

In the Common Council Chambers of the Municipal Building, the Common Council held a Regular Session on Thursday, October 6, 1977, at 7:30 p.m., with Councilpresident Middleton presiding.

REGULAR SESSION
October 6, 1977

Present: Morrison, Young, Towell, Allison, Blume, Olcott, Richardson, Middleton. Absent: Kinzer.

ROLL CALL

Approximately 50 others were present.

Councilpresident Middleton gave the agenda summation. For Second Reading, Ordinance 77-68, 1978 Salary Ordinance for Utilities Employees; Resolution 77-20, Utilities/Civil City Franchise Agreement for 1978; Ordinance 77-76, To Amend Ordinance 66-20, re: Water Rates; Resolution 77-25, To Approve a Contract Between the Utilities Service Board and Black & Veatch for Engineering Services for Dillman Road Treatment Plant; Appropriation Ordinance 77-18, To Appropriate Funds from CC re: Bryan Park Pool "bubble" repairs; Ordinance 77-79, Budget Transfers, re: Animal Control, Board of Works, Controller's Office, Fire Department; Ordinance 77-77, Concerning Iceboxes, Refrigerators, Ice Chests, Icemakers and Freezers; Ordinance 77-78, To Amend the Penalty Provisions of the Bloomington Municipal Code. For First Reading, Ordinance 77-74, To Amend Title 7 of the BMC, Entitled "Animals"; Ordinance 77-80, To Authorize the City to Negotiate with Police and Firemen, and Appointing Mayor and Personnel Director as its Exclusive Agents; Ordinance 77-81, Budget Transfers, re: Engineering, Fire and Police Departments, Sanitation; Appropriation 77-19, To Appropriate Funds from Federal Revenue Sharing Fund and GF, re: Human Resources, Youth Shelter, Controller's Office; Ordinance 77-73, To Amend Zoning Maps (Z0-45-77) re: SE corner of E. 10th St. & 46 Bypass RH to BA for shopping center; Ordinance 77-70, To Amend Zoning Maps (Z0-42-77) re: W. Side of Russell Road, 20 feet from SR 45, RE to RS for elderly housing; Ordinance 77-71, To Amend Zoning Maps (Z0-40-77), re: SW Corner Kinser Pike & Gourley Pike RH to BL for unspecified use; Ordinance 77-72, To Amend zoning Maps (Z0-41-77), re: NE corner Moores Pike & College Mall Road RL to BL/PCK for Noble Roman's office complex; Ordinance 77-82, To Amend Zoning Maps (Z0-44-77) re: 1210 Arlington Road RS to B1 for unspecified use--Plan Commission denied, not appealed; Ordinance 77-83, To Amend Zoning Maps (Z0-46-77), re: N. Fee Lane & Jordan Avenue (Weatherwax Estate) SI to RH. Minutes for Approval, August 19, September 1, September 15, 1977.

AGENDA SUMMATION

Councilmember Towell expressed his dismay upon hearing that another business will soon be leaving the downtown area due to an intolerable rent increase. He felt that the problem with downtown parking is soon going to be a crisis. He urged immediate action on the problem, since apparently there is not much time left in which to act.

MESSAGES FROM
COUNCILMEMBERS

Councilmember Olcott acknowledged all of the efforts of Debbie Mantell, mayoral aide, in preparing the 1978 Budget. He said that he would hate to see her leave, but wished her the best.

Councilmember Richardson agreed with Councilmember Olcott's plaudits for Ms. Mantell. He complimented the Mayor and the University for reaching a tentative agreement regarding planning for the periphery of the campus. He hoped that the University's lack of responsiveness and planning of the past years is now going to change. He noted that state legislative action might be necessary to remedy this situation if this tentative plan does not do so. He expressed his willingness to work with the Mayor in an effort to make the plan work. He spoke of the pending departure of Bruce Wackowski, Director of the Human Rights Commission, and cited the excellent work which he has done. He felt it unfortunate that Mr. Wackowski was leaving at such a crucial time in the Commission's history. He noted his dismay with the recent appellate court's decision and gave his support to the proposed appeal. He was concerned that Human Rights Commissions, in Bloomington and throughout the state, remain strong.

Councilpresident Middleton further praised the work done in the past years by Debbie Mantell.

