

In the Common Council Chambers held on June 17, 1976, at 7:30 p.m., with Councilpresident Pro-Tem Kinzer presiding. There were approximately 35 others present, including members of the press.

REGULAR SESSION  
COMMON COUNCIL

Present: Councilmembers Kinzer, Middleton, Morrison, Olcott, Richardson, De St. Croix, Towell. Absent: Councilmembers Blume and Young, who were both on vacation.

ROLL CALL

City Officials Present: Chief Carl Chambers, Police Department; Bill Wilson, Director, Parks and Recreation Department; Mayor Frank McCloskey; Steve Richardson, City Attorney; Bob Schmuhl, President, Utilities Service Board; Dave Rogers, Attorney for the Utilities Service Board; Michael Corbett, Mayoral Aide; Jean Strohm, Executive Secretary, Board of Public Works; Pat Gross, City Controller; Eve Berry-Brigl, Program Coordinator, Human Resources Department; Marvard Clark, Engineering.

CITY OFFICIALS  
PRESENT

Councilpresident Pro-tem Kinzer then gave the agenda summation. At Second Reading, Resolution 76-23, Budget Transfer for Parks and Recreation; Ordinance 76-24, To Amend the Human Rights Ordinance; Ordinance 76-27, Common Council/Mayoral Appointments to Boards and Commissions; Ordinance 76-35, For Appointment of Half of the Members of the Human Rights Commission by the Common Council; Ordinance 76-37, To Repeal "Intoxicating Beverages-Consumption in Public" from the Municipal Code; Ordinance 76-34, To Amend "Sewers"; Ordinance 76-36, To Specify Condemnation Powers in the Board of Public Works; Appropriation Ordinance 76-11 was not brought up for action. At First Reading, Ordinance 76-42, To Amend Zoning Maps, re: Motor Hotel Associates; Ordinance 76-38, Parking and Loading Zone Amendments; Ordinance 76-39, To Amend Zoning Maps re: E. Third & Jordan; Ordinance 76-40, To Amend Animal Control Ordinance re: Kennel definition; and Appropriation Ordinance 76-12, To Appropriate Funds from Parking Meter Fund to Police Department. Also the Annual Report from the Police Department and minutes of 3 June, 1976.

AGENDA SUMMATION

Mayor McCloskey then invited concerned citizens to the Utilities Service Board meeting at 9:30 a.m. on June 18 to discuss PCB's. He added that in late June the EPA will begin work on a report on PCB's. He requested a hearing on Ordinance 76-24, so that age could be discussed more thoroughly. He continued by saying that by next week the Old Library issue should be discussed, with the possibility of acquiring some additional park space.

MESSAGE FROM  
THE MAYOR

Councilmember De St. Croix announced that the Cancer Crusade Benefit Dance will be held on June 25 at the National Guard Armory.

MESSAGES FROM  
COUNCILMEMBERS

Councilmember Richardson announced that on Monday, June 21, at 4:15 p.m. in the Common Council Chambers a press conference will be held for people concerned about the need for a temporary shelter care facility for youth in the community.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Resolution 76-23 in entirety.

Second Readings  
RESOLUTION 76-23  
Budget Transfer  
Parks & Rec.

Clerk Higgins then read Resolution 76-23 in entirety.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Resolution 76-23.

Councilpresident Pro-Tem Kinzer then read the legislative synopsis for Resolution 76-23.

Councilmember Richardson then gave the Committee Report from Public Safety/Policy & Legislative Oversight. The Committee gave Resolution 76-23 a Do Pass recommendation for the reasons stated in the synopsis.

Resolution 76-23 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0. Absent: Young, Blume.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to remand Ordinance 76-24 to the Human Rights Commission for review, as requested by the Mayor.

ORDINANCE 76-24  
To Amend Human  
Rights Ordinance  
re: MCAA amend-  
ments

Councilmember Richardson then gave the committee report from Public Safety/Policy & Legislative Oversight. He explained that the committee met a month ago on the ordinance, and they found that there were questionable aspects of the ordinance and it was agreed that Mr. Barnhart, Attorney for the Monroe County Apartment Association (MCAA), Steve Richardson, and John Komoroske should get together and work out a revision, which they did. They moved to exclude married couples, single adults only and the minor children sections; leaving age as a general category that was left open, which was the latest amendment. He said the issue is whether or not the Council should ask for additional input from the Human Rights Commission and table the ordinance or pass it with the assumption that there has been adequate discussion.

Councilmember Towell asked if the Human Rights Commission had the opportunity to review the ordinance.

Councilmember Richardson answered that the question is broader than the specific ordinance, adding that there seems to be a conflict between the chairman and other members of the board as to what Mr. Wackowski's responsibilities are. He continued that Mr. Wackowski is apparently unable to take a position on any issue coming before the Council, and unfortunately has been interpreted to mean not only does he not take a position but he also cannot attend, as he has been instructed to do. He remarked that the Council should instruct the Human Rights Commission to let the Council have someone from the Commission in attendance at meetings so that the Council can take advantage of the expertise and understand the ramifications of the ordinances being voted on.

Councilmember Towell remarked that there is a difference between legal expertise, which he said he has a right to as a Councilmember and taking a position or making a policy judgement.

Mayor McCloskey remarked that the age area is an untrod area, and that it needs further discussion. If the Council passes the ordinance, he said, it will be a policy statement for age discrimination. He suggested a community forum to discuss age.

Councilmember Richardson mentioned that the motion to table had not been discussed before now, and apologized to Mr. Barnhart for this unanticipated motion.

Frank Barnhart explained that there have already been two public meetings on the ordinance, and added that the MCAA is representing their tenants on this issue more than landlords. He noted that the first committee meeting was held with a member (Mark Shenk) of the Human Rights Commission in

attendance. He said people will question the legislative process if it takes such a long time to get an ordinance before the council and is then sent back to committee. He continued by saying that both meetings were advertised, and input should have been given then, commenting that the Mayor's Office therefore has no right to make the request that they have.

Councilmember De St. Croix said there are two points to be considered, 1) the Mayor's request that the Council consider carefully the indications of opening up a policy area of discrimination based on age, 2) whether the Council will demand of boards and commissions the kind of professional expertise and input that we ought to expect.

Councilmember Middleton remarked that he doesn't see how they can expect comments from the Human Rights Commission if they have specifically stated that they are obligated by their policy not to discuss legislation. The memo attached to the ordinance explains that they have no official position as of April 27 on the ordinance. He said if the Commission is not going to act, we are not going to force them to, and if they don't act, get rid of them.

