

REVISED

AGENDA

REVISED

COMMON COUNCIL REGULAR SESSION

7:30 PM, WEDNESDAY, SEPTEMBER 19, 1984

COUNCIL CHAMBERS

- I. ROLL CALL
- II. AGENDA SUMMATION
- III. MESSAGES FROM COUNCILMEMBERS
- IV. MESSAGES FROM THE MAYOR
- V. PETITIONS AND COMMUNICATIONS
- VI. LEGISLATION FOR SECOND READING--DISCUSSION AND VOTE
  1. Resolution 84-20 To Approve Application of the Federal Section 8 Housing Provisions to the Bloomington Housing Authority  
Committee Recommendation: Do Pass 9-0
  2. Ordinance 84-50 To Amend the Bloomington Zoning Maps from RS to BG re: 215 West 14th Street (Dunn Realty)  
Committee Recommendation: Do Pass 9-0
  3. Resolution 84-21 To Instruct Attorneys for the City to Bring Negotiations with Westinghouse to a Conclusion  
(No Committee Recommendation)
  4. Resolution 84-22 To Urge the Reinstatement of David Schalk  
(No Committee Recommendation)
  5. Resolution 84-23 To Urge an Impartial Review of the Schalk Appeal and to Fill the Position of City Chemist  
(No Committee Recommendation)
- VII. LEGISLATION FOR FIRST READING
  1. Ordinance 84-56 An Ordinance Authorizing the City of Bloomington to Issue Its "Economic Development Revenue Bonds Series 1984" and Approving Other Actions in Respect Thereto (10th & Bypass Project)
  2. Ordinance 84-51 To Amend the 1985 Salary Ordinance to Create the Position of Programmer I and Programmer II and to Correct Data Processing Manager Salary
  3. Ordinance 84-46 To Amend the Bloomington Zoning Maps from RS to RL re: Property located in the 700 block of Winslow Road (Bill Brown and Richard Bartlett)
  4. Ordinance 84-48 To Amend the Bloomington Zoning Maps to Rescind a PUD Designation re: Property near Dunstan Drive (Southwest Building Company)
  5. Ordinance 84-52 To Amend the Bloomington Zoning Maps from BG to RM re: 311 West 17th Street (Jim Burks)
  6. Ordinance 84-53 To Amend the Bloomington Zoning Maps from RH to RH/PUD and Grant Outline Approval for PUD re: Block bounded by Henderson, Dunn, Atwater, and Smith (Dr. Richard Shelly)

7. Ordinance 84-54 To Amend the Bloomington Zoning Maps to an Historic Designation re: 503 E. Smith Street (Dr. Richard Shelly)
8. Ordinance 84-55 To Vacate a Public Parcel re: Block bounded by Smith, Dunn, Atwater, and Henderson (Dr. Richard Shelly)

VIII. MINUTES FOR APPROVAL: September 5 and 12, 1984

IX. ADJOURNMENT

In the Council Chambers of the Municipal Building held on Wednesday, September 19, 1984, at 7:30 P.M. with Council President Gross presiding over a Regular Session of the Council.

COMMON COUNCIL  
REGULAR SESSION  
SEPTEMBER 19, 1984

Roll Call: Service, Porter, Register, Olcott, Gross, Mayer, Murphy, Foley, Young

ROLL CALL

Gross gave the agenda summation.

AGENDA SUMMATION

Register commended the Redevelopment Department and Glenda Morrison for sponsoring a National Video Conference on Downtown Revitalization.

MESSAGES FROM  
COUNCILMEMBERS

Olcott noted that the state has opened another stretch of Highway 446 making travel to and from the Lake more accessible.

Foley informed the Council, as their USB liaison, that the USB passed a unanimous resolution commending Mike Phillips and upholding the David Schalk dismissal decision.

Service said that everyone is not universally happy with the 446 highway opening. A number of people felt that the road should not have been constructed there in the first place.

Gross reminded the public about the American Red Cross's giant used book sale at the I.U. stadium this coming weekend. Gross also commended Donny Reynolds, the Bloomington Transit employee of the month. She also announced that documents regarding the testing procedures used by the utilities for PCBs would be available in the Clerk's office.

