

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

COMMON COUNCIL
REGULAR SESSION
MARCH 20, 1991

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

ROLL CALL

Fernandez gave the agenda summation.

AGENDA SUMMATION

The minutes of February 20, 1991 and March 6, 1991 were approved by a voice vote.

APPROVAL OF
MINUTES

Foley wished IU good luck in the NCAA basketball finals.

MESSAGES FROM
COUNCILMEMBERS

Regester congratulated everyone involved in the convention center project; it's on track and ready to go.

White said that our community lost a great leader with the death of George Pinnell this past week. Dr. Pinnell was a true friend and supporter of the university. He gave a brief report of the recent National League of Cities meeting, meeting with various governmental officials and Indiana representatives - we got our monies worth.

Service reminded folks about the master plan meetings at the public library as well as the upcoming reception for volunteers and the regular board and commission meetings.

Kiesling congratulated the Bloomington volunteers and thanked them for jobs well done. She also updated the council on the National League of Cities meeting. She and Kirk White covered the sessions thoroughly and completely.

Fernandez also praised George Pinnell and thanked him for his support and encouragement he received as a student as well as his first real job out of graduate school.

Mayor Allison also praised Pinnell as a great leader on the campus as well as the community.

MESSAGE FROM THE
MAYOR

She thanked Joyce Poling and Lee Marchant for their hard work in bringing the convention center to fruition.

The Mayor announced a \$350,000 grant to provide infrastructure and development for a low income housing area on South Rogers Street and thanked Glenda Morrison for her role in helping to secure the grant.

Frank Ragan announced that he has accepted a position in Aurora, Colorado and will be leaving Bloomington in four months. He thanked everyone for their support and for allowing him to pursue the plans and direction we needed in order to become the wonderful community it is. He especially thanked Lloyd Olcott and the Mayor for all their support.

MESSAGES FROM
CITY DEPT.

Police Chief Sharp recognized those members of the department recently award commendations for bravery and service to the community. He told the council that two officers have retired, Ron Stephens and Mike Combs and one of our officers, Paul Wells has been diagnosed with cancer and is currently undergoing treatment. He then introduced the following officers and thanked them on behalf of the entire community.

Matt Morris
Bill Cowden
Tom Hudgens
David Drake

Dexter Luck
Scott Oldham
Marty Deckard
Tom Bowers

Sharp also announced the promotion of two new

sergeants, Mike Diekhoff and Joe Walters.

Tim Mueller gave a brief update of upcoming Master Plan material.

Hogan asked about the S. Walnut St. project and when the street would be opened for traffic. The merchants on that stretch of road are really suffering. Allison said that they have hit limestone and while it is going slowly there is a matter of safety for the workers and open pits along the road where the construction is taking place.

Register presented a Conflict of Interest statement regarding Ordinance 91-16. It was approved by a voice vote.

It was moved and seconded that Resolution 91-12 be introduced and read by title only. Clerk Williams read the resolution.

LEGISLATION FOR
SECOND READING:
RES. 91-12

It was moved and seconded that Resolution 91-12 be adopted. The synopsis and committee recommendation of 6-0 was given.

Sue Wheeler was available for questions as well as Doris Sims and Chuck Ruckman. Fernandez raised questions regarding the cities control over the program; what kind of authority does the PIC have over the city as the grantee. Wheeler said we have the same kind of control we have over other grants the Human Resources Dept. has acquired. Up until now the PIC (Private Industry Council) has been the grant recipient and the administrator and in order to facilitate the transition we have developed a transition team with interested parties from each sector to work out the details of the changes that will take place. Fernandez also asked about costs of program. Wheeler said the grant does cover the usual employer costs and the employee would pick up the usual employee shares of whatever program the employee chooses. Sims said that we might look into separate policies for people who are put into different work sites for on-the-job training within the PIC program. Wheeler said the grant is for a minimum of two years and many details are yet to be worked out. There will be a program director and that director will report to Wheeler.

Keith Dayton, AFL-CIO Community Services Liason, shared concerns about previous track records of this program and its commitment to really help the working people of this community. He approved of the city's takeover of the program.

Kiesling expressed some reservations about the program and the numerous unknowns and details still to be worked out.

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

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

RES. 91-11

It was moved and seconded that Resolution 91-11 be adopted. The synopsis was given. There was no committee hearing of this resolution.