Councilmember Olcott said that the committee system is put in jeopardy because PS/PLO spent many hours on this and made their recommendation. The City Attorney was present, input was given from both sides.

The motion to send Ordinance 76-24 to the Human Rights Commission failed by a ROLL CALL VOTE of Ayes: 1, Nays: 6. Nays: Kinzer, Middleton, Morrison, Olcott, Richardson, Towell. Absent: Young, Blume.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-24 by title only.

Clerk Higgins then read Ordinance 76-24 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-24.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-24.

Councilmember Richardson then read through the proposed amendments that were made in PS/PLO. In sentence three, from married couples through tenants, and moved that the amendments be adopted.

Councilmember De St. Croix seconded the motion.

Councilmember Towell remarked that there are apartments that already specialized by units, as Van Buren does for families and singles, and no one has objected to this. People are told of the policy before they rent the units. He said that kind of approach is in conflict with one that makes in mandatory that such and such conditions be met in a complex whether they be age or privacy. There are two approaches, and the one that is in existence has worked, and if this passes, it will be ruled out.

Frank Barnhart noted that mixed units have been operating smoothly, but the government stuck their noses in where there were no problems before. The MCAA is saying that if there is no reasonable way to preserve privacy, it is not in violation of

the Bloomington law to maintain that privacy. He added that married couples and single adults were previously in the ordinance, but it was pointed out by leaving them in there it would open it up for possible abuse to the divorced woman with children, and it was changed, with the MCAA's approval. He said all complexes now have age as a consideration for assignment of apartments, noting that the big landlord can do this and not suffer financially, but the small landlord cannot handle the ordinance.

Councilmember Towell expressed agreement with Mr. Barnhart that it is the small landlord that is in question. He noted that in Europe, if you stay in a traditional hotel, the bathroom is down the hall, which is contrary to American practice. He asked if Europeans are more sinful, uncivilized, because they operate that way.

The amendments to Section I were then adopted by a ROLL CALL VOTE of Ayes: 6, Nays: 1. Nay: Towell. Absent: Blume, Young.

Councilmember Richardson then read through the amendments to Section II, and moved that they be accepted. Councilmember Olcott seconded the motion.

Councilmember Towell remarked that the way it is written is not necessarily the way that it will be practiced, and that it changes the burden of proof to the tenant.

Frank Barnhart maintained that the burden of proof is on the landlord, as he must be prepared to prove that his actions are for non-discriminatory reasons.

The amendments to Section II were then adopted by a ROLL CALL VOTE of Ayes: 6, Nays: 1. Nay: Towell. Absent: Blume, Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-24 as amended.

Ordinance 76-24 was then adopted as amended by a ROLL CALL VOTE of Ayes: 6, Nays: 1. Nay: Towell. Absent: Blume, Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-27 by title only.

ORDINANCE 76-27  
Council/Mayoral  
Appts. to Bds./  
Commissions re:  
Synopsis require-  
ment

Clerk Higgins then read Ordinance 76-27 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-27.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-27.

Councilmember Richardson then gave the Committee Report from PS/PLO. There were three points made: 1) this would help the Mayor in his decision making process, 2) it would educate the community as far as which positions do exist and 3) in no way would this jeopardize the Mayor's final selection of appointments. The Committee gave it a Do Pass recommendation.

Councilmember De St. Croix then asked if reappointments would also have to be advertised.

Councilmember Richardson answered that they would, if only to educate the public as to the different boards and commission running the city, and suggested that "before a vacancy is due to occur", be inserted to clarify the legislative intent.

Councilmember De St. Croix suggested that "at least one month before the expiration of a vacancy is due" be used instead, and moved that the phrase be inserted. Councilmember Richardson seconded the motion.

The amendment to insert "at least one month before the expiration of a vacancy is due" was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0. Absent: Blume, Young.

Steve Richardson noted that the appointment powers given to the Mayor by state statute when certain commissions are created are the mayor's alone, and that there is a division of power in theory, and added that the Council does not have that power under state law except for appointments that require the advice and consent of the Council. He suggested that a provision be drawn to read "this ordinance shall not apply to appointed positions on city boards and commissions except for those positions where state law requires only the appointment by the mayor with no approval of the appointment by the Common Council", as a new section one or a new section four.

Councilmember De St. Croix moved to accept Steve Richardson's amendment, but the motion died due to a lack of a second.

Councilmember Middleton suggested that "no appointments to vacancies requiring the advice and consent of the Council", be inserted instead.

Steve Richardson answered that the amendment would be acceptable and would do the same thing, but would be cleaner if drafted as previously stated.

Councilmember De St. Croix replied that it does not do the same thing, and suggested that the City Legal Department offer an amendment that would specify the Boards and Commissions mandated by state law over which the Mayor has appointive power and the ordinance can be amended at a later date.

Mayor McCloskey remarked that the state has mandated that the Mayor can make certain appointments, as the Plan Commission or the Board of Safety, and added that it is an overextension of the Council's powers to pass the ordinance. He said he would be glad to go along with any local board or commission appointments, but noted that the Council cannot legally bind in that area.

Councilmember Towell remarked that Mr. Cotner used to say when he was city attorney that "if we can't do it, we haven't done anything, but if we can, then we have done it", and added that if it turns out that the Council's powers do not extend that far, then they haven't done it, and expressed doubt that the Council has to specify all the exceptions that may be true in law or theory, as they will specify themselves.

Councilmember Richardson noted that he is not sure he agrees with Mr. Richardson's or Mr. McCloskey's legal analysis, and added that he doesn't think the ordinance should be voted on on the assumption that there is something legally defective in it. He endorsed Councilmember De St. Croix's suggestion to have the City Attorney submit an amendment at a later date.

## **CLERK'S NOTE 2-24-15**

On page 6 of the minutes for the Regular Session of the Common Council held on June 17, 1976, there are two typographical errors.

The first two paragraphs have the wrong Ordinance number listed, and should read as follows:

“Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance **76-27** as amended.

Ordinance **76-27** was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0.  
Absent: Blume, Young.”

The fourth paragraph has the wrong Ordinance number listed, and should read as follows:

“Clerk Higgins then read Ordinance **76-35** by title only.”

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-24 as amended.

Ordinance 76-24 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0. Absent: Blume, Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-35 by title only.

ORDINANCE 76-35  
To Appoint Half of the Members of the Human Rights Comm. by the Council

Clerk Higgins then read Ordinance 76-24 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-35.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-35.

Councilmember Richardson then gave the committee report from PS/PLO. He said there was a short discussion on the ordinance, and an amended version was attached at a later date by the Human Rights Commission.

