

In the Common Council Chambers of the Municipal Building, the Common Council held a regular session on Thursday, October 20, 1977, at 7:30 p.m., with Councilpresident Middleton presiding.

REGULAR SESSION
October 20, 1977

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

ROLL CALL

Councilpresident Middleton gave the agenda summation. For Second Reading, Resolution 77-29, Temporary Loan re: CC to Police and Fire Pension Funds; Resolution 77-30, Budget Transfer, re: Mayor's Office; Ordinance 77-79, Budget Transfers, re: Animal Control, Board of Works, Controller's Office, Fire Department; Ordinance 77-81, Budget Transfers re: Engineering, Fire Department, Police Department, Sanitation; Appropriation Ordinance 77-29 To Appropriate Funds from the General Fund to FRS; Ordinance 77-78 To Amend the Penalty Provisions of the BMC; Resolution 77-26 To Approve the Provisions of Resolution 77-18, Concerning the Relationship Between the Common Council and the USB; Resolution 77-28, To Approve the Retaining by the Utilities Service Board of the Firm of Ice, Miller, Donadio & Ryan as Bond Attorneys for the Dillman Road Treatment Plant; Ordinance 77-88 To Establish a New Water Rate Structure (tabled 10/12); Ordinance 77-71 To Amend Zoning Maps (ZO-40-77) re: SW corner Kinser Pike & Gourley Pike RH to BL for unspecified use; Ordinance 77-72 To Amend Zoning Maps (ZO-41-77) re: NE corner Moores Pike & College Mall Road RL to BL/PCD for Noble Roman's office complex. For First Reading, Ordinance 77-89 Budget Transfer re: Utilities Department; Appropriation Ordinance 77-20 To Appropriate Funds from Water Operation and Maintenance Fund, Water Depreciation Fund, and Wastewater General Fund; Ordinance 77-85 To Amend Chapter 2.64 of the BMC re: City Employee Residency Requirements; Ordinance 77-87 to Amend Ordinance 77-55 to Allow a Salary Increase for Fire Officers; Ordinance 77-86, Budget Transfer: re: Human Resources Department (Human Rights Commission); Ordinance 77-84 To Amend Title 15 of the BMC re: Freight Curb Loading Zones, Restricted Parking Zones, and Stop Intersections. Minutes for approval: October 6, October 12, 1977.

AGENDA SUMMATION

There were no messages from the Mayor.

MESSAGE FROM MAYOR

Councilpresident Middleton called for Messages from Councilmembers, and started with Councilmember Richardson.

MESSAGES FROM
COUNCILMEMBERS

Councilmember Richardson congratulated the Mayor and those involved with the Old Library renovation on reaching an agreement on the Old Library. He said there has been much concern over the library over the years, but now it will be a structure that the community can be proud of. Secondly, in response to a Herald-Telephone editorial, he said that in regards to the water rate increase and other matters, the Council often receives criticism for asking questions and discussing things in detail. He defended this practice, saying that he would not like to see the Council act as a rubber stamp on legislation they approve. He said the Council's system may be cumbersome, but if they are to vote on legislation, thorough discussion is warranted. Third, he spoke to the County's failure to appropriate funds for emergency housing, as they had promised earlier. He said that during budget hearings, some Councilmembers felt that they had nothing to worry about in the emergency housing area, and that the County's appropriation was firm. However, the County Council rejected the \$1,000 request for this purpose. He urged the Council to look at their own City budget and not depend on other budgets for funds, especially the County's. Now a position has been eliminated, and the status of the emergency housing program is uncertain. Finally, he addressed the relationship of the USB and the Council. He invited the League of Women Voters, and said he would send a letter to Ms. Alice Deppe, League President, to work on a reassessment of the separation of the utilities from the civil city. He suggested that the water department should either be brought back into the city for accountability purposes, or sold to a private

company. He termed the present arrangement a "disaster". He said he would like to hear different proposals on ways to reorganize the arrangement, and perhaps even have another referendum in the 1978 elections. He said he brings this up at this time because the the franchise committee will be considering the franchise agreement for 1979 very soon. He said the present system cannot work, no matter how many angles you may want to consider.