Mike Davis said that this is basically the same agreement except that the county has a separate agreement to subsidize the service in the amount of \$100,000 this year and IU has also agreed to put in \$25,000 per year. The city's service (dispatching) is about \$60,000. We currently have 11 telecommunicators for dispatch and out of 32,000 calls, 7,178 were ambulance calls dispatch for a total of over 22% of overall dispatch calls, amounting to approximately \$52,000 in payroll costs for dispatch services provided

by the city.

Hogan asked why two ambulances are sent when a paramedic is needed. Sharp said it is determined at the time of dispatch how many personnel are needed for the case.

Olcott said we've come a long way since the whole process started and he was pleased that the university is finally contributing to the cost of the service.

White said we are paying first class prices for a first class system and expressed pride in the whole operation.

Olcott thanked Mike Davis for all his efforts on this agreement.

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

It was moved and seconded that Ordinance 91-14 be introduced and read by title only. Clerk Williams read the ordinance.

ORD. 91-14

It was moved and seconded that Ordinance 91-14 be adopted. The synopsis and committee report of 6-0 was given.

Chief Sharp gave a brief description of the ordinance and was available for questions.

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

It was moved and seconded that Ordinance 91-15 be introduced and read by title only. Clerk Williams read the ordinance.

ORD. 91-15

It was moved and seconded that Ordinance 91-15 be adopted. The synopsis and committee report of 1-2-3 was given.

Tim Mueller summarized the petitioners request and gave a brief description of tract and surrounding land. The request is for a PUD for SF for up to 3 units/acre. This request meets master plan objectives. The biggest concern was the Karst geology in the area with four major watersheds in the SW part of the community and one that drains into a large sinkhole. A special Residential Conservation designation is being requested and upgrading the lots from 1 acre lots to 2.5 acre lots to minimize impact. He described another area to the north of the tract called Cave Creek Watershed in the Park 48 area and the airport. The watershed in question includes much of VanBuren Park, Woodhaven and some of Garden Acres all draining into a pattern of sinkholes. We do need to encourage urbanization in this area and infrastructure is in place. We need to proceed cautiously with this area and in this watershed we want a more conservative approach with an incremental zoning process, a piece at a time. (If major storms are not draining off, then we can stop) Very effective water detention is needed in a few large detention facilities that can be easily managed and that is what is recommended by the Plan Commission. The plan calls for 120 lots on the 38 acres with several lots being lost because of sinkholes and upon excavation more sinkholes will be uncovered. The Plan Commission recommendations are attached to the ordinance.

Mueller described the Woodhaven sinkhole treatment and how effective the treatment of that area has been. The success depends upon a system of management within the subdivision covenants, that the sinkholes be common open space; that the association have the capability of charging its membership for funding of maintenance; that the city and county was given the authority to

order maintenance by the association; and finally, the city and county had the authority to go in and do it if association was delinquent in doing so themselves and bill them for the costs. It's a good model and one that the city would like to make good use of over the years. This project would be managed exactly the same way. The land is basically pasture, with few large stands of trees. The plan is probably pretty good, conforms to the master plan and is a model that we tested in Woodhaven. The issue of the developer's expertise is one that the Plan Dept tries to avoid and it is necessary to make the terms of approval no matter who develops the site. We have no control over property transfers and he cited numerous examples of such transfers over the years. He expressed concern about the message that the council sends if they deny this, of whether 3 unit/acre, moderately priced housing is a goal, or something the council will not accept. He urged the council to deal with land use and conditions of approval and give some guidance as to zoning in adjacent areas. He hoped for a short term continuance rather than an outright denial.

Kiesling asked who would "check-up" on erosion control measures. Mueller said that one of the Master Plan recommendations is for greater enforcement capabilities. More sensitive projects will be given a higher priority.

Foley said he had numerous calls from Woodhaven residents about the situation out there and he expressed surprise that it was being held up as such a model of enforcement. If restrictions are put in this plan, the least we can do is enforce them and the city did not do its job out there. Mueller said there has been an undercurrent of dissatisfaction in general with the development, but he was not aware of the sinkholes treatment being a problem. Foley said it is everything, drainage, sinkholes, traffic patterns, etc. Hogan asked what happens after the development is completed. Mueller said we still have authority in the area as well as the county to enforce the regulations.

