will get done.

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

It was moved and seconded that Ordinance 91-9 be introduced and read by title only. Clerk Williams read the ordinance by title only.

ORD. 91-9

It was moved and seconded that Ordinance 91-9 be adopted. The synopsis and committee report of 8-0-1 was given.

Ted Rhinehart said that the purpose of the ordinance is to bring our engineering fees up to date and to maintain a cost recovery level at about 60% and to provide an inflater over the next two years, so that

fees automatically increase.

Our fees compared to other cities are right in the middle of the fee range.

David Schleibaum thanked Riggert for his time and effort in explaining the increase and for working with the homebuilding association here in Monroe County.

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

It was moved and seconded that Ordinance 91-11 be introduced and read by title only. Clerk Williams read the ordinance by title.

ORD. 91-11

It was moved and seconded that Ordinance 91-11 be adopted. The synopsis and committee report of 8-0 was given.

Tim Mueller described the tract to be vacated and the planning department has approved the request. The petitioner intends to build two houses on the four platted lots. One neighbor expressed concern about how property is distributed when the city vacates a right of way (we are retaining a 10 ft. right of way along the R.R. tracks). We do not give the land to anyone, we simply vacate it and then the law, in the private sector decides who gets it. The process does not afford us the opportunity for us to assign the vacated right of way to anyone in particular. Normally the right of way splits down the center and accrues to the property owners on either side.

Tim Henke initially hoped to build low income housing, but this is a better use of the land, making two larger lots that can easily be built upon. We as a community have not addressed the need for affordable housing for our citizens.

Bill Baus said the original proposal called for duplexes and the neighborhood opposed that plan and Henke agreed to provide the association with the plan for his intended development. He did not think that he had sufficient notice of this vacation request, as he had only received his notice on Friday, February 15. He asked that this request be deferred or denied until Mr. Henke can demonstrate his use of land is in the best interest in the development of the area.

Dawn Hewitt, representing the near-west side neighborhood urged the council to delay voting on this request. She said that this is their green space, not just brush and shrubs.

Mr. Bridgewaters also spoke about the vacation, urging the council to consider that Mr. Henke can still build on the lots without the vacation.

Tim Mueller reviewed the "review" process as it is now and how it used to be. There is a criteria and recommendation process completed by the Planning Department. He said that the concept of open space was not considered in the criteria, but this will be addressed in the Master Plan as core neighborhoods are discussed and the preservation of single family neighborhoods and the denial of variances for duplexes and multifamily housing.

Tim Henke, the petitioner, said that the original petition was for low income housing. This is not low income, but affordable housing and a lot of the concerns expressed are because of the original plan. He said that he intended to build on Lots 68 and 70 one single family home and it is questionable if a house could be built on those lots without the vacation, because two homes would split the cost of sewer lines as well as the cost of a shared driveway between the

two houses.

White asked Muller that if we did nothing regarding this vacation, could someone buy those four lots and build four separate units. Mueller said not exactly, they are entitled to a house but there are setback requirements and numerous variances would be necessary.

Service asked about the time line notification procedure. Williams said that Indiana Code requires a 10 day legal notice in the newspaper concerning the vacation request and that adjacent property owners be notified by registered, certified mail. This was done according to code.

Mr. Baus said that he could develop the entire area with building only one house and that it would be economically viable and he was willing to put that in writing. Mr. Henke does not need this vacation to recoup his investment. He paid \$2500 for these lots (parts of 4 lots). So that Mr. Henke did not experience hardship because of the price paid for the lot and the loss he might incur, Mr. Baus offered to buy the lots from him for twice what he paid for the land. He also said that neighbors were willing to purchase the lots piecemeal from the R.R.

Foley said the neighbors have some valid concerns, and yet Mr. Henke should not be penalized for his ability to purchase real estate for a good price. He supported Henke's philosophy of affordable housing.

Foley moved that we defer action on this ordinance until March 6 and until the residents of the area, Mr. Henke and himself can get together and discuss this.

The motion to table until March 6, 1991 received a roll call vote of Ayes:9, nays:0.

It was moved and seconded that Ordinance 91-10 be introduced and read by title only. Clerk Williams read the ordinance.

