

In the Common Council Chambers of the Municipal Building held on November 15, 1979, at 7:30 p.m. with Councilpresident Tomilea Allison presiding over a regular session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
NOVEMBER 15, 1979

Councilmembers present: Allison, Blume, Kinzer, Middleton, Morrison, Olcott, Richardson and Towell. Absent: Young

ROLL CALL

Councilpresident Allison gave the agenda summation.

AGENDA SUMMATION

Towell said that he would like to express his appreciation to all of the Councilmembers, stating that it has been a rewarding experience working with all of them. He said he looks forward to accomplishing a great deal with the new Council over the next four years.

MESSAGES FROM
COUNCILMEMBERS

Richardson congratulated all of the candidates, adding that he hopes all of them will continue to be involved in city issues. He said he is also pleased to see John Freeman appointed as Jim Wray's replacement as Director of the Department of Public Works. He then gave a summary of his feelings about the Iranian situation, stating that people should not condemn all of the Iranians in America because many of them share our concern about the hostages. However, they cannot speak out for fear of retaliation against them or their families in Iran.

Olcott said he was also pleased to see Freeman appointed and added his hopes of good luck to the I.U. soccer team in continuing as the number one college team in the country. He said he also looks forward to working with the new Council.

Blume also praised the Mayor for appointing Freeman. He then gave "onions" to the Herald Telephone for their coverage of the election. He said that all of the emphasis was on the Mayoral race with little coverage of the Council races. He also took issue with the way the names were lined up on the ballot. He said the paper shirked their responsibility of informing the citizens about Councilmembers' views on various issues, which he said should be their primary responsibility.

Allison thanked Jim Wray for his years of service and said his shoes will not be easy to fill. She wished Freeman luck in his new job.

There was no message from the Mayor.

MESSAGE FROM MAYOR

There were no petitions and communications.

PETITIONS & COMM.

Richardson moved and Morrison seconded a motion to introduce and read Resolution 79-37 in its entirety.

RESOLUTION 79-37
To Increase Funding
of Transit Grant
Application

Clerk Connors read Resolution 79-37 in its entirety.

Richardson moved and Morrison seconded a motion to adopt Resolution 79-37.

Allison noted that there will be no committee reports since the November 7 committee meeting was cancelled.

Towell asked if funds for Sunday service are included with the grant, and Penny Howard, Assistant Transit Manager, said that the funds will be used only for the new building; they cannot be used for operation. She said they are looking at expanding routes and hours, but they need their new equipment and more funds. The new equipment should arrive in the spring. Hearings on routes will be held early in 1980.

Richardson said the possibility of fare increases needs to be examined, hopefully before the new equipment comes. Howard responded that this will be part of the general review.

Resolution 79-37 was then adopted by a roll call vote of Ayes: 7, Nays: 0 (Middleton had not yet arrived).

Richardson moved and Morrison seconded a motion to introduce and read Resolution 79-38 in its entirety.

RESOLUTION 79-38
To Authorize Filing
Amendment to Transit
UMTA Grant

Clerk Connors read Resolution 79-38 in its entirety.

Richardson moved and Morrison seconded a motion to adopt Resolution 79-38. Allison read the legislative synopsis.

Penny Howard explained that this resolution says that the Council supports submission of the grant, while the previous resolution amended the dollar amount. Additional funds are needed because of the high inflation rate for the equipment.

Olcott commented that half a million dollars sounds like a lot for a bus shelter.

Resolution 79-38 was then adopted by a roll call vote of Ayes: 7, Nays: 0 (Middleton had not yet arrived).

Richardson moved and Morrison seconded a motion to introduce and read Resolution 79-36 in its entirety.

RESOLUTION 79-36
To Support Holding
Public Hearings by
PSC re: Utility
Disconnections

Clerk Connors read Resolution 79-36 in its entirety.

Richardson moved and Morrison seconded a motion to adopt Resolution 79-36. Allison read the legislative synopsis.

Julie Neppels of the Community Action Program said that CAP had a program last year to help senior citizens pay their utility bills which was a combination of the State's Operation SAFE Program and the CAP program. 60% of the funds went to senior citizens through the SAFE program.

Olcott said that the PSC is appointed by the governor, and they seem to think that they have done all right. He said he does not see how the Council can force them to do anything.

She responded that the Federal Act is not mandatory and that this resolution merely asks that the state PSC act in the best interest of the consumer. Local involvement is very important. Until the program is made mandatory, resolutions such as this are needed to urge them to hold hearings as required by law.