Noble Baugh, Director of the Sanitation Department, came forward to answer any questions the Council might have regarding his department's annual report. ANNUAL REPORT
SANITATION DEPARTMENT

In answer to a question from Councilmember Young as to the Sanitation Department's ability to handle the increased number of houses added to the garbage pick-up route over the years, Mr. Baugh acknowledged that his staff is currently overloaded. He indicated that there is a need for another work crew and another piece of equipment.

Councilpresident Middleton referred to a report which cited Bloomington as having the smallest sanitation crew in the state.

Councilmember Olcott moved and Councilmember Blume seconded a motion to accept the Annual Report of the Sanitation Department as submitted.

The motion carried by a unanimous VOICE VOTE.

City Controller Pat Gross came forward and spoke of the Mayor's desire to have the Council approve his choices of individuals to fill two vacancies on the Housing Quality Appeals Board. MESSAGES FROM
THE MAYOR

Councilpresident Middleton suggested that a motion be made to accept Marc Diamond and Judy Waltz to fill these vacancies for the sake of discussion.

Councilmember Blume moved and Councilmember Towell seconded a motion to add Mr. Diamond and Ms. Waltz to the HQAB.

Councilmember Young expressed his desire to interview the prospective appointments before giving approval.

Councilmembers Morrison, Towell, and Blume shared this desire.

Councilmember Blume questioned whether it was their purpose to re-evaluate the Mayor's recommendations.

Councilmember Richardson moved and Councilmember Olcott seconded a motion to table the motion to approve the Mayor's recommended appointees until interviews between them and the Council could be conducted.

The motion was passed by a vote of Ayes: 6, Nays: 2 (Blume, Allison).

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-68 by title only. ORDINANCE 77-68
1978 Salary Ordinance
re: Utilities Dept.

Clerk Dolnick read Ordinance 77-68 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Ordinance 77-68.

Councilmember Blume read the legislative synopsis and gave the Committee Report, noting a DO PASS recommendation of Ayes: 6, Nays: 0.

Councilmember Young indicated that he was in favor of giving Utilities Employees a raise, but questioned whether in fact the Department could afford such a raise.

Councilmember Blume noted that the Utilities Department would not be capable of allowing such a raise without being given a rate increase.

Art Knollman, Director of the Utilities Department, came forward and agreed that there is a financial problem within the department. He felt that it is essential that employees be given a raise, and therefore recommended that the Council pass the Ordinance.

He also pointed out that 141 full-time and 20 part-time employees would be affected by the Ordinance.

General discussion followed regarding salaries of appointed officials compared with those of elected officials.

Councilmember Young felt that the Utilities Department could eliminate some unnecessary expenses, but supported the proposed.

The ordinance was adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

Councilmember Olcott moved and Councilmember Blume seconded a motion to read Resolution 77-20 in its entirety. RESOLUTION 77-20
Utilities/Civil City
Franchise Agreement
for 1978

Clerk Dolnick read Resolution 77-20 in its entirety.

Councilmember Blume moved and Councilmember Young seconded a motion to approve Resolution 77-20.

Councilmember Blume read the legislative synopsis and gave the Committee Report, noting a DO PASS recommendation of Ayes: 5, Abstain: 1. He pointed out that next year, there would not be a proposal similar to this one, requesting that the Utilities Department pay 65% of many City employees' salaries since it has become difficult to justify this when certain of the employees are doing nothing for the Utilities Department.

Councilmember Towell pointed out that in this agreement, the Utilities Department pays a given percentage of certain Civil City salaries in lieu of paying taxes on property it owns which would be paid were it privately owned. In this manner, the Utilities Department pays considerably less than it would if it were paying all of these taxes.

Councilmember Olcott objected to the use of the term "dirty" to describe this method of payment, stating that he felt that this was an equitable way of maintaining a low tax rate.

James Cotner, attorney for the five rural water companies, came forward and spoke to the question. He suggested that what the Council is seeking to do is legal, while the way they are going about it is not. He spoke of his discussion of the question with Mr. Gibson of the State Tax Commission, where methods for assessing Utilities' Properties were considered. If all of the Utilities' property were assessed, he concurred with Councilmember Towell's earlier remarks that the Utilities Department would save money by paying a percentage of Civil City employees salaries. However, he noted that the City can only assess the values of properties within the City limits for consideration herein. He concluded that the Council should not choose an arbitrary figure here, and that the present Ordinance is illegal, according to the State Tax Commission. He emphasized the impact that passage of such an ordinance could have on future water rates, which will also be illegal as a result.