Councilmember Morrison commented that the reason he initiated the ordinance was to balance the Commission better, and said the time has come for the Council to have as much input into the Commission as the Mayor.

John Komoroske then explained the amendments to Ordinance 76-35 as submitted by the Human Rights Commission, noting that Section B should be changed, as explained in the amendment. He said that the amended version is the one that was introduced at first reading, so that no motion for amendments will be required.

Ordinance 76-35 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0. Absent: Blume, Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-37 by title only.

ORDINANCE 76-37  
To Repeal "Intoxicating Beverages, Consumption in Public from the City Code

Clerk Higgins then read Ordinance 76-37 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-37.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-37.

Councilmember then gave the committee report from PS/PLO, noting that the committee gave Ordinance 76-37 a unanimous Do Pass recommendation,

Mr. Oliver of Oliver Winery then explained his support for the Ordinance, noting that it is very important for the development of the wine industry in the area, which is a growing industry. He continued by saying that they will have to get a permit from the Indiana Alcoholic Beverage Commission before they can begin selling wine at festivals.

Mrs. Edwards then made a statement opposing the ordinance. She questioned whether it would be wise to pass an ordinance that would allow people to drink in public places, noting the problems with trash around the area, and people driving home in an intoxicated condition. She asked why they have to start serving wine when the festival went well without it for years.

Ordinance 76-37 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0.

Councilpresident Pro-tem Kinzer then called for Petitions and Communications.

PETITIONS AND COMMUNICATIONS

Councilmember Richardson stated that he would like to assure the viewing audience that the stop signs on Allendale Drive will not be taken down until the 90-Day Order has expired, and added that Steve Richardson will check on it tomorrow morning. He said as far as the Council is concerned, the 90-Day Order means just that, 90 Days, and there is no way that the signs will be taken down without going through that procedure.

Councilmember Morrison announced that his committee, P/CD instructed the Traffic Commission to come up with a suitable solution within 90-Days to be submitted to the committee, but added that the Traffic Commission and the Traffic Engineer have not responded to the committee.

Councilmember Olcott asked Mr. Morrison if that means his committee is assuring the Council that the signs will not be taken down before there is a hearing.

Councilmember Morrison answered yes, and asked Carl Chambers, Chief of Police, to ask the Traffic Commission why they have not responded to the committee.

Councilmember Olcott noted that the Allendale Drive items are not on the agenda of the Traffic Commission for June 23, and he asked where all the idea came from that they would be taken down.

Councilmember Morrison answered that Mr. Mayfield of the Sherwood Oaks Association had expressed this concern.

Councilmember Richardson noted that M.C. Russell of the Engineering Department had heard rumors that the signs would be taken down, but didn't know when.

Councilmember Morrison noted that Carl Chambers is the only one that can have the signs taken down, and he can extend the order, which will be done until a solution is proposed to the committee.

Councilmember Richardson moved and Councilmember Olcott seconded a motion to extend the 90-Day Order until the Traffic Commission comes before the Council with a specific proposal in regards to the Allendale Drive area.

Councilmember De St. Croix said that the Council does not have the power to extend an order, but can advise the Police Chief.

Councilmember Richardson then amended the motion to be in the form of a recommendation and Councilmember Morrison seconded the motion.

The motion was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-34 by title only. ORDINANCE 76-34 Sewer Hook-On

Clerk Higgins then read Ordinance 76-34 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-34.



Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-34.

Councilmember Middleton then gave the committee report from Utilities/Public Facilities. He read through the amendments as stated in the committee report, and moved that they be adopted. Councilmember De St. Croix seconded the motion.

Councilmember Towell remarked that if the Council exempts people that have functioning septic systems it would probably be all right, but others in the neighborhood have already paid to get on the sewer. He continued that it will make it much easier for these things to end up in court if it is up to an inspector to decide which are operating and which are not. He said he hates to give up the idea of having everyone hook-on to the sewer, which was the original intent, and that now it will only be left up to persuasion, as has been the case for years.

Councilmember Middleton responded that from a health standpoint, if your septic tank is operating properly it is acceptable. By continuing with the septic systems that are operable, it will relieve the burden on the individual and on the sewage system, which is close to peak capacity.

Councilmember Morrison remarked that the 300 foot limit is too much, and that it would be a terrible hardship on people on low incomes, and a hook-on could easily run \$2,500. He suggested that the length be lowered to 100 feet.

Councilmember De St. Croix remarked that the 300 foot length is mandated by the state, and asked Bob Schmuhl how the Council should deal with the 300 foot length and the problem of low income people paying a substantial amount for the line.

Bob Schmuhl answered that the Utilities Service Board would have the power to review each case and allow for exceptions. He added that funds can be given to families on low incomes at the USB's discretion. He noted that the USB would give notice to property owners. He said 300 feet is the length presently in the county. He continued that the USB has not dealt thoroughly with the funding problem, but that it will be looked into more carefully in the near future. He added that there are many misconceptions about people feeling that by a certain date, they will have to hook on, which he maintained is not the case; it would be up to the discretion of the USB, along with the County Board of Health and would not be a blanket ordinance. He said the USB would not move in any way unless they felt that the septic system was a health hazard.

Councilmember Olcott remarked that if 120 people were to hook-on to the south sewage plant, the city's sewage system would not handle it.

Bob Schmuhl said the figure would be 108, but said he didn't think that many people would jump to hook-on on the effective date, adding that the ones to the north are not a problem.

Councilmember De St. Croix said he understands the need for this ordinance, but that there are a few areas that need answers, 1) would the criteria the USB would be using in fact be their administrative function and 2) what kinds of options are available for those citizens who cannot afford to hook-on to the sewage system. He then moved that Ordinance 76-34 be tabled until the USB can come back to the

Council with their administrative procedures for outlining its criteria for discussion and also what available assistance there can be for those that should hook-on but cannot afford it. Councilmember Olcott seconded the motion.

Councilmember Middleton moved that it be referred back to Utilities/Public Facilities for review.

Bob Schmuhl remarked that he would prefer it if the USB could consider it, as they have not considered it since August, 1975, and there are new members of the Board that would like input.

Councilmember Morrison remarked that if there are 80 families in Miller Drive alone, that would almost take up the 108 hook-ons right there.

Ordinance 76-34 was then tabled by a ROLL CALL VOTE of Ayes: 7, Nays: 0.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-36 by title only.

ORDINANCE 76-36  
Condemnation  
Powers of Board  
of Works

Clerk Higgins then read Ordinance 76-36 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-36.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-36.

