

In the Court Room of the Police Station at Fourth and Washington Streets, held on Thursday, March 16, at 7:00 p.m. with Councilpresident Pro-tem Allison presiding over a regular session.

COMMON COUNCIL
MARCH 16, 1978
REGULAR SESSION

Councilmembers present: Morrison, Towell, Allison, Blume, Kinzer, Olcott and Middleton (entered late). Councilmembers absent: Richardson and Young (who were out of town).

ROLL CALL

Allison began the meeting by giving the agenda summation. First, the annual reports of the Human Resources Department and Human Rights Commission. Under Petitions and Communications, approval of the 1978 Yellow Cab License. For second reading, Resolution 78-8, Temporary Loan; Ordinance 78-16, To Amend the BMC to Set Mileage Rate Paid to City Employees; Ordinance 78-6, To Require that Parking Meter Fees be Deposited in a Special Fund; Ordinance 78-4, To Amend Title 15 of the BMC, Section 15.36.200, Entitled, "One-Way Streets and Alleys-- Designated"; Ordinance 78-12, To Authorize Acquisition of Property Off the Northwest Corner of the Square (Thrasher Building); and Appropriation Ordinance 78-2, To Appropriate Funds from the Cumulative Capital Fund for Purchase of Property Off the Northwest Corner of the Square. For first reading, Ordinance 78-18, To Amend Zoning Maps re: SW Quarter of Section 1, Township 8 North, Range 2 West from RE to RS; Ordinance 78-19, To Repeal Ordinance 77-59 and Ratify Terms and Conditions of Lease with Purchase Option for Park and Shop Lot; Appropriation Ordinance 78-5, To Appropriate Funds from the Parking Meter Fund for Lease of Park and Shop Lot; and Ordinance 78-20, To Enact a Leash Law. Also, the minutes of February 23 and March 1 are to be approved.

AGENDA SUMMATION

Councilmember Olcott introduced and read Resolution 78-9, Encomium for the I.U. Basketball Team, which wished them luck in their bid for the NCAA Championship. He asked that it be approved by acclamation. Resolution 78-9 was then approved by a unanimous voice vote with one minor amendment.

MESSAGES FROM
COUNCILMEMBERS
Resolution 78-9
I.U. Basketball
Team Encomium

Councilmember Towell then read a written statement concerning the powers of committees and action taken on Ordinance 77-96, Annexation of Property Near the Intersection of Winslow Road and Henderson Street. The statement follows: "At the last committee meeting of the Council, a motion was made and passed to table an ordinance until a particular date when the date was understood to be beyond the date when the ordinance would be of any use to the proposers of the ordinance. In other words, a motion was passed which was thought to be a motion which would kill the ordinance. I believe that this motion was ultra vires (beyond the power of the committee). A committee is advisory to the Council and a useful institution in that it can be the vehicle for informal and more concentrated study of issues coming before the Council. But it is not a substitute for the Council and cannot substitute its will for the Council. For a committee to have such powers, it would have to get them from State law, or rules established by ordinance, or a parliamentary authority authorized by state statute or local ordinance. None of these grant council committees such authority. Beyond the lack of sheer power to kill proposals in committee, there is the whole rationale of why it is a bad idea to permit it to happen. The public has notice of Council meetings. They are either the regular meetings of the Council with notice given in regular expected ways or special meetings with forty-eight hours notice and capable of dealing with only items listed in the notice. The public has a right to expect that its public bodies will operate in a rather strict way to insure that it, the public, is aware of what business is being done in its name. Moreover, it is against the law for a public body to do otherwise. It is the duty of Councilmembers to attend regular and special meetings which are properly called to consider and vote on the public's business. It is not their duty to attend committee meetings except and in so far as the committee is helpful to their performance in Council meetings. Part of the duty is to listen to other Councilmembers who may have something enlightening