ORD. 91-10

It was moved and seconded that Ordinance 91-10 be adopted. The synopsis and committee report of 2-1-5 was given.

Tim Mueller described the 18 ac. tract currently zoned RE. (Hyde Park is RS with a PUD overlay with 6 units per acre approved originally). SF was the most successful part of the development process and another request was made to amend the original request. He also described the lots to the east of the Blackwell tract. The Master Plan will address the RE zone and change the general concept of that zone as being something of a holding zone for future development. This tract in the Master Plan is sited as higher density, that is 6 units per acre. This is not all high density, but a mix of uses, similar to other approved recent developments. The first plan was a 52 unit condo plan with a 2.9 units/acre; the revised plan was 2 lots per acre (36 units on 18 acres). Then there was a long discussion about whether Winston Street should be extended to Smith Road. Several plan commission members thought the density should be increased and provide more economic feasibility to the extension of that road and therefore there were three plan commission meetings just to deal with the various proposals that were considered.

Another point that had to be considered was our thoroughfare plan and this development had to relate to our city-wide plan and proposed road linkages. The

Planning Department reviewed this aspect of the proposal carefully (whether Winston should cut through to Smith Road and after careful study it was determined that Winston should not cut through and this segment of road should not be extracted from the developer. The petitioner was asked if he wished to consider a higher density and he said no, his proposal would be for the large high-end SF lots; therefore the street extraction was not appropriate. The cost was estimated from \$70-100,000, for 660 ft of off site road and the removal of a hump in Smith Road. The Plan Commission recommended approval and it did not include a stub to the east and would like to keep the options open regarding a stub to the south. Regarding the trees, it is a heavily wooded tract and the Plan Commission intends to carefully deal with this issue at the Master Plan stage. In this case, this is a parcel of record, not just a part of another tract and so how to deal with the trees is an important factor and development plans will be carefully detailed regarding trees.

Ted Najam, representing the petitioner, said that Planning staff determined that the Winston St extension was not appropriate to require of the developer, because it placed a disproportionate burden on this small parcel of development. From an engineering point, this is a very bad proposal for an entrance and in order to meet sight distance, 360 ft along Smith Rd would be excavated as well as property north and south that the developer does not control. He said the Plan Commission has reserved the right to require a stub and the appropriate place to be determined (he pointed to the south). Regarding the trees, they enhance the property and as many as possible will be protected and preserved. The PUD controls this development and stated that if the petitioner was Hyde Park Development there would be no controversy about this petition in its present form. Regarding the neighborhood petitions that were presented: Last week we were told that 121 people signed the petition and noted that there were 10 duplicates, 31 petitions were signed by condo residents and Sare Rd residents and people who do not own SF lots in Hyde Park but are residents of the Hyde Park Condominium tenants.

Don Francis discussed the various trees on the tract. (Mr. Najam noted that the siting of the road would be better placed to enhance tree preservation along the eastern side, rather than the western edge.). He said that this is not a mature forest, it used to be a pasture that was abandoned and it was allowed to grow over. He talked at length about insects, disease and pestilence.

Ira Zinman, representing the Hyde Park area residents gave the Clerk a new set of petitions noting that everyone should have the right to comment on this project. He said that the earlier reference to "if Hyde Park Development were doing this, etc", if Kensington Development did not look the way it does with the erosion and the mud on the streets, people who live in Hyde Park do not want to live in that kind of area. Mr. Zinman discussed the various densities of different subdivisions. Letters from the Sassafras Audubon Society and Don Whitehead were presented to the Council, regarding neo-tropical birds and their presence in our woodlands. Dr. Dan Willard will tell us that this area is on the National Wetland inventory and it may not be developed without following certain procedures as defined by the Army Corp of Engineers and he wondered how this fact has not been discussed in all the hearings about this area that have taken place. He

asked that this matter be tabled until the Master Plan has the opportunity to address such sensitive environmental areas. Using overlays, he pointed out that the plan, as presented, would remove almost 12.3 acres worth of trees to accommodate home sites, rather than 6.7 acres removed if developed as currently zoned. Hyde Park residents are concerned about diminished home values, mud for several years and the woodland that deserves to be protected. Mr. Blackwell has an option to buy the 18 acres from GLS Corp (heirs of the South family) and the value of the land is based on the rezone and if it is not rezoned, the owner would be in a position to still sell the tract, but at a lower cost per acre and there would be time to consider the Master Plan proposals for areas such as this.