Councilmember Middleton then gave the committee report from Utilities/Public Facilities. He said the committee gave a Do Pass recommendation, as it is felt that it would simplify the process if the power to condemn would be changed from the Board of Public Safety to the Board of Public Works.

Steve Richardson noted that Engineering and Redevelopment presently conduct condemnation of unsafe buildings, and Engineering initiates the process to condemn. He said the Board of Public Works has a history of dealing with property-related matters and are well aware of the environs of the city. He suggested that the Ordinance be amended to clarify the meaning of condemnation, and proposed that in the third line of the amendment, starting with the paragraph "power of condemnation" to change it to "the power to conduct condemnation hearings as described in IC 18-5-5-3."

Councilmember De St. Croix moved and Councilmember Middleton seconded a motion to adopt the amendment suggested by Mr. Richardson.

The amendment was then accepted by a ROLL CALL VOTE of Ayes: 7, Nays: 0. Absent: Blume, Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-36 as amended.

Ordinance 76-36 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0. Absent: Blume, Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-42 by title only.

ORDINANCE 76-42  
Motor Hotel Assoc.

Clerk Higgins then read Ordinance 76-42 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-42.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-38 by title only.

ORDINANCE 76-38  
Parking/Loading  
Zone Amendments

Clerk Higgins then read Ordinance 76-38 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-38.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-39 by title only.

ORDINANCE 76-39  
To Amend Zoning  
Third & Jordan

Clerk Higgins then read Ordinance 76-39 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-39.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-40 by title only.

ORDINANCE 76-40  
Amend Animal Control Ord. re:  
Kennel definition

Clerk Higgins then read Ordinance 76-40 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-40.

Councilpresident Pro-tem Kinzer then asked for the annual report from the Police Department.

Carl Chambers asked the Councilmembers if they had any questions regarding the Police Department's Annual Report, as submitted.

ANNUAL REPORT  
Police Department  
Chief Carl Chambers

Councilmember Richardson then asked for Carl Chamber's general comments on the jail facilities that now exist for prisoners, especially as they relate to youth in Monroe County.

Carl Chambers answered that he would be speaking to something that is maintained as county property, but added that the facilities are also used for people incarcerated by the City Police Department. He continued that the facilities are inadequate for many reasons. The building is sound, but it is not large enough in square footage for the type of problems they run into, such as mental patient, juveniles. He remarked that they have had some bad experiences in the jail, as has been covered in the newspapers. He continued that this is a great concern of all law enforcement agencies, and that they are hesitant to subject teenagers or someone who may have gotten into trouble for the first time in with offenders who are in for their third or fourth time for major offenses. He said it is detrimental for an offender in on a misdemeanor to be locked up with someone who may be a vicious criminal.

Councilmember Richardson then inquired if there is anywhere to put runaways from other counties besides jail if they are picked up for curfew violations.

Carl Chambers answered that there is no alternative. He continued that he has had officers stay at the station with runaways for three, four, five, or six hours to avoid taking them over and locking them up, because they are hesitant to put them in the jail. He said they have run out of personnel to furnish the service to sit and stay with runaways, and it may come to taking them over and booking them. He said they may end up in the drunk tank or with other criminals because of lack of space, and they are often beaten up or have other offenses committed upon them.

Councilmember Richardson remarked that he could see from Carl Chamber's statement that he sees a need for some type of temporary shelter care facility for youth and mental patients rather than the jail.

Carl Chambers responded that there is limited space at the hospital for mental patients, but that there is definitely a need for this type of facility.


Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to accept the minutes of June 3 1976 be accepted as submitted.

MINUTES  
3 June 1976

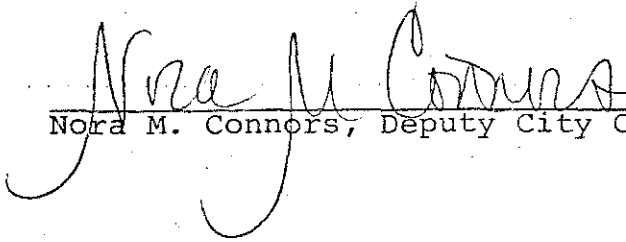
The minutes were then accepted by a unanimous voice vote.

The meeting was then adjourned at 10:30 p.m.

APPROVE:

  
\_\_\_\_\_  
Patricia Kinzer, President Pro-Tem

ATTEST:

  
\_\_\_\_\_  
Nora M. Connors, Deputy City Clerk

In the Common Council Chambers held on July 1, 1976, at 7:30 p.m. with Council President Pro-tem Kinzer presiding.

Councilmembers Present: Kinzer, Middleton, Morrison, Olcott, Richardson, De St. Croix, Towell, Young.  
Absent: Blume.

Council President Pro-tem Kinzer then gave the agenda narration. At Second Reading, Ordinance 76-24, to Amend the Human Rights Ordinance; Ordinance 76-38, Parking/Loading Zone Amendments; Ordinance 76-42, To Amend Zoning Maps, re: Motor Hotel Associates; Appropriation Ordinance 76-12, Parking Meter Fund to Police Department; Resolution 76-26, Budget Transfer for Fire, Sanitation, Streets; Resolution 76-25, To Support the Concept of a Temporary Youth Care Facility; Ordinance 76-40, To Amend the Animal Control Ordinance re: Definition of "kennel"; Appropriation Ordinance 76-11, from General Fund to Board of Public Works. At First Reading, Ordinance 76-41, To Amend "Historic Buildings and Structures"; Ordinance 76-44, To Require City Board and Commission Members to be City Residents; Ordinance 76-45, To Require City Employees to be City Residents; Appropriation Ordinance 76-13, from Local Road and Street Fund to Fund #7. Also the minutes of June 17, 1976.

City Officials Present: Steve Richardson, City Attorney; Karel Dolnick, City Clerk; Marie Harlan, Traffic Commission; Tom Crossman, Plan Department Director; Noble Baugh, Sanitation Director; Mayor Frank McCloskey; Pat Gross, City Controller; Jean Strohm, Executive Secretary, Board of Public Works; Bill Finch, Personnel Director; Eve Berry-Brigl, Human Resources Department.

Councilmember Young: With Sunday being the Fourth of July, and the anniversary of our government, I'd like to say that it is a privilege and an honor to be serving in local government in this historic year. When you have to wrestle City Hall for your survival, it is much easier from the inside that it is from the outside.