Jeff Fanyo, representing the petitioner, said that the conditions of approval will ensure proper treatment of the sinkholes. He was not sure he could identify sinkholes without clearing brush and shrubbery. On-site inspections will occur daily if needed and given to the city engineer for his review; an engineer approved by the Plan Commission will be assigned to inspect project to see that the approved development plan will be carried out; the city engineer will be notified of any deviation from the plan so that a stop order can be issued; and a bond or letter of credit will be put up with the building permit that would be equal to the cost of correcting a clogged sinkhole or other problem arising during development. He went into great detail of how his company monitors each project and how they will put the necessary measures in place to control the construction process. This plan can be implemented, there are safeguards built into the approval process.

Fernandez asked about these different measures and how the council and Plan Commission could incorporate them into the approval. Mueller said that it wouldn't be part of the Commission recommendation but it would go on the record, and it would not be a binding part of the approved outline plan but he would make a commitment on behalf of the Plan Commission that it would be treated as such. Fernandez asked if the letter of credit was brought up at commission level. Mueller said that he did not recall it.

Register asked what the developer will commit to as far as interim road conditions when one area is completed

and other are just beginning. Fanyo said the developer is willing to look after that and attend to. Register thought the letter of credit should remain in effect until the entire project is completed, not just each phase.

Kiesling was concerned about costs involved in this type of development and how the developer can afford to build low cost housing with such expensive building specifics. Fanyo said the cost of land is cheaper per acre in this area and this would be done in phases. Kiesling expressed concern about the environmental issues in this area and the fact that we are going to have to depend on you (Fanyo) as an individual to see that this is done properly.

Hogan asked if Leonard Springs Rd is in the city. The answer is no it is not. He questioned that this is at the very far reaches of the west side development and is the city prepared to develop the infrastructure to support the development. Tapp Rd is not a major road and it seems that it is not wise to start encouraging development at the far west side of the city and how is that any different from what we did on the east side twenty years ago and that is making us put the brakes on now. He also asked about accel and decel lanes and Mueller said they are required. Mueller said there is a relatively small amount of developable territory and the road structure to the north is actually quite good. This situation does not warrant major road development. Bloomfield Rd is a priority and if we have to improve the road there is the rationale to put the development in an area where road improvement is already required.

Mary Lou Mitchell, a Palmer St. resident, said that this is the third summer of mud and construction for a two block area. Sink holes have been filled, houses were built too close to the street and the developer was fined, the street was not repaired after sewer work, and a house is now being completed on a sink hole. The builder has used privately owned lots to store equipment and materials. She suggested that councilmembers drive down the street and take a look. She asked that the stop sign be put back at Grimes and Henderson St.

Linda Mueller, a Grant St resident, also opposed the plan and cited various additional problems with this particular developer and stop work orders that were repeatedly issued for this development on Palmer St. Midwest can shield itself behind the excellent record of Jeff Fanyo, but how long will it take to do an entire development with this particular developer.

Jim Gregory, a Woodhaven resident, said that the reason no one has come forward is that everyone is worried about property values. When there is a big rain, two portions of Leonard Springs Rd are wiped out.

Woodhaven itself, located a playground in a sink hole and the maintenance is the responsibility of the homeowners association. He said that homeowners must buy sink hole insurance, that is a stipulation that the city has put on to develop the land. It is no longer the natural contour and proper settling has not occurred. Land is still shifting and moving. Melody Homes has not responded to complaints from homeowners. The filters have not worked. He urged very strict controlled building measures and that the request be examined very closely.

Pat Williams asked when the Woodhaven covenants were initiated and was it part of the council discussion. Olcott said that there was extensive discussion before passage. Williams said she did not remember it being part of the council discussion in 1981. Mueller said the covenants were incorporated at the final outline stage and enforcement is just the city's regular

enforcement process. Mueller said the covenants never did come before the council.

Charlie Kellar was also concerned about the proposed development and sink holes.

Regester asked if the development would take place in phases or all at one time. Fanyo said it would be phased. Mueller said the whole plan will be engineered at one time, but each section will be phased in as the preceding one is completed.