Blume said it is a good idea, but added that everyone should be entitled to a hearing, not just the elderly and those on fixed incomes.

Richardson moved and Blume seconded a motion to amend the first whereas clause to substitute the words "strongly suggest" for "require", and to change the last line to "consumer" instead of specifying the elderly or low income.

Kinzer said she thinks it is important that the resolution be addressed to those that need it most - the elderly and low income, but added that they would be included under the heading of "consumer" as well.

The amendment proposed by Richardson was then adopted by a roll call vote of Ayes: 8, Nays: 0.

Richardson moved and Morrison seconded a motion to adopt Resolution 79-36 as amended. Motion carried by a roll call vote of Ayes: 7, Nays: 1 (Olcott).

Richardson moved and Towell seconded a motion to introduce and read Ordinance 79-71 by title only.

ORDINANCE 79-71
To Amend BMC re:
"Bicycle Paths"

Clerk Connors read Ordinance 79-71 by title only.

Richardson moved and Morrison seconded a motion to adopt Ordinance 79-71. Allison read the legislative synopsis.

Kinzer said that new bike paths are a step in the right direction but said she would like to see many more of them.

Towell said the eastside seems to have all the bike paths and said they should be all over town.

Olcott said his only objection is that he does not like the idea of mopeds being able to use the bike paths.

Ordinance 79-71 was then adopted by a roll call vote of Ayes: 8, Nays: 0.

Richardson moved and Morrison seconded a motion to introduce and read Ordinance 79-90 by title only.

ORDINANCE 79-90
Budget Transfers

Clerk Connors read Ordinance 79-90 by title only.

Richardson moved and Morrison seconded a motion to adopt Ordinance 79-90. Allison read the legislative synopsis.

Kinzer introduced the written amendments to the Transit section of the ordinance, with Penny Howard saying that she had made an error in figuring out where the excess funds were.

The amendments to Ordinance 79-90 under Transit Department were then adopted by a roll call vote of Ayes: 8, Nays: 0.

Kinzer moved and Morrison seconded a motion to adopt Ordinance 79-90 as amended.

Kinzer said most of the transfers seem necessary, but she took issue with the statement in the synopsis that these would keep the departments from resorting to special appropriations. She said that is really what they are since the funds would revert to the General Fund if they were not transferred.

Richardson noted that there are still problems with flooding downtown and said that it would be very helpful if the storm sewer could be cleaned from Sixth to Kirkwood. Blume responded that this could cause problems downstream.

Ordinance 79-90 was then adopted as amended by a roll call vote of Ayes: 8, Nays: 0.

Richardson moved and Morrison seconded a motion to introduce and read Appropriation Ordinance 79-15 by title only.

APPROPRIATION
ORDINANCE 79-15
From General Fund
to Transit Dept.

Clerk Connors read Appropriation Ordinance 79-15 by title only.

Richardson moved and Kinzer seconded a motion to adopt Appropriation Ordinance 79-15. Allison read the legislative synopsis.

Penny Howard explained that they will still have two months plus the October billings to pay for and they are short of funds.

Appropriation Ordinance 79-15 was then adopted by a roll call vote of Ayes: 6, Nays: 2 (Richardson and Olcott).

Richardson moved and Morrison seconded a motion to introduce and read Appropriation Ordinance 79-16 by title only.

APPROPRIATION
ORDINANCE 79-16
From GF to PD,
from LR&S to SE
Extension Study,
from MVH for
Materials

Clerk Connors read Appropriation Ordinance 79-16 by title only.

Richardson moved and Morrison seconded a motion to adopt Appropriation Ordinance 79-16. Allison read the legislative synopsis.

Richardson and Olcott asked if the City will be short on salt and sand this year and John Freeman answered that they have a good supply.

Appropriation Ordinance 79-16 was then adopted by a roll call vote of Ayes: 8, Nays: 0.

Kinzer moved and Towell seconded a motion to introduce and read Resolution 79-40 in its entirety.

RESOLUTION 79-40
Inducement Resolu-
tion for EDC Bonds
for K-Mart Phase I

Middleton voted no on reading Resolution 79-40 in its entirety.

Clerk Connors read Ordinance 79-40 in its entirety.

Kinzer moved and Morrison seconded a motion to adopt Resolution 79-40.

Kinzer said she questioned why a large firm such as K-Mart needs to resort to EDC bonds. She said the intent of the bonds is different.

Pat Griffin of Zappala Corporation of Pittsburgh, addressed the Council. He said that K-Mart requests other developers to build their stores and they guarantee the principal and interest on the bonds.