Councilmember De St. Croix: I would like to ask for the Council's and audience's indulgence, as a member of the Council, Councilmember Morrison's mother just passed away. I would like to just take a moment of silence in her memory. I would like to move that the Council approve the appointment of Richard Lehner to the Telecommunications Council. Councilmember Richardson seconded the motion. Rick Lehner was then approved by a unanimous voice vote.

Councilmember De St. Croix moved that Ordinance 76-24 be introduced and read by the Clerk by title only. Councilmember Morrison seconded the motion.

Clerk Dolnick then read Ordinance 76-24 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-24.

Council President Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-24.

Mayor McCloskey then discussed his veto of Ordinance 76-24. He said when the age amendment was passed on the Human Rights Ordinance, it came up very quickly with little discussion. He continued that modern ethical and social currents are such that there are certain rights in regards to age protection. He questioned the landlord's ability to say no to tenants with children. He noted that the government often discriminates on the basis of age in a beneficial way by giving senior citizens discounts on the bus, etc. He said relating age to peaceful enjoyment is confusing and arbitrary.

REGULAR SESSION  
COMMON COUNCIL

ROLL CALL

AGENDA SUMMATION

CITY OFFICIALS  
PRESENT

MESSAGES FROM  
COUNCILMEMBERS

ORDINANCE 76-24  
Amend Human Rights  
Ordinance

Councilmember Morrison then remarked that he would like to remind the Mayor that the city discriminates on the basis of age, as does the federal government in guidelines set up by HUD, and used Crestmont and Willow Manor as examples. He continued by saying that landlords would be discriminating no more than the government in regards to age. He suggested that the city clean up their own house before they give guidelines to landlords in this area.

Councilmember Towell retorted that the government gets involved in housing when the local community cannot compete in the private market. Secondly, once the government does intervene, you can plan the numbers of units according to the number of the population that need to be served, as is the case with elderly housing. As far as privacy, the amount allowed differs with time and circumstances. He said if there is a tight market, people will tolerate more. He remarked that some people are taking advantage of the present ordinance to make some money.

Robert Baker of the Monroe County Apartment Association remarked that the ordinance could be drafted in a clearer way, and said that the City Attorney agreed with him. He said the question is whether there is a valid intent, which he contended there was, as discussed in the committee meetings. He said the Monroe County Apartment Association urges the Council to override the Mayor's veto.

Steve Danzig of Indiana University then spoke to the ordinance, noting that he has published a pamphlet on housing in Bloomington. He questioned whether the MCAA was supporting the ordinance on behalf of their tenants. He noted that the ordinance is confusing, and that the ordinance could be easily abused. He continued that it is difficult enough for students to find housing in Bloomington without such an ordinance. He said by passing the ordinance, the only housing that would be available to students would be the "student ghetto" around the campus area.

Linda Keyser of the Indiana University Student's Association then urged the Council to sustain the Mayor's veto. She repeated what Steve Danzig had said about the critical housing situation for students, noting that the halls of residence are now overflowing and students were forced to live in lounges and housing outside of the I.U. area. She noted that it is very difficult to find a one bedroom apartment for under \$160 per month.

Councilmember Olcott noted that the ES/PIO committee met twice to discuss the ordinance, and said that it was acceptable to both sides at that time and then opinions started to change.

Councilmember Richardson said that the main problems are procedural questions, adding that there was a lack of awareness in what was happening with the amendment to the ordinance. He noted that there was very little press coverage of the amendment and very little communication. Secondly, he said there is a problem in getting assistance from the Human Rights Commission's attorney, who has a great deal of expertise in this area. He continued by saying that there is a new chairman of the Human Rights Commission, and that he will again attend their meeting to ask that the attorney be allowed to attend meetings. He added that age is a new area of the law, and asked that the Council sustain the veto for this reason. He then invited the MCAA to discuss the age question, and expressed hope that Bruce Wackowski would be able to have input the next time around.

The Mayor's veto of Ordinance 76-24 was then sustained by a ROLL CALL VOTE of Ayes: 4, Nays: 4. Nays: Towell, De St. Croix, Richardson, Kinzer.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-38 by title only.

ORDINANCE 76-38  
Parking/Loading Zone  
Amendments

Clerk Dolnick then read Ordinance 76-38 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-38.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-38.

Councilmember Morrison then gave the P/CD committee report, noting a Do Pass recommendation.

There was then general discussion regarding Section three, and parking on Morton Street.

Ordinance 76-38 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-39 by title only.

Clerk Dolnick then read Ordinance 76-39 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-39.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-39.

Councilmember Morrison then gave the P/CD committee report with a Do Pass recommendation with the condition that the alley south of Third Street be opened for service vehicles so that they can service the businesses in the area. In this way, vehicles would not have to load and unload on Third Street, making the alley open from Highland to Jordan.

Jean Strohm noted that the city owns the right of way only to the middle of the block, adding that the property behind Brummett's is private property.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to amend Ordinance 76-39 in Section 1, part B, to strike lots 30, 31, and 32.

Councilmember Towell mentioned that he had spoken to Mr. Hrismalos regarding the use of the lots, noting that Mr. Hrismalos had said that they would be used for non-offensive purposes, such as insurance offices. He suggested at the time that Mr. Hrismalos consult the neighborhood association for their reaction. He asked if these contacts had been made.

Councilmember De St. Croix then read the letter from Mr. Hrismalos, dated July 1, which outlined his support for the proposal to strike lots 30, 31, and 32.

Mary Burgan of the Elm Heights Neighborhood Association then spoke to the ordinance. She explained that the rezoning issue began on March 1, noting that the Plan Commission tabled the ordinances to allow for more public input, which was received. She said they have met with various city departments and a compromise was struck for some RM on Jordan and some BL on Atwater. She said it is inappropriate to add amendments at this late date. She said they were contacted to answer Mr. Towell's questions.

Rudolph Raft, Vice President of the Elm Heights Neighborhood Association said that Mr. Hrismalos had assured him that the houses would be used for business, but noted that if the zoning is not for a special use, there is no guarantee that he will not sell the land to someone else, the houses could be demolished and the land used for something else. He said it is psychologically important for the area residents to be assured of some stability in this area, and expressed a desire to see the lots kept for housing.

**ORDINANCE 76-39  
TO Amend Zoning Maps  
re: Third/Jordan Sts.**

Councilmember Olcott asked if the Council passes the ordinance as the Plan Commission did, would Dr. Hrismalos have the right to return to enter the three lots at a later date.