Fernandez expressed concern about Mueller's earlier comment about what kind of message we are sending to the public. Fernandez said he hoped the message was that we would treat development sites, equally and particularly with complex projects that we include protective measures as well and that we will hold all developers responsible for the kinds of commitments they make before this body as well as the Plan Commission. The letter from Mr. Fanyo helps, but there are still questions about the binding nature of the letter and the council would feel better if it were part of the Plan Commission approval. If we approve projects and do not back them up with strong enforcement, citizens rightly lose confidence in the process and the department. Finally, we want to encourage development elsewhere in the city, but we are not going to have development on the west side at any cost. He suggested the ordinance be denied and the letter of credit be included in the Plan Commission recommendation.

Service said that the conditions suggested in the letter from Fanyo only relate to the land preparation and the first part of the development. We still have to go on with Midwest Development with the actual development. She was unsure that the letter of credit would give the necessary assurances. We are supposed to consider the question, Is this an appropriate development? The only reason this particular developer was brought up is because in the past this person has shown a real intense lack of compliance for city regulations of all sorts and that is what it comes down to and the amount of compliance is increased many times with a development of this size. This developer has not proven himself to be deserving of our trust and this proposal would involve tremendous supervision. Service said that Mueller has said that the approval should go with the land and cited numerous examples of land changing hands. She went on to say that those particular examples were ones that changed one direction and that was down. There are people in this community that say you can't go much further down than this particular proposal here before us. We've all seen examples of what she is discussing, she said.

Hogan said it is difficult to deal with the question of quality workmanship, and we talk about affordable housing and he didn't think that affordable housing has to be shoddy housing. The biggest objection he has heard is the quality of workmanship and it is the council's job to make choices about what takes place in the community and if we are going to err, we should err for people who are living in our community. If ever there was a reason for master planning, he was surprised that our planners were saying we should put three units on an acre in sink hole terrain. Keep it RE and let it develop accordingly. The City has no ability to support this area with infrastructure, if we could annex this area and make it part of the tax base and then we might be able to consider the infrastructure. There is no reason to support 3 units per lot in sink hole terrain.

Olcott, the one vote in favor last week said he voted for the proposal because he objected to Services' comment regarding the developer. After a week of phone calls, her comment was sort of mild. He said he never recalled residents of one development by the same developer come to comment about another proposed development. He said Palmer Street is a mess and it's been a mess for a long time. He said he would be changing his committee vote. He did not think we were given the right information about this particular builder.

Kiesling's concern is master plan related and how the topography of the land is cared for. We need a general management plan. She said she has problems with development with no overall plan with no documentation of where drainage flows in the general area. We need a bigger picture.

Regester agreed with Fernandez's points. He did not think the letter of credit was adequate and he did not think the density of the proposal was appropriate given the sink holes. It is difficult to approve this petitions as presented. Years of complaints about Midwest Development have sensitized him to the issues we need to deal with when there are sensitive areas to deal with. The 4-Way stop at Grimes and Henderson will return on or before April 20!!!

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

There was a 10 minute break.

It was moved and seconded that Ordinance 91-16 be introduced and read by title only. Clerk Williams read the ordinance. ORD. 91-16

It was moved and seconded that Ordinance 91-16 be adopted. The synopsis and committee recommendation of 7-0-1 was given.

Tim Mueller summarized the proposal and described the tract. The area would have 36 units, 20 for the mental health center and the remaining 16 to be built in the future by the land owner and the remainder would be commercial. The road is unusual because it is a conversion of a private drive for a public street and it isn't the kind of design we would start with. There is a 24', 2 lane pavement with curbs, and sidewalks through most of the development. Pat Cole, representing the Near West Side Neighborhood Association said that the association does not oppose the project, but asks the council to recognize the fact that these 36 dwelling units will be isolated and not have the usual community amenities and so they ask that tot lots and other small areas for passive recreation be incorporated into the development plan.

The revised list of uses, dated March 13, 1991 are attached to the ordinance.

Robert Shaw was available for questions and he explained how the development would come about and described the various businesses that would be in the shops.

Hogan asked about the group homes that would go in and Shaw said that all parties have worked together very well. Dr. John Werner from South Central Mental Health Center said that 20 single unit apartments would be occupied by people who are ready for independent

residential living facilities with various degrees of emotional handicaps and require some type of ongoing supportive care. Olcott asked if the people will be there permanently and Werner said yes.