There was no Mayoral message.

MESSAGES FROM MAYOR

Bill D'Amico said that child care should be available for persons wanting to attend the City Council meetings.

PETITIONS AND  
COMMUNICATIONS

Gross said that Marie Boyle offered her assistance at last week's meeting. People should contact Ms. Boyle.

Mic Harrison, of INPIRG, presented a PCB fact sheet to the Council, commented on the public hearing held several weeks ago regarding GE's request for a toxic storage facility here in Bloomington. HCL would be the chemical stored. He also urged the Council to pass the resolutions regarding David Schalk and have each council-member go on record about their vote.

Olcott moved and Foley seconded a motion to introduce and read Resolution 84-20. Clerk Williams read the resolution by title only.

RESOLUTION 84-20

Olcott moved and Foley seconded a motion to adopt Resolution 84-20. Foley gave the committee report.

There was no discussion and the resolution received a roll call vote of Ayes:9, Nays:0.

Olcott moved and Foley seconded a motion to introduce and read Ordinance 84-50. Clerk Williams read the ordinance by title only.

ORDINANCE 84-50

Olcott moved and Foley seconded a motion to adopt Ordinance 84-50. Foley gave the committee report.

Service disapproved the rezoning stating that the single family area would be incorporated into a business zone with no clear knowledge as to what that building would be used for.

The ordinance received a roll call vote of Ayes: 8, Nays: 1 (Service)

Foley moved and Murphy seconded a motion to introduce RESOLUTION 84-21 and read Resolution 84-21. Clerk Williams read the resolution by title only.

Foley moved and Murphy seconded a motion to adopt Resolution 84-21. There was no committee report. Foley read the resolution aloud.

Murphy wished to go on record as seconding this resolution. In essence this is the second time the Council has dealt with this issue; in 1982 the City gave the go-ahead to litigate the case and as far as Murphy was concerned it could go on 'until hell freezes over'. "We are all concerned about a safe and healthy city and going to trial is risky. My constituents have demanded that we resolve this problem now".

Foley remarked, how far Westinghouse has gone, how patient the community has been. He urged the public and the community at large to do this in a way that will not tear the heart and soul out of the community.

Service said that in the last few months our public dialogue has gone off on tangents; we have not had the necessary information, nor has it contributed to a healthier or more productive dialogue. "One gets paranoid at times and its hard to say why things are not being discussed openly."

Olcott said that the Council has been advised that this is the direction to go. He had a problem with the two week limit and rushing into some kind of settlement. "After all, the problem has gone on for four years."

John Canada complained about the sound system in the chambers and the problems of trying to hear podium speakers.

Gross apologized and agreed that it was a lousy system and she hoped that public works would get its act together and get something in the Council Chambers that works.

Young suggested a two minute limit on public comments. The Council disagreed on a time limit.

JoAnn Fisk said that Schalk was too valuable to this community to have fired him; the entire PCB suit has been mismanaged and a highly trained professional has been dismissed and martyred. Basically the USB is determining what will be addressed in the PCB lawsuit and that that vanguard down on Henderson and not Third Street is calling the shots. Schalk is trying to operate on a wider scale and is trying to get the Council to focus on a wider scale. "Don't allow the USB to make all of the decisions" The concern about PCB contamination is not just that of water and the EPA has cited dumps that are included in the problem. Garden sludge should be collected and because of the contamination, Winston-Thomas will not be usable for 300 years. She commented on a \$10,000 bill from Karaganis that was submitted to the USB two times. It was paid both times and not discovered as a duplicate payment until Mr. Karaganis noted the double payment and returned the second payment. Fisk felt that the USB will pay whatever Karaganis and Fore ask for. There has been a big change since Mike Phillips was appointed director.

Mic Harrison asked if the resolution was an instruction to the attorney by the Council, or if it was the attorney instructing the Council. Gross said the resolution is the instruction of the Council to their attorney. Olcott said that it was Karaganis' suggestion

that the Council initiate the resolution. Harrison hoped that this was an indication that the Council would take a stronger role.