Councilmember Towell answered that there would be a six month waiting period, but that he could come back. He said the reason the Plan Commission turned down the amendment proposed by Councilmember De St. Croix is because the neighborhood association made a strong point with the houses on Jordan, as they earlier explained. He said since a strip of BL between Jordan and Highland went against the neighborhood association, the Jordan zoning went for the neighborhood association, which struck a balance.

Councilmember De St. Croix noted that the procedures that Dr. Hrismalos followed were legitimate, and added that if the Elm Heights Association had contacted him with a reasonable proposition, he would also offer an amendment on their behalf.

Mary Burgan noted that Dr. Hrismalos and his lawyer were not at the committee meeting, where amendments should have been made. She added that the association would like to take the area that has traditional businesses which are patronized and useful, and give them a business zoning that they are content with. In return for that, they would like a buffer area for their neighborhood.

Councilmember Richardson remarked that the Elm Heights Neighborhood Association has gone through the proper procedures for an appeal of a Plan Commission decision, and added that the Association has spent months of time and a great deal of money for an attorney. He said if they can go through the correct process and have their work overturned by the Council's receiving a letter and phone calls the day of the Council meeting, then that is a mockery of the process of the last three months.

Councilmember De St. Croix then withdrew his motion with the permission of the seconder. He said the ordinance should receive more discussion.

Mr. Smith explained that Mr. Hrismalos had asked that the Third Street property be rezoned to BG to fit the use. He said there were numerous meetings with city boards and departments. He said the Plan Commission passed a compromise that Hrismalos did not agree to, and reiterated that they did not favor downzoning for the houses. He then asked Councilmember De St. Croix to reinstate his motion and table the ordinance.

Kent Owen of the Elm Heights Neighborhood Association said that this is not a spiteful act against Dr. Hrismalos. He said the corner is very important, noting that it is very important to the integrity of the neighborhood. He urged Councilmembers to vote against the amendment.

Mary Alice Campbell, an area resident, complained about the noise coming from Bear's Beer Garden, noting that neighbors cannot sit out on their porches because of the noise level. She said there is much more involved than business interests.

Ordinance 76-39 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

The Council then took a fifteen minute break at 9:25 p.m.

Councilpresident Pro-tem Kinzer then called for Petitions and Communications.

Councilmember Morrison noted that Ordinance 76-39 represents the fourth time that the Council committees have not had sufficient input from all concerned parties.

He then suggested that any time in the future than a rezoning is involved, that all parties be notified. He said his statement is in the form of a motion. Councilmember Olcott seconded the motion but suggested that the Plan Commission notify the parties.

The Council then adopted Councilmember Morrison's motion by acclamation.

Councilmember Richardson noted that he didn't think there was enough publicity on Ordinance 76-39, and said that if the press does not publicize ordinances sufficiently then it is the Council's responsibility to present the press with additional information that they may have not had available previously.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-42 by title only.

Clark Dolnick then read Ordinance 76-42 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-42.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-42.

Councilmember Morrison then gave the committee report from Planning/Community Development, noting a Do Pass recommendation, by a vote of Ayes: 2, Nays: 1. He noted that the Blue Ridge Association attended the meeting, and were very well prepared, and noted that he appreciated their input and strong arguments.

Steve Richardson then spoke to the ordinance, stating that he is the drafter of the ordinance. He said he came before the Council asking them to remand the ordinance to the Plan Commission, which they did. They then had two public hearings where all of the issues were covered. He said the Plan Commission voted to rezone the property. He continued that he did not think the zoning is reasonable. He noted that there is a drainage problem, but added that the drainage going into the park is also coming from Blue Ridge. He then spoke to the traffic problem, and said that the traffic problem will be there regardless of the zoning. He commented that he cannot go along with Blue Ridge resident's claim that their interests are more valid than the owners of the land.

Steve Lawallen, President of the Blue Ridge Association, said that the main issues are damage to the park land, the traffic issue and the strip zoning and some new options.

Irwin Norridge, Vice President of the Blue Ridge Association then spoke to the ordinance. He said the land being discussed is surrounded by land zoned for business. He said it would be unjust to degrade land that is so valuable to the city.

There were then several more presentations by the Blue Ridge residents stating their opposition to the ordinance.

Councilmember Twell noted that something is wrong when the city attorney initiates a zoning request. He reiterated his view that the existing planning policies of the city indicate that the area should not be zoned for business. He then presented the JJ&R planning report, the official plan for the City of Bloomington. He said the Plan Commission's role in planning is to hold the city to the Master Plan.

ORDINANCE 76-42  
To Amend Zoning Maps  
re: Motor Hotel  
Associates

He commented that when something of value is taken away from the Master Plan, you are supposed to give it back in some way. He continued by saying that the Mayor one year ago had said that the City would buy the land, and has now changed his mind.

Gary Clendening, representing the property owners, then spoke to the ordinance. He said if the area is zoned BA, the land must be used for something that would comply with the site plan ordinance and the entry-way corridors ordinances that have been passed. He said Norman Perry had stated that the runoff can be controlled. He said there may be traffic problems, but that there is not any evidence that by rezoning the land it will aggravate the situation. He said that the Planning Director advised them upon the initial purchase of the property that it was zoned B1, which would accommodate a motel. He added that they have no intention of building a motel. He said the proposed zoning would be a way to resolve the ugly controversy that has surrounded the issue.

Mayor McCloskey then commented that last year he recommended that the city acquire the property for a recreational park use, noting that the Council turned it down. He said the city attorneys had advised him that things were going very badly for the city, which could be a very expensive proposition. He said the Plan Commission has always recommended the property be zoned for commercial use and not RS. He noted that he resented the city attorneys being slurred.

Councilmember Middleton remarked that the matter has been dumped in the new Council's lap, and noted that the Plan Commission has made many errors regarding the land in giving out information. He said the present Council should not be asked to pull someone else's chestnuts out of the fire.

Tom Crossman retorted that the Plan Department has reviewed the property four times. Three of the four recommendations were for a BA zoning or its equivalent, B3. He said the land was previously zoned B1, as Mr. Clendening had said, however motels were never included in B1 zones. He said they have not recommended rejection of a BA zone, as Blue Ridge residents have said.

Councilmember Young said he thought the City Attorney's arguments were weak for rezoning. He noted that the value of the property has been unfairly taken from the owners. He continued that Blue Ridge residents have overreacted in their presentations. He expressed his belief that the traffic problems would not be as great as is anticipated by the residents. He added that if there is damage to the park, the owners of the property are liable, noting that there are many safety factors such as approval of the site plan by the Plan Commission. He recommended that the land be rezoned to what it was when it was purchased.