Fernandez wondered why the Plan Commission vote was 6-4. Mueller said the site plan is a compromise one with residential and commercial and is probably something that would not be chosen as a plan, but it is a socially important thing to consider, yet it is a plan that can work and fulfill a need. Service said that the votes against were based on purely technical planning objections and at the earlier meetings, the neighborhood association did speak in opposition to the proposal.

The ordinance received a roll call vote of Ayes:7, Nays:0, Abstain:1 (Register).

It was moved and seconded that Ordinance 91-17 be introduced and read by title only. Clerk Williams read the ordinance. ORD. 91-17

It was moved and seconded that Ordinance 91-17 be adopted. The synopsis and committee recommendation of 6-0 was given.

Tim Mueller said that this ordinance is a housekeeping type of amendment. Our code deals with pole signs by allowing one for each street frontage development with a square footage of 72 sq. ft., maximum height of 35 ft. and clearance of 9 ft. The code also describes ground signs but for some reason regulations that limit pole signs do not specifically apply to ground signs which leads to putting pretty large ground signs up at commercial locations. This was never what the code intended and this housekeeping amendment corrects it by making ground and pole signs subject to the same regulations.

Fernandez asked about mobile signs. Mueller said a permit must be secured and they would fall into the category of ground signs, also a two week permit can be obtained on a temporary basis for the promotion of new business. They require ongoing enforcement by the Engineering Department. Regarding city property, Mueller said theoretically they are subject to the same regulations but there is some conflict of whether governmental activities come under these regulations

Hogan thought the city should comply with the same rules as everyone else.

Fernandez thought the signs at Miller-Showers Park were offensive even though the causes are good ones. Mueller thought the council should suggest to the Parks Board that they reconsider the use of the large portable signs.

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

It was moved and seconded that the following ordinances be introduced and read by the clerk by title only for first reading. Clerk Williams read the ordinances by title. LEGISLATION FOR FIRST READING

- | | |
|--|------------|
| <u>Ordinance 91-18</u> To Amend Chapter 6.12 of the BMC | ORD. 91-18 |
| Entitled "Smoking in Public Places". | ORD. 91-19 |
| <u>Ordinance 91-19</u> To Vacate a Public Parcel re: Portion | ORD. 91-20 |
| of West Smith Avenue Running Between Madison and Morton | ORD. 91-21 |
| Streets (CFC, Inc., Petitioner). | ORD. 91-22 |
| <u>Ordinance 91-20</u> To Amend the Outline Plan Re: Winslow | ORD. 91-23 |
| Plaza (Northeast Corner of Henderson and Winslow) | |

(Kenton Robinson, Petitioner).

Ordinance 91-21 To Amend the Zoning Maps to Designate a PUD and to Grant Outline Plan Approval, Re: Property located at 3710 E. 10th Street (Don Mitchell, Petitioner).

Ordinance 91-22 To Amend the Zoning Maps to Designate a PUD and Grant Outline Plan Approval, re: Property Located West of Stoutes Creek Rd and South of S.R.46 (James Chesney and Charles Wright, Petitioner).

Ordinance 91-23 To Amend Title 15 of the BMC Entitled "Vehicles and Traffic".

Tom Canada spoke for 15 minutes about grievances and demands regarding legal proceedings for Consent Decree hearings. He presented the council with copies to such documents He pointed out technical oversights and the problems that were ignored regarding health monitoring and no one was told that it was going to cost \$27 million to take care of the health monitoring process. This was not included in the consent decree and he asked where this money was going to come from. He said the officials breached their duty to the citizens of Bloomington.

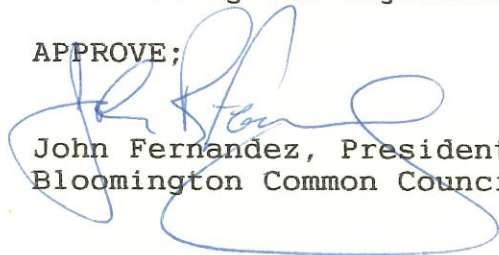
PETITIONS

Kathy Canada also spoke against the incinerator.


The meeting was adjourned at 11:45 P.M.

ADJOURNMENT

APPROVE;


John Fernandez, President
Bloomington Common Council

ATTEST;


~~Patricia Williams~~, CLERK (DEPUTY)
City of Bloomington.
JIM McNAMARA