Councilmember Young remarked that he questioned selling the library to T.O.L.I. at less than cost. He suggested that if the City has surplus property to sell, it should be bid on. He urged the Mayor to let the Council vote on the sale of the library.

Councilmember Towell read a written statement to the Council concerning repeal of the City Residency Ordinance. (This message is given verbatim). We recently had a committee dealing with hardships under the City Residency Ordinance, and they wrote a letter where they spoke of quitting rather than doing their job, and criticizing the law rather than doing their job under the law. It seems significant to me that none of the reasons given for passing the law were dealt with in the report. I believe that this means it was a one-sided report rather than a fair report. I note that it was signed by Tomilea Allison, who replaced Brian De St. Croix, who was the main sponsor of the ordinance. It seems to me that she should have in fairness given some consideration to what Brian thought about the situation. The ordinance was remedial in nature. It was the kind of law which if all things were equal, would have been supported by very few, perhaps no one on the Council. We had a situation where we were eligible for public works money because of high unemployment in Bloomington, and still 70% of the jobs (I think this is a fair estimate - it was given at 66% or so), were held by non-residents. We had a continuance of patterns where multiple members of the same family were hired and citizens of Bloomington were not being hired. Not incidentally, we had a hiring pattern where personal loyalty to the Mayor or high officials was more important than other qualifications. People who have no other link to the City than their salaries are easier to mobilize as a political force than those who rub shoulders with neighbors and have the same stake as other citizens in the city in having it run well. These are some of the rationales which were given and remain as reasons for the ordinance. In addition, recently I have heard in several places that because of the ordinance, there has been increased hiring of college students who don't care and have to get special treatment to stay as employees. So, service to the citizens of Bloomington is now a reason for not hiring citizens of Bloomington. Has there ever been a clearer exploitation of class prejudice? No one has said that the ordinance is perfect for the purposes it was supposed to serve, that is, remedial purposes. I propose the following amendments: the first priority should be given to members of families under the poverty level who are citizens of Bloomington. Secondly, for jobs for which there are no particular qualifications, i.e. laborer jobs, Bloomington residents should be hired first until there are no Bloomington residents who have applied who are not disqualified by a history of being a bad employee. Three, that the skilled jobs, that is, those for which there are qualifications, Bloomington residents be given an increment in addition to their objective qualifications. This would be similar to the preference which is given veterans in federal and state employment. It could be a 10% increment to other point totals on the basis of 100. Four, that persons whose immediate families rent properties or own businesses be treated in the same manner as Bloomington residents since they pay property taxes and support the City government. These proposals may not answer every question about what right has Bloomington in what an employee does after work, or about hiring absolutely the best employees to serve the Bloomington. However, they may perfect the ordinance toward the remedial purposes that were present in the minds of those who passed it in the first place. Certainly, they should be part of the discussion of the ordinance, which seems to be heading toward an over-simplification with support of repeal as the only alternative. If I may speak for Brian and myself, and I think others on the Council when the ordinance was

passed, it was after being exposed to the situation in City Hall, not from a distance or from an initial naive day, that we came to support the ordinance. We have not been simply hiring people to do a good job in giving the citizens of Bloomington service. Much more has been going on. I believe in using the leverage that we have in City employment of people to serve the real aims of government, that is, to better the welfare of Bloomington citizens. I see no good purpose in restricting people under the grandfather clause to Monroe County, for example, so perhaps we should get closer and clearer to the aims that we had in the ordinance, and if we do, we can relax some of the present restrictions on present employees. I will have these amendments prepared for our future discussion on the residency ordinance.