Councilmember De St. Croix said that the level of dialogue that people have been engaging in is very offensive, with sniping, character assassination and insult speaks to the lack of ability to deal with the issue in a rational manner. He suggested that the matter be dealt with in the courts, as they have no political, financial or personal interest in the issue.

Ordinance 76-42 was then remanded to the courts by a ROLL CALL VOTE of Ayes: 2, Nays: 6. Nays: Towell, Middleton, De St. Croix, Olcott, Richardson, Kinzer.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Appropriation Ordinance 76-12 by title only.

Clerk Dolnick then read App. Ordinance 76-12 by title only.

APPROPRIATION  
ORDINANCE 76-12  
From Parking Meter  
Fund to Police Dept.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Appropriation Ordinance 76-12.

Councilmember Richardson then gave the committee report from Public Safety/Policy & Legislative Oversight, noting that the synopsis explains the ordinance adequately, and that the committee gave the ordinance a Do Pass recommendation.

Appropriation Ordinance 76-12 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Resolution 76-26 in entirety.

RESOLUTION 76-26  
Budget Transfer  
Fire/Sanitation &  
Streets

Clerk Dolnick then read Resolution 76-26 in entirety.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Resolution 76-26.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Resolution 76-26.

Councilmember Olcott then gave the committee report for the Fire Department section from Public Safety/Policy & Legislative Oversight. The committee gave the Fire Department section a Do Pass recommendation.

Councilmember Middleton then gave the committee report from Utilities/Public Facilities, noting a Do Pass recommendation. He said since that time they learned that the Sanitation amount requested was incorrect. The Sanitation, MVH, and Federal Revenue Sharing sections were recommended to be tabled. He asked that the resolution be considered under divided question with Sanitation, Federal Revenue Sharing and MVH being tabled. Councilmember Morrison seconded the motion.

Leo Hickman said there was a lack of communication at budget time last year and the Street Department was not informed that the liability insurance was being divided under various departments, which is why they are short of money. He asked that the Council not table the MVH section for this reason.

Councilmember Middleton moved that the MVH section be removed from the motion to table. Councilmember Morrison concurred with the motion.

The sections on FRS and Sanitation Departments were then tabled by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Resolution 76-26 as amended.

Resolution 76-26 was then adopted as amended by a ROLL CALL VOTE of Ayes: 8, Nays: 0.

Councilmember De St. Croix moved and Councilmember Towell moved that the rules be suspended to allow consideration of legislation past the 10:30 p.m. deadline.

Councilmember Olcott noted that he is against the motion since he would like to have additional time to obtain legal services in regard to Ordinance 76-40, Regarding the Definition of Kennel.

The motion to suspend the rules to allow further discussion of legislation was passed by a ROLL CALL VOTE of Ayes: 6, Nays: 2. Nays: Councilmembers Middleton and Olcott.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Resolution 76-25 in entirety.

RESOLUTION 76-25  
To Support the Concept of a Temporary Shelter Care Facility for Youth

Clerk Dolnick then read Resolution 76-25 in entirety.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Resolution 76-25.

The Council then took a fifteen minute recess.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Resolution 76-25.

Councilmember Richardson then gave the committee report from Public Safety/Policy & Legislative Oversight, noting a Do Pass recommendation. He continued that the Council has been provided with a great deal of supportive material in relation to the resolution. He then spoke to the poor conditions in the Monroe County Jail, and said there is a definite need for a Temporary Shelter.

Councilmember Middleton said he had worked with the Probation Council twenty years ago to obtain a such a facility, but no funds could be obtained. He said the problems that Councilmember Richardson spoke to have not changed over the last twenty years. He said he will work to support the proposal in any way he can, because the present situation is a very bad reflection on the community and is a horrible influence on the young people in the jails.

Resolution 76-25 was then adopted by acclamation.

Councilmember De St. Croix moved and Councilmember Towell seconded a motion to introduce and read Appropriation Ordinance by title only.

APPROPRIATION  
ORDINANCE 76-11  
To Appropriate Funds from General Fund to Board of Public Works

Clerk Dolnick then read Appropriation Ordinance 76-11 by title only.

Councilmember De St. Croix moved and Councilmember Towell Middleton seconded a motion to adopt Appropriation Ordinance 76-11.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Appropriation Ordinance 76-11.

Appropriation Ordinance 76-11 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 0. Councilmember Morrison left the meeting before the roll call due to personal business.

Councilmember De St. Croix moved and Councilmember Middleton seconded a motion to introduce and read Ordinance 76-40 by title only.

ORDINANCE 76-40  
To Amend Definition of "Kennel"

Clerk Dolnick then read Ordinance 76-40 by title only.

Councilmember De St. Croix moved and Councilmember Towell seconded a motion to adopt Ordinance 76-40.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-40.

Councilmember Towell then gave the committee report from Public Safety/Policy & Legislative Oversight, noting that the committee gave No Recommendation. He said there was a very long discussion on the ordinance, and noted that the committee felt it was an important enough issue to present to the Council as a whole.

Jim Clay, a neighbor of Carlos Ortigoza's, then spoke for the ordinance, noting that he has no complaints about PALS. He said he lived in the house for four months before they knew they lived next door to PALS. Several other neighbors then spoke for the ordinance, saying that they have no complaints with noise, smell, or loose animals.



Councilmember De St. Croix asked Carlos Ortigoza how many dogs and cats he had in his house, and how many rooms there were in his house.

Carlos Ortigoza answered approximately four dogs, puppies, cats and kittens, within an eight room house.

Councilmember De St. Croix stated that the issue is not whether Carlos Ortigoza is a good man, whether he is helping to reduce the animal population, or whether the spaying program is important; but rather an individual should be allowed to have forty animals in a house in a residential area. He said a precedent is being set where you say people are allowed to have as many as forty animals in a home in a residential area, adding that not all of these people would be as responsible as Carlos Ortigoza in taking care of the animals.

Carlos Ortigoza said there are many people who have more than four animals in their home, in violation of the new animal control ordinance. He said he is providing a service to slow down the surplus of animals.

Councilmember Towell said that in the committee meeting, the problems were spelled out. Since then Carlos Ortigoza has made extraordinary efforts to remedy them, including putting the garbage in the alley instead of on the street, cleaning up the front porch and his home, and the tarp on the side of the yard which will be replaced by a pine fence at a cost of \$500.

Steve Richardson, in answer to a question from Councilmember De St. Croix regarding the zoning of a kennel, said that the Board of Zoning Appeals gave PALS a special exception, which spells out the conditions under which PALS can continue to operate. The present amendment as passed would mean that PALS would not be exempt from everything but having to continue spaying up 250 dogs and cats per year to qualify as an anti-kennel.