Councilmember Olcott wondered why this question had never been contested before.

After discussion, Councilmember Blume pointed out that there was insufficient time to do so this year, but that a Committee has been organized to do so before next year's resolution is considered.

Mr. Cotner said that his objection to the franchise is mainly that the figure used is arbitrary, namely, it was not selected according to tax rates and property values. He noted that he would probably be better off if the Council enacted the resolution, because it is one of his strongest arguments before the P.S.C. In 1982, the City estimates the franchise fee to be \$241,000 (\$70,000 more than in 1977). He told the Council that what they seek to do may be permissible, but it requires certain steps: determination of what the valuation within the City is, and the money must go to the city in the form of taxes.

Councilmember Young asked how Mr. Cotner arrived at the figure

which he says is the value of the utility property.

Mr. Cotner answered the water utility balance sheet.

Councilmember Young contended that the Utility Department does not pay equitable rent for the space they use in the Municipal Building (only \$75 monthly), and the City pays an exorbitant hydrant rental fee. He said the City has been operating under a franchise agreement for some time, and it has been an accepted practice. He added that they will be working on revamping the agreement next year. For this reason, he said he sees no reason to change the procedure this year.

David Rogers, Attorney for the USB, pointed out that the Attorney General has clearly ruled that cities are entitled to pay, by agreement between the Council, USB and Mayor, sums for services rendered (percentages are not stated) by specific employees of the City to the Utility. He contended that the resolution would be in accordance with the Attorney General's ^{opinion} as appropriate. He granted that in its overall effect, it must be a reasonable agreement, and the three parties must agree on this. He said that the three "touch-stones" that the City must abide by are allocations of what might be taxed by Water Utility. Another is that those employees paid must render services to the utility, which is the case. Lastly, the agreement must be "reasonable". He concluded by saying that the overall amount of funds from the Utility to the City is reasonable and legal.

Resolution 77-20 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

(Councilmember Morrison added during the vote that he disagrees with the word "franchise", stating that this is merely another way of giving money back to the taxpayers of the City. Councilmember Towell commented that he felt the amount was reasonable, but hoped that there would be a clear rationale for future allocations of funds from the Utility. Councilmember Young said he would prefer that the City not take money from Utilities, but said that he would vote yes in order to function next year with the hope that next year the plan will be revised. Councilmember Blume agreed, saying that next year there will be a different breakdown of line items. At the present time, he believes the amount is reasonable. Councilmember Morrison said he felt the whole situation is a mess, and said he hoped it can be corrected. He said it would be unreasonable to vote down the franchise at this late date.)

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-76 by title only.

ORDINANCE 77-76

Concerning
Water Rates

Clerk Dolnick read Ordinance 77-76 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Ordinance 77-76.

Councilmember Blume read the legislative synopsis and gave the committee report from Public Facilities. He noted that the Ordinance was amended in committee to lower the minimum monthly charge to \$1.80 and reduce to 95¢ per thousand gallons up to 20,000 gallons. This amendment received Do Pass by a vote of Ayes: 6, Nays: 0. He made a motion to this effect which Councilmember Morrison seconded.

Councilmember Richardson noted that Mr. Traxler and he had written a letter to Black & Veatch asking several questions (copies of this letter were distributed to Councilmembers earlier). He made two recommendations (1) Increase the service charge to \$4.20 per month for 20,000 gallons or more (2) Eliminate charges for 1,000 gallons or less. He moved that these recommendations be adopted and Councilmember Olcott seconded the motion.

Jack Martin asked for one point of clarification on residential users. He asked if meter size was specified and Councilpresident Middleton answered no.

Councilpresident Middleton contended that there would be a problem with adopting the amendments since the rates are based on meter size, not on whether they are residential or commercial users.

of Citizens for Fair Water Rates,
Mr. Andrews/addressed the Council. In the B&V Study it says that residential customers live in single-family type housing. They would prefer to amend it only for 5/8" meters; however, it could not be broken down in that manner. The amendment is intended to apply to all residential users.

Councilmember Blume noted that there are some commercial users with 5/8" meters, so it cannot be broken down that way.

Councilmember Richardson said that the intent of the Council in recommending an amendment was to minimize the charges for those who could least afford it. This is what the second amendment is based on.