Councilmember Morrison commented on the new sidewalk the City put in on S. Henderson. He said it was a very poor job, and added that a private contractor could not have gotten away with such low-quality work. He said the City is wrong to do a poor job on a contract, and then condemn private contractors for doing the same thing.

Councilmember Olcott noted that the sidewalk was engineered against the curb all the way from Henderson. He said he received a call on how dangerous this was, and the answer they received was that there is a bank near the sidewalk, and there simply was not enough room to cut in six feet. It is now back to five feet. This sidewalk was recommended and engineered by the Sidewalk Committee. He said that the workers that installed the sidewalk did follow the engineering plans.

Councilmember Kinzer responded that the sidewalk should have been constructed within the proper restrictions. She said she walks that sidewalk, and knows that it zig-zags back and forth. In regards to the Residency Ordinance, she said she is pleased that the Ordinance is coming up for a review; however, she is very aware of the problems that necessitated the ordinance. Philosophically, she does not agree with the ordinance, but it is a remedial ordinance, and this is why it has had her support. She would like to see all employment practices examined in City government. She thanked Councilmember Dowell for representing Brian De St. Croix's point of view.

Councilpresident Middleton took a moment to note that Rick Lehner, Program Director at WRIU, will be leaving Bloomington to take a position in Florida. He said it is sad that he is leaving and that he will be greatly missed. He praised him for his very professional work in filming Council meetings.

There were no Petitions and Communications.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce Resolution 77-29, and read it in entirety.

Clerk Dolnick read Resolution 77-29 in entirety.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Resolution 77-29.

Councilmember Richardson read the legislative synopsis and gave the committee report, noting a Do Pass recommendation by a vote of Ayes: 5, Nays: 0.

Resolution 77-29 was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Resolution 77-30.

Clerk Dolnick read Resolution 77-30 in entirety.

PETITIONS & COMMUNICATIONS
RESOLUTION 77-29
Temporary Loan to Police & Fire Pension Funds

RESOLUTION 77-30
Budget Transfer Mayor's Office

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Resolution 77-30.

Councilmember Richardson read the synopsis and gave the committee report, noting a Do Pass recommendation by a vote of Ayes: 5, Nays: 0.

Councilmember Kinzer asked if it was a common practice to pay travel expenses for those who travel to Bloomington to apply for a job.

Pat Gross answered that this is normally done if the person comes from out of state. The only fund that can be used for this is the Mayor's Promotion of Business Fund. This is not a frequent practice.

Councilmember Kinzer contended that this fund should be used for promotion of business only. She questioned using these funds for travel expenses.

Pat Gross noted that many cities do this. This fund is not used solely for promotion of business; it is used for many things that cannot be paid out of other line items.

Councilmember Kinzer noted that the Council cut this line item for next year for ethical and philosophical reasons. The legal question is not that important, she said.

Councilpresident Middleton said this practice can be easily justified. It is common practice in many places to pay travel expenses of those few applicants that are the top contenders for a position. It shows good faith on the part of the prospective employer.

Councilmember Blume concurred. He noted that it was explained during the budget hearings that this fund can be used for practically anything. Payment of travel expenses is a normal business practice, but it is done rarely in government. However, if the City is that interested in an applicant, it makes a good deal of sense.

In answer to a question from Councilmember Kinzer regarding whether this person was hired, Pat Gross answered no.

Councilmember Young said that if the USB agreed to pay this person's expenses, the City is obligated to do this.

Jack Martin came forward and said that he told applicants that the City could pay these expenses, not knowing that this cannot be done from Utilities funds.

The Resolution was adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 1 (Kinzer).

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-79 by title only.

ORDINANCE 77-79
Budget Transfers

Clerk Dolnick read Ordinance 77-79 by title only.

Councilmember Olcott moved and Councilmember Towell seconded a motion to adopt Ordinance 77-79.