Councilmember Richardson asked how the city plans to collect data on the number of spayings taking place, and secondly, and how will the city determine if the program is within legal guidelines?

Steve Richardson answered that the city would have to set up some sort of monitoring program with an agreement from Carlos Ortigoza. He added that if the amendment passes, he will be exempt from coverage under the ordinance. He said the Animal Control Commission may be able to monitor the program, but it would be taking them out of the area of animal control.

Councilmember Richardson noted that if the city has no fee, statutory authority, or formal agreement between PALS and the City, what legal obligations does Carlos Ortigoza have to the city in terms of accountability?

Councilmember De St. Croix said Carlos Ortigoza would be exempt upon paying a \$5,000 fee, which is the value of the spayings.

Councilmember Towell noted that if there were complaints against PALS, they could still be filed under the nuisance section of the ordinance.

Steve Richardson explained that the complaint would come to the City Attorney's Office, which would then be reported to the Board of Zoning Appeals Office. If he is not complying with the exemption, the city could move in court or through the Board of Zoning Appeals to have the exemption revoked, and from there, proceed against the Zoning Ordinance. He added that under complaint, search warrants are available.

Carlos Ortigoza suggested that an amendment be made to Ordinance 76-40 to have any kennel directly responsible to the Councilman whose district is located in.

Councilmember Young asked what provisions Carlos Ortigoza has made in case he should move or lose interest in PALS.

Carlos Ortigoza answered that he has made an agreement with his veterinarian where if anything should happen to him, the animals in PALS would be taken to the vet to be put to sleep. He added that from now on, he will take any animals left on his doorstep to the Animal Shelter to be put to sleep.

In answer to a question from Councilmember Kinzer regarding alternatives to the special exemption, Steve Richardson noted that under 7.20.060, Fees, a new section "e." could be added to read: Fees for organizations offering humane service (or five spayings per week, for example), may be waived by a vote of the Council.

Councilmember Middleton suggested that Section 1, part "j." be deleted and a new section inserted specifying the exemption as PALS at 414 E. Cottage Grove, adding that they shall be exempt from fees as long as there is no change in the operation of the organization. Councilmember Olcott seconded the motion.

Steve Richardson said that special legislation for one individual is not legal.

Ted Najam said the amendment would allow the Humane Officer to inspect the premises. He noted the ordinance has been going through the city's agencies for over three years, and that the issue is reaching a point of diminishing returns. He said the real issue has not been directly addressed; and that is Councilmembers were elected by people, not cats and dogs. He continued that the priorities of the people should be taken care of before anyone else. He added that the amendment is a broadside against the city's zoning ordinance. He said there are three routes that can be followed: the civil public nuisance under Ordinance 76-14, the criminal public nuisance under IC 31-1-102-2, and the nuisance at common law. He said for the city to tolerate the situation in its present form, it is in effect endorsing a public nuisance.

Councilmember Middleton agreed that the proper way to handle the ordinance is through the zoning ordinance.

Harry Hollis, Chairman of Animal Control Commission, urged the Council to vote against the amendment. He noted that one of the primary purposes of the ordinance is to make the individual citizen accept more responsibility of the actions of his animals. He mentioned that Carlos Ortigoza touched on the problem that people are faced with a problem in what to do with stray animals that they do not want put to sleep and bring them to PALS, which is not the answer to the problem of animal control.

Councilmember De St. Croix moved that Section "j.", Kennel, be maintained with the removal of the underlined section, and replace it with the following: any establishment which is deemed to be a kennel by this definition, and does not meet the requirements of this title, shall cease such operations no later than March 31, 1977. Councilmember Olcott seconded the motion.

Steve Richardson said that under 7.20.040, Obtaining a Kennel Permit, it states that if the area under consideration for a kennel is not zoned for a kennel, the Controller shall not issue the permit. Within two months, the applicant can apply to the Board of Zoning Appeals for a variance. He said Mr. Ortigoza had met the requirements for the prior to the enactment of the ordinance, and would be deemed a kennel unless

the Animal Control Commission passed regulations regarding the health and safety and certain requirements that he could not physically meet.

Councilmember De St. Croix then withdrew his motion.

Councilmember Towell moved that Councilmember Middleton's motion be amended to add regulations of the Commission are to come before the Common Council, under 7.08.020, for approval.

The motion to specify PALS in the ordinance and add that the regulations of the Animal Control Commission are to come before the Council for their approval failed by a ROLL CALL VOTE of Ayes: 3, Nays: 4. Nays: Councilmembers De St. Croix, Olcott, Richardson, and Kinzer.

Councilpresident Pro-tem Kinzer remarked during the vote that she voted against the amendment because she is against re-writing legislation on the floor.

Councilmember Towell moved and Councilmember Middleton seconded a motion to call for the previous question on Ordinance 76-40, as introduced.

Ordinance 76-40 was then defeated by a ROLL CALL VOTE of Ayes: 1, Nays: 6. Nays: Young, De St. Croix, Olcott, Richardson, Kinzer, and Middleton.

Councilmember De St. Croix moved and Councilmember Middleton seconded a motion to introduce and read Ordinance 76-41 by title only.

First Reading  
ORDINANCE 76-41  
Historic Bldgs.  
and Structures  
Amendments

Clerk Dolnick then read Ordinance 76-41 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-41.

Councilmember De St. Croix moved and Councilmember Middleton seconded a motion to introduce and read Ordinance 76-44 by title only.

ORDINANCE 76-44  
Requiring City  
Bd/Comm. Members  
to be City Resi-  
dents

Clerk Dolnick then read Ordinance 76-44 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Ordinance 76-44.

Councilmember De St. Croix moved and Councilmember Towell seconded a motion to introduce and read Appropriation Ordinance 76-13 by title only.

APPROPRIATION  
ORDINANCE 76-13  
Funds from Local  
Road and Street  
Fund to Fund #7

Clerk Dolnick then read Appropriation Ordinance 76-13 by title only.

Councilpresident Pro-tem Kinzer then read the legislative synopsis for Appropriation Ordinance 76-13.

Councilmember De St. Croix moved and Councilmember Middleton seconded a motion to accept the minutes of June 17, 1976 as submitted. Unanimous voice vote.

MINUTES - 6/17/76

The meeting was then adjourned at 12:45 a.m.

APPROVED:

Clem J. Blure, President  
Bloomington Common Council

ATTEST:

Nora M. Connors, Deputy City Clerk