to say about the business of the Council in the meeting. This duty is reflected in the rules which make cutting off debate a motion requiring a higher vote than regular motions. A vote to cut off a proposal in committee thwarts the collegial consideration of proposals in properly called Council meetings regardless of how much they are discussed in committee, member's homes, caucuses, bars and restaurants or any place else. A proper committee has one basic power: a report it makes to the Council is without other formality a motion on the floor to be considered by the Council. This is a very important and appropriate power for committees. State law sometimes gives other powers to the committees it specifies such as the finance committee's power to write a budget if the administration fails to do so by an agreed date. This Council has in the past refused to implement this important power by setting a date. As far as I know we have none of the statutory committees. Some Councilmembers are uneasy in Council debate. They don't want to look bad in public. They are reluctant to have real discussion on the Council floor. They look for alternatives and rehearsals. You can judge the extent of the reluctance by how much the Council committee meetings come to resemble regular meetings. A committee set up to study a proposal and make a report will not have nine members and it will not pretend to vote on motions more properly made in Council meetings. I have noticed that Council Committee meetings tend to be mainly a forum for City officials. They are a closed circle which in general excludes the public. This is fine if their purpose is limited. But it is a distinct disservice to attempt to settle all or most Council issues in such an atmosphere. It is the ultimate disservice when there is a formal vote to kill proposals in committee."

There was no message from the Mayor.

MESSAGE FROM MAYOR

Duffy LaCava then presented the Human Rights Commission's 1977 Annual Report. He explained that the Commission lost their Director last year, along with the Chief Investigator. A State Court declared local Human Rights Commissions unconstitutional and the State legislature has since enacted legislation which would reinstate local Commissions, but deletes some of the areas covered by Bloomington's HRC, such as marital status, sexual orientation and age. He said he assumed portions of Bloomington's ordinance would have to be rewritten to conform with state law. The HRC has retained counsel and is waiting to see if the Supreme Court will consider their case in order to reinstate the lost categories. They hope the Supreme Court will hear the case of Hartwell v. I.U. in order to clarify the constitutionality of the original ordinance, and they hope to be able to go back to the legislature to have some of their powers reinstated. They now have a backlog of 44 cases, with the investigators investigating the complainants' side, but not the respondent side, since they feel this would not be proper in light of their present status. Six cases have been filed since the appellate court decision. The staff has been answering questions from the public, and the Legal Department has assisted with the appeal for transfer to the Supreme Court. He noted that of the 44 cases, only five are against I.U., and a majority of the cases are in the category of sex and race, and most in the employment area. In answer to a question from Councilmember Towell, LaCava said four Commission members are to be named by the Mayor and Council this month. He asked that these appointments be made quickly, as the Commission has a great deal of work to do. A new Director and Chief Investigator must be hired soon. When Councilmember Blume asked when the ordinance is to be rewritten, LaCava said the Legal Department has been working on this, and it should be coming before the Council for a vote on April 20.

HUMAN RIGHTS COMM.
1977 ANNUAL REPORT

Kinzer moved and Blume seconded a motion to approve the Human Rights Commission 1977 Annual Report as submitted. Motion carried by a unanimous vote.

Allison asked for the annual report of the Human Resources Department, but Ed Howell had not yet arrived. Olcott suggested that the HRD monthly report be made into a quarterly report. This would

be adequate, and would also not waste so much on xeroxing, etc. Morrison agreed.

Allison said that she is pleased that under the emergency energy program that they were able to use the funds that were available. Other communities had a hard time getting the money to those who need it.

Olcott added concerning the Human Resources Department that Ed Howell is the best director the Department has had, and he does a very good job. He then moved and Morrison seconded a motion to approve the Human Resources Department 1977 Annual Report as submitted. Motion carried by unanimous voice vote.

Allison asked the Council to address the matter of approval of the the 1978 Yellow Cab License.

PETITIONS AND
COMMUNICATIONS

Towell asked what Mr. McNeely (owner of Yellow Cab) plans to do about the newly enacted tax exemption on gasoline, since he should save a great deal of money.

McNeely said he will not count his chickens before they hatch; he is not counting on the money and will not begin to think about it until he has seen the regulations and been informed of the changes made by the state. He said saving 8¢ on the gallon would help them quite a bit, but he is not anticipating the funds at this time.

Towell asked if the fares would change.