Murphy said that the statement of Councilmember Mayer last week was the genesis of the resolution and let no one think that Karaganis tells the Council what to do. He asked Harrison about a recent report regarding dioxins in Pennsylvania.

Marc Haggerty said that our 'ammunition' has been just what kind of case we have against Westinghouse. The City has not prepared the case properly and the time limit is not the best for Joe. The City has been willing to bargain the city's health for an incinerator. "We should admit we have made a mistake, take it to court and we'll win it".

Ed Moore said the intention behind the resolution is a good one but it does not say what will be in the decree. He felt that other sites were potentially hazardous and the consent decree has to deal with the problem of newly discovered sites. The incinerator is not enough.

Pat Grey said that two weeks is a short time to push any man to develop something. The #1 site is Westinghouse and there are no warning signs around the plant. He noted that the Mayor did see him two times in the last two weeks.

Young asked Grey if he has been tested. (Mr. Grey grew up and lives in the area contaminated by capacitors that were dumped there for years by Westinghouse). Grey said that the test (blood) shows 23 parts/million. He has not had the fat and liver tests because he cannot afford them.

Eric Holm was concerned about site locations, fearful of liability of Westinghouse drivers and property owners. He also expressed concern about the Lake Monroe watershed on city-owned property (Sugar Camp Hollow). He said that sludge was leaking into the Lake years before PCBs were determined to be present. He asked the Council to find out if testing was ever done there at that site, as well as Pine Grove. He also said that 200 capacitors were dumped into the Ramp Creek Inlet and then discussed fish contamination at great length.

Bruce Bundy said that Westinghouse does things in pursuit of the "bottom line". They have contaminated Monroe County and the workers at Westinghouse and they are not going to offer anything that is not in "pursuit" of the bottom line. He said that there is a letter that names the City as a third party defendant in Leon Mullis' case. He suggested that the City be named as a third party defendant in the Pat Grey case. Bundy said he would pledge his time and services if the City would amend the complaint and really pursue Westinghouse. He said that he could mobilize a lot of community resources and that we can win if government embraces the use of all its citizens in the suit.

Sue Evans said that her husband Ralph is critically ill as a result of exposures to PCBs. People are without any help at all. Her husband worked in the "oven area" for 10 years and no one connected his illnesses to PCBs until January this year.

"It has been a slap in our faces to dismiss Schalk", Evans said. Over the years Mr. Evans has seen 44 doctors. "Westinghouse and Monsanto are community murderers - we can't get any help, they are poisoning our people and most of all Westinghouse lies".

Young asked if the Evans has ever been tested. Mrs. Evens said that both she and her husband were tested in March of 1984. Her blood level was 29 parts/million and Ralph Evans test was 25 parts/million.

David Parry, of Ryder magazine, said that money would be well spent having a library. Gross thanked Parry for his excellent article about PCBs in his magazine article.

John Canada has said over and over again that he cannot deal with the Grey or Evans problem. He was also concerned that no one was testing our "gene pool".

Janet Pyle said that our community is paranoid and the people are really upset. She said the City has contributed to their paranoia by dismissing Schalk.

David Hunter, a federal attorney here in Bloomington, said that if the settlement is delayed, we will never get the information we need - set a severe time limit. This is a matter of enormous anxiety. Hunter said that his family has been here for over 100 years and he feels he has a very important stake in what happens in this community. David Schalk is a ghost of that settlement agreement and to pretend that it is merely an administrative hassle is absurd. This issue is tearing the city apart and it is not making people well - it is making lawyers wealthy. He urged the Council to accept Karaganis' suggestions, to adopt the resolution and to be sure that our best interests are protected.

Jim Cartmell also spoke.

Mike Andrews said there are real problems with the way the negotiations are going. It's time to go to trial. We have to go for Westinghouse's throat, unfortunately the City is standing in front of Westinghouse. We are not ready to go into a settlement - we don't even have a list of goals. We have some of the most knowledgeable people on these committees and any one is welcome to attend. Let's participate.