Professor Dan Willard, SPEA and Biology Professor and wetlands expert, said the wetland inventory shows a wetland forest as well as a wetland dam and lake in this area and a 404 Permit is necessary before one can build in the area. The woods are a "young woods" and the area, if left alone will mature into a fine forest. Whatever will do the least damage to the area is clearly the better plan and if we had a conservation category, this would fit into that category.

Fernandez asked if this site was actually on a wetlands register and Willard said there is no such thing as a wetlands register, there is a mapping program for the entire county done with aerial photography identifying the area as wet and then an expert goes to the site and makes a more careful inventory of the area.

Norman Phillips and his wife Lynn, Hyde Park residents, informed the council that a cut off Winston St. has already been made by the developer. He thought this would be a wonderful park.

Frank Prewitt, also a Hyde Park resident objected to the development but he thought the council should get on with the process and not be indecisive.

Charlie Kellar said that Hyde Park was once farms and it was beautiful, there are nice homes there now and it is still beautiful. There are all kinds of parks for these people on the east side of town and this is a class type of development that Blackwell wants to build.

Tim Mueller said that Zinman's comments are not quite accurate regarding the amount of tree removals necessary to develop the site, the acreage that he suggested would have be removed is exaggerated.

Ted Najam presented a letter from Chet Jastremski in support of the project. He talked to the council about the need to balance each proposal as it comes before them and make the best decision.

Ira Zinman said that Smith Quillman is the engineering firm that created the plan and the related end result of 12.3 acres devoted to infrastructure is their determination.

Charlie Sinn, a Smith Rd. resident, said the easement on Smith Rd. was the "ace in the hole" for the South family in order to develop their 18 ac tract. The area to the south will never take a road because of the wetlands and the DNR will never allow it; even the Grossman's horses do not pasture there because they could "sink a foot", it is so wet. He said the Texas Gas Co. laid a pipe years ago for his grandfather and he allowed them

to do so if they would build a pond with the dam. Most of the time you cannot even drive a tractor between the pond and creek, it is so wet.

Hogan also asked how a road could ever be built to the south and thought it was pie in the sky to even consider it. Access to Smith Rd is his concern and there are just too many dead end roads in our subdivision. It's an opportunity to get the access to Smith Rd.

Mueller said a road would encroach into the flood plan and DNR has approved them in the past with a system of cut and fill.

Service said there is no way we can guarantee that this will remain a wilderness. As much as the city would like to have as many parks as possible we cannot buy every tract of land that people seem to regard as "their greenspace". It isn't their greenspace. The property belongs to someone else, not them. She thought that if Blackwell's development does not come about, Mr. Young may well show up, buy the property and yes, he could donate it to the city, but that is not generally how things happen. The question is how will this be developed. We could wait until the master plan, table this until after the plan's passage, but there are other elements to consider and one is the compact urban form that is talked about and this tract could certainly have up to 6 units/acre.

The alternative could be greater density. Kiesling asked if the Environmental Commission has looked at this. Mueller said the Planning Dept. does not go to the commission unless there is a specific problem. Service said that the Environmental Commission is seldom consulted in any concern or consideration.

White addressed the neighbors concern about the integrity of the development and if the developer will make any agreements or restrictive covenants that will maintain the integrity of the adjoining area. Najam said that the average density will be less than Hyde Park in the aggregate, per Smith Quillman. The developer intends to build high quality homes with a minimum of 2800 sq.ft. and the exterior will be all natural materials.

An architectural committee will approve design, size and siting of each lot. There will be sidewalks per city ordinances.

Olcott said the street should go through to Smith Rd and his negative vote is for that reason only.

Kiesling was concerned that none of the environmental issues were adequately addressed and she would not support the request.

House agreed with Olcott.