McNeely answered that their insurance costs have doubled this year, but they will try to keep fares where they are now. He said perhaps they could expand their discount fares for senior citizens with the extra money or pay back the bank.

Blume said he is glad to hear this program will be expanded, noting that airlines are adopting similar discount fares for senior citizens.

McNeely said that some cities issue tokens to senior citizens which entitles them to get \$10 worth of taxi fares for \$5. Cities are then reimbursed through the state. In answer to a question from Olcott regarding how much it costs to run a cab per mile, McNeely said he honestly did not know.

Kinzer asked how the rates are devised.

McNeely explained that it is not done by the mile. The last change was a straight 10¢ across-the-board rate increase. He said that the time element must also be considered.

Olcott moved and Morrison seconded a motion to approve the 1978 Yellow Cab license. Motion carried by a unanimous voice vote.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 77-96 by title only.

ORDINANCE 77-96
Voluntary Annexation
of Property on
Winslow Rd. near
S. Henderson

Towell then spoke against introduction of the ordinance saying that all Councilmembers should be present for this important vote.

Kinzer agreed, and said that committees only make recommendations and cannot remove items from the Council agenda through their actions. She said the committee's action was not intended to kill the ordinance.

Lynn Coyne, Attorney for the purchasers, said they would prefer that the ordinance be brought up at the April 6 meeting. They have checked with HUD, and they informed them that funds may still be available at a later date. He added that the petitioners are not present tonight but can be present on March 29 and April 6.

The vote to put Ordinance 77-96 on the agenda was Ayes: 2, Nays: 4 (Morrison, Allison, Kinzer and Blume). Before the vote there was general discussion concerning the proper way to bring an item

on an agenda, with Towell saying that perhaps the ordinance should be brought up on the agenda and then tabled.

Olcott moved and Morrison seconded a motion to introduce and read Resolution 78-8 in entirety.

RESOLUTION 78-8
Temporary Loan

Clerk Connors read Resolution 78-8 in entirety.

Olcott moved and Morrison seconded a motion to adopt Resolution 78-8.

Morrison gave the committee report, noting a Do Pass recommendation by a vote of Ayes: 6, Nays: 0. He then read the legislative synopsis.

Towell said new state legislation has been passed which would give more money to Local Road and Street Funds for cities throughout the state.

Pat Gross said some restrictions have been lifted concerning utilization of LR&S funds. These funds can now be used for other things besides constructing roads. They will be used for paving streets, with \$500,000 going for the East Third Street project. The City may also be reimbursed for costs incurred through snow removal. A Purdue study said that Bloomington should get \$210,000 from the state which could be used in the same manner as MVH funds.

Resolution 78-8 was then adopted by a vote of Ayes: 7, Nays: 0. (Middleton entered at this point).

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 78-16 by title only.

ORDINANCE 78-16
Amend 2.64.010 of
BMC re: Mileage
Paid to City Employees

Clerk Connors read Ordinance 78-16 by title only.

Olcott moved and Morrison seconded a motion to adopt Ordinance 78-16.

Morrison read the legislative synopsis and gave the committee report, stating that there was a Do Pass recommendation by a vote of Ayes: 5, Nays: 0.

Kinzer said she would be in favor of keeping the 12¢ per mile rate until it can be raised to 15¢ per mile for next year since the City has budgeted for 12¢ per mile.

Middleton moved and Olcott seconded a motion to amend the ordinance to read 15¢ per mile.

Pat Gross addressed the Council. She said that she had conferred with all departments who budget for mileage, and they all seem to be in favor of the change. Some departments are already running into trouble with their mileage allowance and are planning on transfers. Most departments can absorb the increase in their present budgets. The only problem is with Human Resources who have budgeted for 12¢ through their grants and these will have to be amended or the employees will simply have to cut down on mileage. She then explained the various mileage budgets for different departments.

Olcott read from a "Triple A" study who have determined the fixed cost of operating a car (1977 average) to be 15¢ per mile, plus 6¢ for operating costs (gas, oil, etc.). He said even with 15¢ per mile, the employees will lose money.

Ordinance 78-16 was then amended to read "15¢ per mile" by a vote of Ayes: 7, Nays: 0.