Micah Roseberry was concerned about the amount of time (too short) to consider the consent decree. She was disappointed that the City conducts secret meetings - "it's slimy".

Regester, Service, Murphy and Foley all supported the resolution as is. Olcott thought it would be a miracle if Karaganis could get anywhere in two weeks but he was willing to support it.

Gross commended Mr. Hunter who spoke eloquently about a city torn apart. She thanked everyone for participating.

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

The Council then took a five minute break.

Olcott then moved and Foley seconded a motion that Resolution 84-22 be introduced and read by title only. Clerk Williams read the resolution by title only.

RESOLUTION 84-22

Murphy then read the entire text of the resolution.

Murphy said that everyone here loves and cares about this community and that he was not here to denigrate anyone. He said that he did attend Mr. Fore's wedding and that Mr. Peoples and Mr. Phillips did in fact contribute to his recent campaign. Mistakes have been made and we must learn from those mistakes. This is a question of policy, not personality. Our policies must allow us to tolerate dissent. He said that he has wrestled with this issue, listened to viewpoints and opinions and has come to the conclusion that his basic constituency has been expanded and that this is more than just a policy issue - it is a political issue and it is a message that transcends personality, therefore, those views must be represented. "The administration's decisions are theirs and this decision is mine. I will vote for the reinstatement of David Schalk."

Young asked if the Mayor has the authority to reinstate Schalk. The answer was yes.

Sara Hurt said that the matter should have remained a non-political matter and that she has been advised, by a number of people, not to say anything. The best government rests on the people. We have a Utilities Department that a Mayor is backing up. She has been lied to. David Schalk never did a thing to hurt the public - he did what he was supposed to do under a Utilities Department that didn't have any policy at all. The Utilities Department and the administration are "grabbing hands". There are investigations that are friendly and there are investigations that are not friendly - something is basically wrong. The Council is a last resort for many people and it's not just the PCB issue - we have to go back to where the problem started and that is with Phillips, Peoples, and Vermatten. Emotion is high, frustration is high and morale is low. "What are our priorities - don't lie to us any more and do what is best for the community," (remarks directed to the administration). David Schalk was fired for the worst reasons. The Common Council has to do something about the Utilities Department.

Joanna Dyson said that Schalk volunteered to be a resource person for the incinerator committee. "People with commitment are badly needed in government. His merits outweigh his mistakes".

Bill D'Amico urged public debate on both resolutions.

Steve Gardner said that polarization will not solve the problem. He was concerned about the conflict of interests on the part of Scott Fore, both sides must be investigated and the whole thing put on hold until that is done.

Mildred McKenzie said that we should value David Schalk, not try to destroy him.

JoAnn Fisk wondered why Don Latimer was allowed to recently resign from the Utilities Department instead of being fired. Fisk presented more signatures calling for Schalk's reinstatement and wondered why he was fired for an incident of insubordination that happened over a year ago.

Bruce Bundy wondered if it was possible to restructure City government and put the City Chemist under the Common Council rather than under the Utilities Dept.

Mic Harrison then read Resolution 84-23. He said he could find no substantial proof to the charge of insubordination. He said he was strongly opposed to any resolution in lieu of this resolution.

Hart, a theologian, said there was an adversarial, contemptuous attitude on the part of city officials. He said that it looked ridiculous when someone is fired for doing his job. He said that he admired and respected the Mayor and that this is not a political statement against anyone.

Jim Burkey, a computer programmer, said that he has discussed PCB contamination of Lake Monroe with David Schalk and he was concerned about earthquakes in this area and what would happen to the water in Lake Monroe if one did occur.

Lyle Jaffee also expressed concern about PCB contamination.

Jeffrey Wilsey, of Sunrise Publications, said that he would not be permitted to treat an employee in the way that David Schalk was treated.

John Canada said that the bottom line was expressed well in the IDS re: the Fore-Lipkin report. The investigation of David Schalk should be tossed in the wastepaper basket and the issue of reinstatement should be pushed with the Mayor.