Councilmember Blume read the legislative synopsis and gave the committee report, noting a divided question on the vote. The vote in committee on the Fire Department section was Ayes: 2, Nays: 1, and unanimous Do Pass recommendation on the remainder of the ordinance. He noted that he did not vote for a Do Pass recommendation because of the possibility of taking funds out of the Fire Department Services Personal account, funds that possibly could be used for raises.

The committee also asked for additional information on the use of the snorkel. Towell abstained on the Fire Department vote in committee, and asked for additional materials on what the snorkel was used for.

Councilmember Kinzer asked why \$1,000 was needed for municipal building repairs. She said the Council had believed that they had appropriated sufficient funds for the renovations.

Jean Strohm answered that two people from the Older American Center do repairs for the municipal building, and they have performed numerous services such as replacing treads on stairs, along with other jobs. She said the Municipal Building is in a much better state of repair as a result. Additional expenses were incurred with the construction of shelves for the new law library downstairs. These expenses were unanticipated since they believed the shelves could be moved; however, they could not. There were also expenses in moving offices downstairs, as new bulletin boards, and more shelves were needed. She agreed that these expenses possibly could have been anticipated.

Councilmember Kinzer said she was sorry to see funds spent for this purpose when they were not intended for this.

On the Fire Department section, Councilmember Towell noted that he had been a member of the Board of Public Safety, and they had sold one snorkel because they were not needed since the tall I.U. buildings have pipes for water.

Chief Gose responded that they must have the snorkel for insurance purposes. The snorkel responds to all multi-family dwelling units of two apartments or more. In answer to a question from Councilmember Young regarding the life span of the repairs to the snorkel, Chief Gose answered that the repairs should last fifteen years. The snorkel is a 1966 model.

Ordinance 77-81 was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0. Blume noted during the vote that the Council should look for \$20,000 in the budget next year for fireman's raises.

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.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Ordinance 77-81.

Councilmember Richardson read the legislative synopsis and gave the committee report. The committee recommended Do Pass by a vote of Ayes: 6, Nays: 0.

With no discussion, Ordinance 77-81 was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

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 GF and FRS to
Human Resources &
Controller's Office

Clerk Dolnick read Appropriation Ordinance 77-19 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Appropriation Ordinance 77-19.

Councilmember Richardson gave the committee report and read the legislative synopsis. The committee recommended Do Pass by a vote of Ayes: 6, Nays: 0.

With no discussion, Appropriation Ordinance 77-19 was adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-78 by title only.

ORDINANCE 77-78
To Amend Penalty Provisions of BMC

Clerk Dolnick read Ordinance 77-78 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Ordinance 77-78.

Councilmember Blume read the legislative synopsis and gave the committee report. The Committee vote was Ayes: 4, Nays: 0.

Ordinance 77-78 was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Resolution 77-26 in entirety.

RESOLUTION 77-26
Approve Provisions of Res. 76-18, Relationship Between the USB and Common Council

Clerk Dolnick read Resolution 77-26 in entirety.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Resolution 77-26.

Councilmember Richardson read the legislative synopsis and gave the committee report, noting a vote of Ayes: 5, Nays: 0 for a Do Pass recommendation. The Committee report also states that Jack Martin commented that the resolution is an effective and workable one.

Councilmember Kinzer asked Jack Martin if there have been any "emergencies" in the Utilities Department this year.

He answered that the winter freeze could have been considered an emergency. In this case, they immediately contracted with Ralph Rogers to help out with the thawing out of lines.

Councilmember Kinzer asked if there were any problems with defining "emergency".

David Rogers answered that "emergency" is defined in state statutes. He agreed that the dollar amount was high enough that the Council perhaps should have been consulted, but it was done at a crucial period when there was not enough time to let bids. He noted that under state statutes, in an emergency situation that is declared and documented, there are procedures to bypass rules and regulations that must be followed in all other incidents.

Councilmember Kinzer said her understanding was that the procedure may sidestep, but not bypass the Council.

Councilmember Richardson said that this discussion again raises the question of the USB's independence. He said any new plans should consider the possibility of the City taking control of the Utilities, or selling it to someone. In any case, something different than the present arrangement must be devised.