There was then a short discussion concerning interest on loans, financing, etc.

Griffin continued that K-Mart is using EDC Bonds because they are the most profitable bonds for the purchasers.

Blume said he shares Kinzer's concerns and said that the Council should consider K-Mart's competitors that have to pay the prime rate.

Richardson said it is really none of the Council's business. They are using the bonds because it is good business, and if they are acting in good faith the Council should approve the bonds. This request is no different than the others.

Olcott said the bonds are not just for small businesses. In tough economic times, this is the cheapest way to go. It will bring jobs and money into the community.

Towell agreed, saying that he is very pleased to vote to approve the bonds. This will be an economic boost to the community.

Resolution 79-40 was then adopted by a roll call vote of Ayes: 6, Nays: 2 (Kinzer and Blume).

Kinzer moved and Towell seconded a motion to introduce and read Resolution 79-41 in part.

RESOLUTION 79-41
Inducement Resolu-
tion for EDC Bonds
for K-Mart Phase II

Clerk Connors read Resolution 79-41 in part.

Richardson moved and Towell seconded a motion to adopt Resolution 79-41. Allison read the legislative synopsis.

Olcott asked about the details for the in-lieu-of-annexation agreement.

Bill Finch, City Attorney, explained that like the westside industries, they are not contiguous. They want city services and they are willing to pay for them.

Resolution 79-41 was then adopted by a roll call vote of Ayes: 6, Nays: 2 (Blume and Kinzer).

The Council then took a fifteen minute break.

Ordinance 79-95 was then postponed by a vote of Ayes: 8, Nays: 0

ORDINANCE 79-95
To Amend Zoning re:
Westside K-Mart

Richardson moved and Morrison seconded a motion to introduce and read Ordinance 79-94 by title only.

Clerk Connors read Ordinance 79-94 by title only.

Richardson moved and Olcott seconded a motion to adopt Ordinance 79-94. Allison read the legislative synopsis.

Tim Mueller, Planning Director, presented a zoning map of the area, stating that the present zoning is inappropriate because of the change in location of Pete Ellis Drive and the need for an east-west local street. The BL zone will be expanded from three to six and a half acres. The density of the multi-family dwelling units has been reduced from twenty to ten units per acre. A deed restriction and subdivision plat will be needed concerning the limited access onto Tenth Street, and this will be both legal and accessible. The neighborhood objections are centered around the increase in size of the BL zone and possible future pressure to allow more accesses onto Tenth Street from the BL zone.

Richardson said additional business frontage is not needed on Tenth, stating that the Council needs to be careful not to create problems similar to those on Third Street.

Blume asked if the access would be at the eastern boundary of the property and Mueller answered that the petitioner seems favorable to this suggestion, but they have not yet heard from Glick. The access point to Tenth has not really been firmed up yet.

Richardson moved and Middleton seconded a motion to postpone action on the rezoning and remand it to the Plan Commission for further study on the access location.

Mueller said that the best access points are probably close to the edges of the Glick property and added that visibility is good throughout most of the BL zone and close to the Gaston land. He repeated that a decision on the exact location has not been made. This is normally decided by the Plan Commission.

Jim Cotner, attorney for petitioner Daisy Garton, addressed the Council. He urged the Council not to send the request back to the Plan Commission, stating that his client has done everything possible to prohibit access onto Tenth, including a deed restriction. He said this Council could go so far as requiring Council approval for future cuts, but added that they can only assume that future Councils will do what is right. He reminded the Council that the zone is BL, not BA, which would allow a much broader range of high traffic businesses. He said if the Council acts now they can impose restrictions; if they do not there is no telling what will happen in the future. He said that only twenty of fifty-eight business uses are permitted in a BL zone, and these types of businesses are not real traffic generators. He claimed that if two hundred apartments were going in there would be peak periods of traffic that could create problems, but with a BL zone this will not happen. In response to the claim that there is too much BL, he said that all of the land won't be used if it is not economically feasible. With a BL zone, only 50% of the area can be built on because of requirements for parking, landscaping, etc.

Towell said he did not see why 6½ acres of BL are necessary in this area of town. Cotner responded that it won't be used if the need is not there and added that it would probably revert to multiple dwelling unit uses.

Middleton urged the Council to approve the petition as presented.

Richardson withdrew his motion with permission of the seconder, Middleton.