Councilmember Towell said he would like to have seen this amendment before this evening. If it is presented this late for a vote, it would be difficult to assess all of the effects - it may undermine the entire structure.

Councilmember Olcott said he questioned having no charge for those customers using 1,000 gallons or less, since costs are incurred by the Utility by preparing the billing.

Jack Martin noted that the USB considered cost of service, and said that no charge for 1,000 or less is not compatible with this philosophy.

Councilmember Richardson withdrew his motion; Councilmember Olcott withdrew his second.

Councilmember Towell stated that the amendment passed in committee is a progressive one. He said that Councilmembers doubted that rates could be lowered in this manner, but now they know differently. He urged the Council to pass the amendment.

Councilmember Richardson said he agreed with Mr. Towell. His amendments were not intended to undermine the first amendment. He agreed that the amendment will have a great effect on lower-income people. The intent of the amendments are basically the same. He also urged the Council and USB to have water rate hearings more frequently. He added that Councilmember Kinzer, who is absent, had expressed her support of the amendment passed in committee.

Councilmember Blume said he favors the amendment now, but did not before because he was not sure if revenues would be lowered. Since Black & Veatch has assured the Council that this is not the case, he will vote for the amendment.

Councilmember Young asked Mr. Scott how the different costs for different meter sizes were figured.

Mr. Scott answered that the higher costs for bigger meters are based on two factors (1) equivalent customer and (2) equivalent meter. In the equivalent meter category, they took the cost of the 5/8" meter plus service and compared it to the costs of the other sized meters and services. This gives you the multiplier. You then take the multiplier times the base factor for the 5/8" meter, which gives you a meter-related cost. From other studies made, they have a similar multiplier for large users. Billing, collecting, accounting, and investment costs must be considered.

Councilmember Young asked why multi-family dwelling units do not have the same percentage increase?

Mr. Scott answered that percentages could be deceiving. \$1.00 could be 1% of \$100 or 10% of \$10.

There was general discussion on the relationship between the size of the meter and cost. Mr. Scott presented charts explaining this.

Councilmember Towell said there has been some sentiment that residential users should be grouped together.

Mr. Scott answered they should not, and explained that large apartment complexes with master meters are not putting the demand on the equipment that other residential customers do. Therefore, they should not be responsible for the same capacity factors as others. In answer to a question from Councilmember Towell regarding why multi-family units are grouped with commercial, Mr. Scott said merely because it is a City practice.

Councilmember Olcott asked Mr. Scott to verify that with the amendment, revenues will not be reduced. Mr. Scott replied that the amounts proposed in the amendments are sufficient. They will meet recovery of cost of service.

Councilmember Richardson asked that materials B&V used to form the rates be made available to the public. Mr. Scott noted that they are available at the library, Utilities library and municipal building.

The amendment was then adopted by a vote of Ayes: 8, Nays: 0. (Kinzer absent, but voiced her support by telephone).

David Rogers asked that request for information from B&V be directed through utilities. They do not want to be charged by B&V for these materials. Utilities would probably have all of the data requested.

Councilmember Young then presented several water conserving devices that may be fitted on shower heads, in toilets, etc. He asked that the Water Office investigate whether they could sell these to customers so they could save water.

Jack Martin said they could provide information on where these devices could be obtained, but he was hesitant to say whether there would be legal problems with selling them. There may be problems with handling money. David Rogers said he would check into this.

Ordinance 77-76 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 1 (Young). Cotner told the Council their action was illegal, stating that the Council cannot amend the USB's recommendation, they would have to send it back to the USB for their concurrence.

David Rogers said they plan to go back to the USB for this purpose before this comes up before the P.S.C. He said the Council can amend the USB's recommendation.

Councilmember Richardson moved and Councilmember Morrison seconded a motion to return the Ordinance to the USB for their concurrence and final approval, with final Council approval on Wednesday.

David Rogers said they can bring it before them on Tuesday. They can re-pass the ordinance in amended form.

Motion carried by a vote of Ayes: 6, Nays: 2 (Morrison, Blume).

Councilmember Olcott moved and Councilmember Blume seconded a motion to introduce and read Resolution 77-25 in entirety.

Clerk Dolnick read Resolution 77-25 in entirety.

Councilmember Olcott moved and Councilmember Blume seconded a motion to adopt Resolution 77-25.

Councilmember Blume read the legislative synopsis and gave the committee report. The committee recommended that the Resolution be amended to add under Section II to add a Resident Engineer, Assistant Engineer and Clerk Typist.