Jim Poiser said that this is a turning point. The Schalk firing is a wedge between the Council and the community and people will stop coming before their council.

Steve Halkovic said that this is one of the most outrageous things to happen in years. If someone can be fired for doing his job, "then Bloomington is not the place I thought it was".

David McCrea said there has been a groundswell of support for Schalk and all of the decisions regarding this issue have been tough decisions. The EPA has drilled wells and tested at an incredible cost and still the community pays for it. Why do we penalize Schalk for taking water samples from Lake Monroe. "It's all a matter of conscience". He thanked Murphy for his support.

Mike Andrews compared the Fore-Lipkin report with the David Schalk statement and the allegations in both reports. Andrews said the Schalk was fired because Karaganis wanted him out - that he could not abide a chemist that might disagree with points in the consent decree. He then presented a bag of sludge, for the council's perusal, taken from a grit trench, and tossed it to the Council Chamber floor. Young finally told him to remove the bag from the floor.

Jim Simmons said the Council would increase suspicions if they voted the resolutions down.

Gross said that more than a few good points had been made this evening and reminded the public that the Council is not responsible for City employment decisions.

Mayer said that he would consider reinstating Schalk, but only after a completely unbiased report is completed.

Young said he was concerned about the Utilities Department and the Scott Fore report.



The resolution failed by a roll call vote of  
Ayes: 4 (Regester, Foley, Murphy, Young)  
Nays: 5 (Service, Porter, Olcott, Gross, Mayer)

RESOLUTION 84-23

Olcott moved and Foley seconded a motion to introduce and read Resolution 84-23. Clerk Williams read the resolution by title only.

Olcott moved and Foley seconded a motion to adopt Resolution 84-23. There was no committee report.

Pam Service read the entire text of the resolution.

David McCrea was concerned about how long this procedure of review could take. (review of the Utilities Department) Gross said it could be quite lengthy.

There was little discussion and the resolution received a roll call vote of Ayes: 7, Nays: 2 (Porter, Olcott).

Olcott moved and Foley seconded a motion that the following ordinances be introduced and read by title only by the Clerk for first reading. Clerk Williams read the ordinances by title only.

LEGISLATION FOR FIRST READING:

- ORD. 84-56
- ORD. 84-51
- ORD. 84-46
- ORD. 84-48
- ORD. 84-52
- ORD. 84-53
- ORD. 84-54
- ORD. 84-55

Ordinance 84-56 An Ordinance Authorizing the City of Bloomington to Issue its "Economic Development Revenue Bonds Series 1984" and Approving Other Actions in Respect Thereto (10th and Bypass Project)

Ordinance 84-51 To Amend the 1985 Salary Ordinance to Create the Position of Programmer I and Programmer II and to Correct Data Processing Manager's Salary.

Ordinance 84-46 To Amend the Bloomington Zoning Maps from RS to RL re: Property located in the 700 block of Winslow Rd. (Brown and Barlett)

Ordinance 84-48 To Amend the Bloomington Zoning Maps to Rescind a PUD designation: re: Property near Dunstan Drive (Southwest Bldg. Corp)

Ordinance 84-52 To Amend the Bloomington Zoning Maps from BG to RM re: 311 West 17th St. (Burks)

Ordinance 84-53 To Amend the Bloomington Zoning Maps from RH to RH/PUD re: block bounded by Henderson, Dunn, Atwater, and Smith (Shelly)

Ordinance 84-54 To Amend the Bloomington Zoning Maps to an Historic Designation re: 503 E. Smith Avenue (Shelly)

Ordinance 84-55 To Vacate a Public Parcel re: Block bounded by Smith, Dunn, Atwater, and Henderson.

The minutes of September 5 and 12 were approved by a voice vote.

MINUTES FOR APPROVAL

The meeting was adjourned at 12:00 midnight.

ADJOURNMENT

APPROVE:

Patricia A. Gross  
Patricia Gross, President  
Bloomington Common Council

ATTEST:

Patricia Williams  
Patricia Williams, Clerk  
City of Bloomington