Councilmember Blume said that the community has spoken through the 1972 referendum and have said they would like the Utilities to be independent.

Resolution 77-26 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 1 (Richardson).

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Resolution 77-28 in entirety.

RESOLUTION 77-28
Approve Retention of Ice, Miller, Donadio & Ryan Bond Attorneys for the USB

Clerk Dolnick read Resolution 77-28 in entirety.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Resolution 77-28.

Councilmember Richardson gave the committee report and read the synopsis. The Committee recommended Do Pass by a vote of Ayes: 5, Nays: 0.

Councilmember Kinzer asked if there was a fiscal impact statement. After being answered no, she asked for the cost of their services.

Dave Rogers answered that the cost should be \$8,000 to \$9,000. However, it could be as much as \$14,000 if they run into trouble along the way. The USB is already indebted to them for litigation on the Salt Creek site and rate studies, in the sum of \$10,000.

Councilmember Young asked if any local firms were considered.

Dave Rogers answered that this was considered at the last USB meeting. After being analyzed by the Director, it was decided that financially, it would not be a wise decision. Some of their services would cost the same as Ice-Miller, but on the whole, Ice-Miller would cost less. In answer to a question from Councilmember Young regarding Mr. Roger's legal fees, he answered that his fee after five years of service is approximately equal to Ice-Miller's fees.

Resolution 77-28 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 1 (Richardson). Kinzer noted after the vote that she would like fiscal impact statements for these types of resolutions.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-88 by title only.

ORDINANCE 77-88
To Establish a
Water Rate Structure

Clerk Dolnick read Ordinance 77-88 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Ordinance 77-88.

Councilmember Richardson read the synopsis.

Councilpresident Middleton noted that the Council has been advised by David Rogers that the Council should reconsider the Ordinance after the USB has approved the Council's amendments of the last meeting which lowered the minimum water rate charge.

Councilmember Allison moved and Councilmember Richardson seconded a motion to amend Ordinance 77-88 to change Section I to read "Ordinance 77-76 is hereby repealed and there is hereby established for use of and services rendered by the waterworks system of the City of Bloomington the following rates and charges", also a new title.

The amendment was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

Councilmember Morrison asked for the actual cost of water. He said that Black and Veatch had said it cost 72¢ to produce the water, but the City sells it for 60¢ per 1,000 gallons. Why does the City sell it below cost?

Mr. Cotner responded that the real question is the legality of the franchise agreement. He noted that two briefs were filed. In Mr. Roger's brief, he conceded that the franchise fee may not be legal. The Council and USB have contended that the franchise fee was in lieu of taxes, but now they have changed their minds and are saying that they are paying salaries instead. He noted that Frances Komoroske and Rogers are of the opinion that there may be problems, but the Council should go ahead and pass the agreement and work out the problems at a later date. The question now is what will the Council do in the light of the franchise agreement being illegal and improper? If the franchise agreement is illegal, then the water rate ordinance is illegal, since this ordinance incorporates the franchise agreement. The rates were set from a rate study where costs were distributed among different kinds of users. For the water utility alone, over the next five years, the figure would be \$1,007,000. The \$152,000 in 1978 is only a beginning, he contended. In 1982, the fee would be \$241,000, which would be built into the water rates. If you add sewer expenses, the figure would be \$2,014,000 in the next five years. He said that if there are 2,000 customers paying minimum bills, the City could afford to give water to them for the

next twenty years for free and still not need the \$1,007,000 in question. He said that in Ms. Komoroske's analysis, she says that since the amount in the new franchise would be identical to that in the old agreement, the water rate ordinance should be passed. He insisted that the rates in the franchise should not remain the same. The safest route in his opinion is to make sure the water rate ordinance is straightened out before you go to the P.S.C. He said the Council has not been treated fairly by the U.S.B., noting that the U.S.B. is responsible for the ordinance. He told the Council that they are responsible to the citizenry of Bloomington, and this is where their feelings should lie. He urged the Council not to enact the ordinance, adding that nothing will be gained by the Council's ignoring the facts and laws.