Olcott moved and Morrison seconded a motion to adopt Ordinance 78-16 as amended. Motion carried by a vote of Ayes: 7, Nays: 0.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 78-6 by title only.

ORDINANCE 78-6
Require Parking Meter
Funds to be Deposited
in Special Fund

Clerk Connors read Ordinance 78-6 by title only.

Olcott moved and Middleton seconded a motion to adopt Ordinance 78-6.

Morrison gave the committee report and read the legislative synopsis, noting a Do Pass recommendation of Ayes: 6, Nays: 0.

Towell explained that this ordinance arose through discussions on the Downtown Committee, of which he is the Chairperson. He said they found that the City needs to update their ordinance in order to conform with state law. In answer to a point made by Councilmember Blume concerning the fact that the City is still bound to adhere to state statute, Towell said that this ordinance clarifies things, and the state would prefer that the City pass such an ordinance.

Ordinance 78-6 was then adopted by a roll call vote of Ayes: 7, Nays: 0.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 78-4 by title only.

ORDINANCE 78-4
Designate Faculty
Ave. 1-Way North

Clerk Connors read Ordinance 78-4 by title only.

Olcott moved and Morrison seconded a motion to adopt Ordinance 78-4.

Morrison read the legislative synopsis and gave the committee report, with a Do Pass recommendation by a vote of Ayes: 6, Nays: 0.

Olcott urged the Engineering Department to monitor the parking situation on the street to see if perhaps parking should be removed from the street.

Middleton said he thinks the University is now working on this.

Ordinance 78-4 was then adopted by a roll call vote of Ayes: 7, Nays: 0.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 78-12 by title only.

ORDINANCE 78-12
Authorize Acquisition of Thrasher
Building Off NW
Corner of Square

Clerk Connors read Ordinance 78-12 by title only.

Olcott moved and Morrison seconded a motion to adopt Ordinance 78-12.

Morrison read the legislative synopsis and gave the committee report, which reflects a vote of Ayes: 4, Nays: 2 for a Do Pass recommendation.

Kinzer explained her reason for voting against a Do Pass recommendation. She said that her major concern is that the situation has changed with the county, and they now may be interested in working with the City on some sort of City/County Building. The County should share costs with the City. Perhaps the Council should wait until the County's plans have firmed up in this area.

Mayor McCloskey said that he has met with John Irvine and other county officials concerning this possibility. He said it is safe to say that the county has been expressing interest in a possible joint venture with the City, and they are now closer than ever before in consideration of a City/County building. However, he warned against counting on the county to choose this alternative, and said the Thrasher Building should be obtained in either case.

Jim Wray added that he has worked with John Irvine recently on this. Negotiations have been going on concerning space needs, etc. The County is very involved now with floating their bonds under Irvine's plan. He said that it is probably

some distance away at this point, and the City cannot count on this until several administrative hurdles have been passed.

Middleton spoke of the commitment the Council made last year in supporting acquisition of land on the northwest corner. The Council gave Mr. Ringgenberg a good indication of the City's direction, and they should follow through. Negotiations with the county can still take place in the future on a City/County building if the County chooses to go in this direction.

Kinzer noted that the resolution that was passed last year did not obligate the Council to buy the structure, but indicated that the City was interested in a cooperative City/County Building effort. She said she does not want the City to subsidize the County in the downtown area, noting that City residents often do not receive County services in the same way as non-City residents do.

Jim Wray said he does not see how purchase of the Thrasher Building would mean that the City is subsidizing the County. The City is in a more logical position to purchase property than the County as the City has the downtown to protect. He noted that in Evansville, there was a 33% vacancy downtown and the City had to spend large amounts of money to turn the trend around.

Kinzer replied that this action may stand in the way of a City/County Building, and repeated that she would prefer to see what the County does in this area.

Blume said he is all in favor of a City/County Building. He said the City cannot count on the County coming through on supporting such a building, and said the Council should not wait on their decision. He said it would be wise to purchase the property in any case. If the City does not acquire the building, it could hinder progress on a City/County Building.