Hogan asked why the 600 ft strip cannot be part of the PUD and stubbed in for future access to Smith Rd. Later on, if we cannot build a road to the south we will be landlocked. Mueller said the council cannot modify what the commission has done, they can approve or deny. One option is to deny and say that it has to come back with the road in the plan, another is no road, and thirdly, the subdivision could require a stub off Winston and not require the \$100,000 construction but to at least provide access and if the public sector wanted to build or another developer wished to build, it would be available.

Hogan wondered what the developer thought and Najam said that they were already required by utilities to stub the water and sewer to where Winston extended would be to the property line.

It would be unfair to leverage the cost of building that road on 36 lots.

The ordinance received a roll call vote of Ayes: 1, Nays:7, Abstain:1.

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

Ordinance 91-5 To Amend the Bloomington Zoning Maps from RS and RL to H re: Prospect Hill Neighborhood (Prospect Hill Neighborhood Association).

Ordinance 91-12 To Amend Title 15 of the BMC Entitled "Vehicles and Traffic".

Ordinance 91-13 To Amend the Zoning Maps from MQ to MG and to Grant Outline Plan Approval and Designate PCD, re: Property located in the 1600 to 1800 blocks of S. Rogers St., west of Robinson Block, and south of existing RCA facility. (Thompson Consumer Electronic, Inc.)

Jim Fielder thanked Mayor Allison for her efforts to find alternatives to the O'Conner incinerator. The Mayor has not gone far enough and we must go to the courts to reopen the consent decree agreement. Public opinion is against the incinerator. We must remove politics from this issue. He said he would be working to defeat the incinerator and asked that the council draft a resolution that would reopen the consent decree and remove the specter of any incinerator from our future.

Foley asked Fielder if he would be available to give guidance on how this resolution would be worded. Fielder said yes.

White said there is a lot of question regarding whether incineration is the best solution and that this merits extra study on our behalf and if we start tinkering with the consent decree we run the risk of having the EPA come in and take over anyway. We may need to rethink the provisions of the consent decree.

Fernandez said not to assume that members of the council haven't been doing that for 6 years. Mayor Allison said that if we take away the consent decree, then the EPA has the full authority to order the clean up. That is the federal law. Other interpretations must come from the EPA. The rules of the EPA must be changed and we have never had the authority to pick the method.

White said that he and Kiesling would be attending the NLC in Washington in March and they would be willing to talk with our officials. Allison said we are asking for more flexibility, but it is foolish to give up what protection we have to give up the consent decree without changing a law. We would take on that liability and we lose any authority in the process. Hogan said that we have let the administration be the mouthpiece for years and we should be vocal and take a stand and what we have crammed down our throats is wrong. Olcott said the decree was the best opportunity we had at the time. Service said that any resolution we draft must take time to put together and be done properly. Foley said there areas of disappointment with the consent decree and hoped for a positive resolution to the problem.

LEGISLATION
FIRST READING

ORD. 91-5
ORD. 91-12
ORD. 91-13

MESSAGES FROM
THE PUBLIC

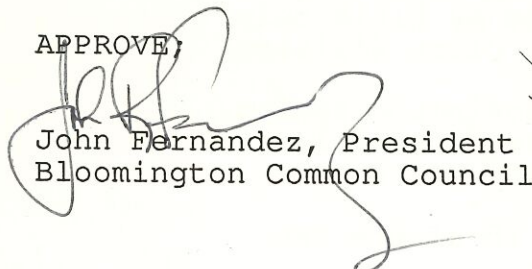
PETITIONS AND
COMMUNICATIONS

Margo Blackwell and Rachel Loop spoke several times but did not approach the podium. They asked the mayor to change the consent decree and that we go to Washington as a united community.

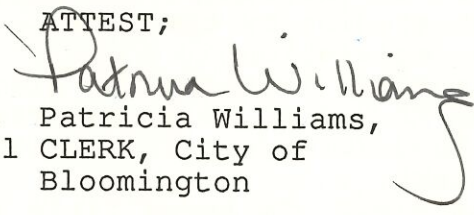
The meeting was adjourned at 12:50 A.M.

ADJOURNMENT

APPROVE:


John Hernandez, President
Bloomington Common Council

ATTEST;


Patricia Williams,
CLERK, City of
Bloomington