David Rogers responded to Mr. Cotner's remarks. He said that Mr. Cotner told the USB not to be intimidated by the fact that the Council has already moved ahead on the budget based on the franchise agreement. He said the resolution is the joint work of the USB, Council, and the Utilities/Civil City Franchise Committee. He explained that what Indiana statutes contemplate is to avoid having the rate payer subsidize the taxpayer or vice versa. The State Board of Accounts (SBA) said that the statutes that provide for this transfer of funds are somewhat "hazy". They are admonishing Bloomington as they have other cities for having the utilities subsidize the tax-paying part of the City. He said the Franchise Committee has worked hard, but they will have to work still harder to work out a new justification for actual contributions made by officials and employees for services to the City. He explained the statute's use of governmental and non-governmental. He said this is an old concept which means that it is inappropriate for the utilities to pay for a service by the City that is enjoyed by all taxpayers, businesses, etc., e.g., police protection, street paving, fire protection. It is not improper for compensation to be made to the Office of the Mayor because he takes part in negotiations, grants with the E.P.A., PCB negotiations, etc. He suggested, and said the SBA, Jack Martin, and France Komoroske agree, that because we are to be confronted with this before the P.S.C., the City should look again at the formula of the franchise fee. A reasonable allocation of services must be determined. He contended that Mr. Cotner is not saying that the agreement is "illegal"; he is saying that it is "not nice". If the Council waits, they will perpetuate an inadequate rate structure, and an illegal and imbalanced rate structure in the water utility, which is now operating at a deficit. The City's bonds have already been lowered one grade, and if the bond holders must sell, the price will go still lower if the Council delays. He said they cannot assure the Council that the franchise agreement will be approved by the P.S.C., but the Council need not be ashamed if they turn parts of the agreement down. They must move forward.

Jim Cotner rebutted David Rogers. He contended that Mr. Rogers was trying to sell the Council on the ordinance through fear tactics. If the bonds are in danger, Mr. Rogers urges the Council to move ahead and spend more money. What the Council should do is stop and remedy the problem before presenting the water rate increase to the P.S.C. He noted that when he was City Attorney, they "squeezed" the utility for \$30,000. The State Board of Accounts said this was ok for some offices. Time spent on redoing the franchise would be less than time wasted before the P.S.C.

Council president Middleton explained that the Franchise Committee is now working on revisions to the franchise agreement. He noted that this committee is made up of representatives of several departments.

Council member ~~Richardson~~ Mr. Rogers made some convincing arguments to convince him that the City should be running the water utility. He asked what would happen if the ordinance was tabled.

Mr. Rogers replied that it will take time to get the franchise fee worked out. Six more weeks of deficit should not be put up with. Within ten days of passage, it should be before the P.S.C., where their engineering and accounting staff will review all materials. There will be objections filed by I.U. and the rural water companies and the whole procedure should take from 30-60 days. He noted that justice delayed is justice denied, and there is no need for delay. Work can be going on in Bloomington at the same time as it is being reviewed by the P.S.C. This will be part of the petition. The entire transfer is 9% of operating and maintenance costs. He suggested that the \$150,000 figure could not be cut by more than \$25,000 to \$30,000. This figure would not be enough

to justify holding up the process.

Councilmember Richardson asked if the whole rate structure will come back if one part, the franchise agreement, is struck down.

Dave Rogers answered that one member of the Commission will be assigned to the case. The staff and petitioner, along with the respondent will be heard by this hearing officer. His opinion will go to the Commission and they will rule on that opinion. This will be the rate charged at the next billing.

Councilmember Richardson said he is uncomfortable with having the responsibility of having to vote on a rate increase that may be improper. If the Council has this responsibility, they should have a larger role in the operation of the utility.