Middleton said any such structure would have to be the result of a City/County Building Authority. If the Authority is established, the City could be reimbursed for the costs incurred through their bonds. He said he thought the City was going in this direction.

Olcott warned that there may be legal problems if the City does not acquire the Thrasher Building. Ringgenberg could take legal action against the City if they do not buy the building since they have been telling Mr. Ringgenberg of their intent for some time, and his tenants have moved out in anticipation of the City's purchase. He said he hopes that private enterprise will take the hotel; if not, the City must work with the County on plans for the area. He said in 1954 he went to a meeting to discuss a City/County Building but in all these years, nothing has happened. Now, Irvine is ready to come back and talk about it. He ended by saying that he does not want to see the City sell the building at a loss as they did with the Old Library, and noted that the Council has made a commitment to Mr. Ringgenberg through "inverse condemnation".

Allison said she plans to vote for the ordinance tonight. She said she never objected to the plans, her former negative votes being the only way to get a good grasp on what the plans were for the area. She has since learned that you cannot always nail these things down, and is now willing to vote for purchase.

Blume said he is for the purchase, not because the City is getting a good price. He is relying on the expertise of Jim Register and Jim Wray. He said even if a City/County Building is not completed, parking space is needed. Purchase prices with the County can be worked out at a later date. He urged the Council to give a favorable recommendation on the ordinance.

Martha Simms, representing the Chamber of Commerce, said the Chamber recommends that the Chamber and citizens of Bloomington should push for a City/County Building. The City and County need the space, and it would be a plus for the community.

Ordinance 78-12 was then adopted by a roll call vote of Ayes: 6, Nays: 1 (Kinzer).

Olcott moved and Morrison seconded a motion to introduce and read Appropriation Ordinance 78-2 by title only:

Clerk Connors read Appropriation Ordinance 78-2 by title only.

Olcott moved and Morrison seconded a motion to adopt Appropriation Ordinance 78-2.

Morrison read the legislative synopsis and gave the committee report, noting a Do Pass recommendation by a vote of Ayes: 4, Nays: 2.

Towell said a neighbor of his remembers going downtown many, many years ago to a meeting on establishing a City/County Building Authority, but nothing was done. He said until the City has a City/County Building, many things cannot be accomplished. He said he hopes the matter is settled soon.

Appropriation Ordinance 78-2 was then adopted by a roll call vote of Ayes: 7, Nays: 0.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 78-18 by title only.

Clerk Connors read Ordinance 78-18 by title only. Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 78-19 by title only.

Clerk Connors read Ordinance 78-19 by title only and Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Appropriation Ordinance 78-5 by title only.

Clerk Connors read Appropriation Ordinance 78-5 by title only and Allison read the legislative synopsis.

Olcott moved and Morrison seconded a motion to introduce and read Ordinance 78-20 by title only.

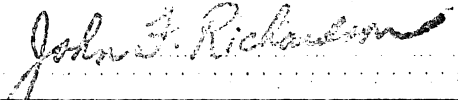
Clerk Connors read Ordinance 78-20 by title only and Allison read the legislative synopsis.


Olcott moved and Morrison seconded a motion to approve the minutes of February 23 and March 1, 1978 as submitted. Motion carried by a unanimous voice vote.

The meeting was then adjourned at 8:30 p.m.

APPROVE:

ATTEST:


John F. Richardson, President
Bloomington Common Council


Nora M. Connors, Deputy City Clerk
City of Bloomington

APPROVED upon this 6 day of April, 1978.

APPROPRIATION
ORDINANCE 78-2
From CC Fund for
Purchase of Thrasher
Building

FIRST READINGS
ORDINANCE 78-18
Amend Zoning Maps
re: Area behind
Curry Ct. RE to RS

ORDINANCE 78-19
Repeat 77-59 and
Ratify Terms of
Lease/Purchase for
Park and Shop Lot

APPROPRIATION ORDINANCE 78-5, From
Parking Meter Fund
for Park & Shop Leas

ORDINANCE 78-20
Leash Law

MINUTES FOR APPROVAL
2/23 & 3/1/78

ADJOURNMENT