ORDINANCE 79-94
To Amend Zoning re:
property located at
SE corner of Pete
Ellis and E. 10th
Street from BL
and RH to RL, and
from RL and RH to
BL

Harold Linman of the Grandview Hills Residential Association spoke to the Council. He said he had several points to make. (1) He did not think that 200 apartments could fit in this area; it would be more like 60 or 70. (2) There was not really a downzoning on the Glick property by adding a PUD designation. This will allow more dwelling units, not less. (3) There will be a lot of pressure in the future on the Council to allow more cuts onto Tenth because of the length between accesses. He said the courts may go along and say that this is an unreasonable restriction. (4) The Council could approve extra cuts onto Tenth Streets without the approval of the Plan Commission anyway. Finally, he said that the area residents simply do not have a lot of faith in the actions of future legislative bodies, stating that they will allow further development little by little.

Norma Briscoe from Grandview said many of the area residents oppose so much BL. She said the increased traffic volume is dangerous for children going to school, claiming that it could turn into another Third Street.

Steve Halkovic of Grandview said that all of the BL along Tenth makes no sense without access points. He said now is the time to stop further development before it is too late.

Middleton moved that the Ordinance be amended to add a restriction on access in Section I to allow access to Tenth only on the east side of Parcel B (shared property line between Garton and Glick).

Towell moved and Kinzer seconded a motion to remand the ordinance back to the Plan Commission, with Blume noting that he didn't think there were five votes to pass the ordinance. He said that the Plan Commission has already done all they can with the ordinance. They will again review the outline plan, etc.

Motion to postpone failed by a roll call vote of Ayes: 4, Nays: 4 (Morrison, Olcott, Blume and Middleton).

Olcott asked Mueller if Middleton's amendment was reasonable, and Mueller answered that he did not know if it had any legal substance with attaching a restriction to the site plan with a rezoning. They also have no idea how Glick would respond to it. He said there is a sinkhole near the shared property line which is unable to be served by sewer. There are several questions raised that really cannot be answered tonight.

Middleton said it is about time to protect the integrity of the streets. With his amendment, the access point would serve both parcels.

Blume said the Council does not know where the best access point is and said he is reluctant to vote on the amendment.

France Komoroske, Council Attorney, reminded the Council that any amendments made by the Council would mean that the ordinance would have to go back to the Plan Commission.

Middleton's motion then failed by a roll call vote of Ayes: 2 (Morrison and Middleton), Nays: 6.

Middleton moved and Richardson seconded a motion to table consideration of Ordinance 79-94 until the legal question concerning whether access can be restricted through a rezoning ordinance can be resolved. Both Komoroske and Cotner said they did not know if it was legal.

Allison said any review should consider all zoning aspects, not just access. She said tabling now would only be a diversion.

Ordinance 79-94 was then tabled by a roll call vote of Ayes: 7, Nays: 1 (Blume).

Olcott moved and Morrison seconded a motion to adjourn after first reading, thereby postponing action on Ordinances 79-87, 79-60 and 79-88 until the next meeting.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 79-91 by title only.

FIRST READINGS
Ordinance 79-91
Budget Transfers

Clerk Connors read Ordinance 79-91 by title only and Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 79-96 by title only.

ORDINANCE 79-96
To Amend BMC re:
Historic Preservation Ordinance

Clerk Connors read Ordinance 79-96 by title only and Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 79-98 by title only.

ORDINANCE 79-98
To Amend 1980
Salary Ordinance
to Fix Salary of
Project Dir. - HRD

Clerk Connors read Ordinance 79-98 by title only and Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 79-99 by title only.

ORDINANCE 79-99
To Amend '79 Salary
Ordinance re: Util-
ity Safety Engineer

Clerk Connors read Ordinance 79-99 by title only and Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Appropriation Ordinance 79-17 by title only.

APPROPRIATION
ORDINANCE 79-17
To Adopt Water &
Wastewater Budget
for 1980 - Utilities

Clerk Connors read Appropriation Ordinance 79-17 by title only and Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 79-97 by title only.

ORDINANCE 79-97
To Amend BMC re:
Common Council rules

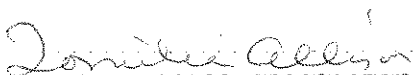
Clerk Connors read Ordinance 79-97 by title only and Allison read the legislative synopsis.

The meeting was then adjourned at 11:10 p.m.

ADJOURNMENT

APPROVE:

ATTEST:





Tomilea Allison, President
City of Bloomington

Nora M. Connors
City Clerk

MINUTES APPROVED THIS 6th DAY OF DECEMBER, 1979.