Councilmember Olcott brought up the ordinance's relationship to the 1978 budget. If the City loses, it will affect this budget.

Dave Rogers said it is too late to undo the budgets. If the rate is cut, it will cause budgetary difficulties. He contended that the P.S.C. will not do this to the 1978 budget.

Jim Cotner responded that if the Council is still working on the franchise agreement when it is before the P.S.C., they will reject the water rate. There will be \$870,000 in increased revenue from the increase. The \$150,000 is more than 9%; it is more like 20%. The risk the Council runs in passing the ordinance is to delay until they get ready. He contended that the \$150,000 figure cannot be legally justified, since the franchise agreement includes a number of people who have nothing to do with the utilities. He said the citizens would be maltreated by being charged for the delay. He said he could have laid back and let the Council go ahead. He added that he has been more straightforward than the U.S.B. The delay will begin when confusion sets in with two petitions, etc. His clients are not interested in a delay, and he does not have the power to delay the hearing.

Councilmember Blume asked Mr. Cotner if he agreed with Mr. Roger's statement that Mr. Cotner does not believe it is illegal.

Jim Cotner repeated that certain expenditures can be made through the agreement; outside of that, there are illegal expenditures.

Councilmember Blume said that the bottom line (\$150,000) can be justified. The Council realizes that there may be problems, and this is why the Franchise Committee has been working over the last year. The Committee knew this agreement passed the State Board of Accounts last year, and the City was not reprimanded.

In answer to a question from Mr. Cotner regarding whether the Committee felt payment was made "in lieu of taxes", Councilmember Blume answered that it could have been either way. It looked like the easiest way. He said there is quite a problem with timing, in that the 1978 budget has already been set.

Mr. Rogers said that the State Board of Accounts was not very clear, but they do recommend that the franchise agreement for 1978 be redone. The City will need to explain services rendered by employees in the agreement. In summary, he said it is legal to pass the Water Rate Ordinance, even if the resolution must be redone.

A motion to table discussion of Ordinance 77-88 and discuss Ordinance 77-71 and 77-72 due to the late hour failed by a vote of Ayes: 4, Nays: 5 (Towell, Young, Kinzer, Blume, Lloyd).

Mayor McCloskey addressed the Council. He said there have been good arguments on both sides. He said there were no surprises in the SBA brief, and added that the USB and the Council have acted in good faith. Every day of delay hurts the Utilities. He said the City will form a document which sets out all relationships between the City and the Utilities for personnel, services, property, etc. The

franchise should be changed as soon as possible. He cautioned against making a commitment to totally restructuring the budget. He urged the Council to pass the ordinance, and remedy the franchise agreement with due haste.

In answer to a question from Councilmember Allison regarding how much the delay is costing the Utility, Jack Martin answered that \$70,000 per month is being lost. He noted that the USB has a hearing before the P.S.C. next week on water rates from Lake Monroe. This could possibly affect the water rate. In answering a question from Councilpresident Middleton regarding how a delay would affect the rural water companies, Jack said that you would have to examine the purpose of the cost-of-service study. In this study, I.U. and rural water companies were paying below the cost of service. In 1966, their rates were set below the projected cost of service. For the last ten years, they have been paying less than they should. If rates are lowered, rural water users' rates would also be lowered a certain percentage. Perhaps one quarter of the monthly losses can be attributed to rural water companies.

In answer to a question from Councilmember Richardson, Art Knollman explained that the water utility is presently losing \$33,000 monthly. Operating costs are \$178,000 and revenues are about \$145,000.

Councilmember Young questioned the way that money goes back and forth between the Civil City and the Utility. He suggested that perhaps they should not pay each other if it is equal. One point he was certain of is that multi-family dwelling units are being charged a very large increase in water rates.

Councilmember Towell said perhaps the City could pay in lieu of taxes and for services rendered.