Councilmember Morrison contended that the engineer's rates are too high. Mr. Knollman said supplies and indirect costs are included in the salary figures, accounting for approximately

RESOLUTION 77-
Approve Dillma
Road Contract
Between B&V &
USB

one half of total cost.

Councilmember Olcott asked if there are alternatives to hiring a Residential Engineer. He asked if a local person could be used.

Jack Martin said the EPA specifies that the engineers must have extensive experience with sewer/water treatment plants. He noted that the state and federal government have approved this contract as it is. He said additional engineers will not be hired unless necessary. The USB will make this decision.

Councilpresident Middleton noted that the amendment came from the USB's decision to split up the contract. He repeated Mr. Martin's statement that if local contractors were to be used, they would have to be specialists in the field.

Councilmember Olcott questioned why the only engineer on the Board voted against this contract. Mr. Martin answered that there was great concern about the cost.

Councilmember Young said he supported breaking up the contract in order for local contractors to benefit. He said, however, a better job might be done if one firm does the entire project. It would also be easier this way. He suggested further negotiations with Black & Veatch on costs. The amendment was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 1 (Morrison). Morrison noted high costs determined his vote.

Councilmember Young said he would like to see the USB make arrangements with a local bank for emergency loans in case additional funds for contracts are needed.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt the resolution as amended. Motion carried by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

Councilmember Olcott moved and Councilmember Allison seconded a motion to introduce and read Appropriation Ordinance 77-18 by title only.

APPROPRIATION
ORDINANCE 77-18
From CC re:
Bryan Park pool
"bubble" repairs

Clerk Dolnick read Appropriation Ordinance 77-18 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Appropriation Ordinance 77-18.

Councilmember Blume read the legislative synopsis and gave the committee report, noting a Do Pass recommendation.

Appropriation Ordinance 77-18 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to table Ordinances 77-79, 77-77, and 77-78 until the November 3 meeting. Olcott noted the late hour. Motion carried by a unanimous voice vote.

TABLING OF SECOND
READINGS til 11/3

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-74 by title only.

FIRST READINGS
ORDINANCE 77-74

Clerk Dolnick read Ordinance 77-74 by title only. Councilpresident Middleton read the synopsis.

To Amend Animal
Control Ordinance

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-80 by title only.

ORDINANCE 77-80
Re: Negotiations w/
Police & Firemen

Clerk Dolnick read Ordinance 77-80 by title only. Councilpresident Middleton read the synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-81 by title only.

ORDINANCE 77-81
Budget Transfers

Clerk Dolnick read Ordinance 77-81 by title only. Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Appropriation Ordinance 77-19 by title only.

APPROPRIATION
ORDINANCE 77-19
From FRS and GF
to HR and Controller

Clerk Dolnick read Appropriation Ordinance 77-19 by title only. Councilpresident Middleton read the synopsis, and as the funds are coming from FRS, asked for comments from the public. Being none, Councilmember Olcott introduced the next ordinance.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-73 by title only.

ORDINANCE 77-73
Amend Zoning Map

Clerk Dolnick read Ordinance 77-73 by title only. Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Young seconded a motion to introduce and read Ordinance 77-70 by title only.

ORDINANCE 77-70
Amend Zoning Maps

Clerk Dolnick read Ordinance 77-70 by title only. Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-71 by title only.

ORDINANCE 77-71
Amend Zoning Maps

Clerk Dolnick read Ordinance 77-71 by title only. Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-72 by title only.

ORDINANCE 77-72
Amend Zoning Maps

Clerk Dolnick read Ordinance 77-72 by title only. Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-83 by title only.

ORDINANCE 77-83
Amend Zoning Maps

Clerk Dolnick read Ordinance 77-83 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to approve the minutes of August 18, September 1, and September 15, as submitted. Motion carried by a unanimous voice vote.


MINUTES

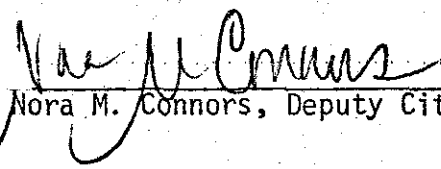
The meeting was adjourned at 11:00 p.m.

ADJOURNMENT

APPROVE:

ATTEST:


Thomas O Middleton
President, Common Council


Nora M. Connors, Deputy City Clerk