Mr. Cotner answered that it may be either; they are supplementary and one does not exclude the other. The problem is that the City is receiving an arbitrary 65% of salaries, and this is more than what taxes would pay, and they are not based on services rendered. When Councilmember Towell asked if a certain dollar amount could be attributed to in lieu of taxes and another amount for services, Mr. Cotner answered the figures would be estimates, and the P.S.C. may not allow estimates. If it is worked out in detail, they could both be used. He repeated that the P.S.C. will not act until the final figures are completed.

Councilmember Towell said the Council should be a good trustee for the Utility by sending up to the P.S.C. their rate requirements, and if they don't agree with all of them, they will take parts out.

Mr. Cotner answered the Council would not be acting as a good trustee when they know part of it is not valid.

Councilmember Towell noted that the Council has a responsibility to the City, and perhaps both interests cannot be served.

There was then general discussion between Councilmember Morrison and Art Knollman regarding how the rate structure was devised, and the actual cost of producing water.

Councilmember Richardson expressed surprise that the Utility is losing \$33,000 per month. Several Councilmembers informed him that they were aware of the deficit.

Jack Martin noted that it is impossible to be granted a rate increase unless you are running a deficit. You must show that your present income is not adequate.

Ordinance 77-88 was then adopted by a ROLL CALL VOTE of Ayes: 8. Nays: 1 (Morrison). Comments were made during the vote by Councilmember Richardson to the effect that the utility should be under closer control of the City.

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

ORDINANCE 77-71
Amend Zoning
SW Corner Kinser
Pike & Gourley
Pike RH to BL

Clerk Dolnick read Ordinance 77-71 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Ordinance 77-71.

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

Ordinance 77-71 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

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

ORDINANCE 77-72
Amend Zoning
NE corner Moores
Pike & College
Mall Road RL to
BL/PCD

Clerk Dolnick read Ordinance 77-72 by title only.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to adopt Ordinance 77-72.

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

Councilmember Allison asked if the water retention problems had been worked out.

Gary Clendening, Attorney for the Petitioner, noted that the eastment has been drafted, but not yet executed.

Councilmember Towell noted that there was no opposition to the rezoning at Plan Commission meetings. He added that a petition was circulated in the neighborhood to support the rezoning.

Ordinance 77-72 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0, Abstentions: 1 (Blume).

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-89 by title only.

FIRST READINGS
ORDINANCE 77-89
Budget Transfer
Utility Dept.

Clerk Dolnick read Ordinance 77-89 by title only.

Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Appropriation Ordinance 77-20 by title only.

APPROPRIATION
ORDINANCE 77-20
Water O&M, Water
Depreciation &
Wastewater Fund
of Utilities

Clerk Dolnick read Appropriation Ordinance 77-20 by title only and Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-85 by title only.

ORDINANCE 77-85
Repeal City
Employee Resi-
dency Ordinance

Clerk Dolnick read Ordinance 77-85 by title only and Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-87 by title only.

ORDINANCE 77-87
Enact New Resi-
dency Standards
for City Employees

Clerk Dolnick read Ordinance 77-87 by title only and Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-86 by title only.

ORDINANCE 77-86
Budget Transfer
Human Resources

Clerk Dolnick read Ordinance 77-86 by title only and Councilpresident Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 77-84 by title only.

ORDINANCE 77-84
Amend Title
15 re: Traffic

Clerk Dolnick read Ordinance 77-84 by title only and Council-president Middleton read the legislative synopsis.

Councilmember Olcott moved and Councilmember Morrison seconded a motion to approve the minutes of October 6 and 12 as submitted.

MINUTES 10/6, 10/12
1977

Motion carried by unanimous voice vote.


The meeting was then adjourned at 11:15 p.m.

ADJOURNMENT

APPROVE:

ATTEST:


Thomas O Middleton, President
Bloomington Common Council


Nora M. Connors, Deputy City Clerk

APPROVED THIS 17 DAY OF NOVEMBER, 1977.