

In the Common Council Chambers held on August 19, 1976 in a regular session at 7:30 p.m. in the Municipal Building, with Councilpresident Blume presiding.

REGULAR SESSION
COMMON COUNCIL

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

ROLL CALL

City Officials Present: Steve Richardson, City Attorney; Norman Perry, City Engineer; Leo Burke, Director, Human Resources; Karel Dolnick, City Clerk; John Komoroske, Council Administrator; Pat Patterson, Director, Redevelopment; Carl Chambers, Chief of Police, Pat Gross, City Controller; Eve Berry-Brigl, Alternative Programs Coordinator for Human Resources; Bill Finch, Personnel Director.

CITY OFFICIALS
PRESENT

Agenda Summation: Appropriation Ordinance 76-16, To appropriate Funds from Federal Revenue Sharing to Human Resources Department; Ordinance 76-44, To Require City Board and Commission Members to be City Employees; Ordinance 76-45, City Employee Residency Requirements; Ordinance 76-53, Budget Transfer for City Court and City Controller; Ordinance 76-46, To Amend Zoning Maps re 901 W. 1st Street; Ordinance 76-47, To Amend Zoning Maps re PUD at the SE corner of College Mall Road and Moore's Pike; and Ordinance 76-48, To Repeal and Re-enact Chapter 18.04 of the Bloomington Municipal Code, entitled, "Fire Prevention Code". For First Reading, Ordinance 76-56, To Repeal and Re-enact "Bicycles", Ordinance 76-57, Budget Transfers for Police, Human Resources, Bicentennial Commission; Ordinance 76-54, To Amend Zoning Maps re SE corner of 37 Bypass and SR 48; Ordinance 76-55, Traffic Amendments; Ordinance 76-58, Petition for Organization for a Regional Solid Waste District.

AGENDA SUMMATION

Mayor McCloskey asked Council to take a close look at the residency ordinance, and urged the Council not to pass it, adding that it will cause more problems than it will solve. Secondly, he endorsed the funding for the Work Release Center.

MESSAGES FROM THE
MAYOR

Councilmember Young noted that the more experienced Councilmembers have not been at the budget sessions, adding that the Councilmembers present at the meeting missed their wisdom and experience.

MESSAGES FROM COUNCIL-
MEMBERS

Councilmember De St. Croix commented that he is glad to see everyone present at the meeting, adding that he hopes they can come to some points of agreement.

Councilmember Richardson thanked the Council and its staff for keeping him up-to-date on Council business while he was ill.

Councilpresident Blume responded to the editorial in Tuesday's Herald Telephone, noting that he didn't feel it told the whole story on the utilities budget. He spoke in support of the Utilities Service Board and Mayor McCloskey in their efforts to resolve the conflict between utilities and the city and their budgets.

Councilmember De St. Croix moved and Councilmember Kinzer seconded a motion to amend the agenda to discuss Ordinance 76-45 as the first item on the agenda. Unanimous consent of the Council.

Councilmember De St. Croix moved and Councilmember Kinzer seconded a motion to introduce and read Ordinance 76-45 by title only.

ORDINANCE 76-45
City Employee Residency
Requirements

Clerk Dolnick then read Ordinance 76-45 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-45.

Councilpresident Blume then read the legislative synopsis for Ordinance 76-45.

Councilmember De St. Croix then proposed several amendments to Ordinance 76-45. 1) Section II be amended to read as follows: Employees at Enactment Excepted in Present Residence. No individuals employed by the City of Bloomington at the enactment of this ordinance shall move to another address outside the Monroe County limits without being terminated from their employment unless granted an exemption according to section five of this ordinance. 2) Section V. to be amended to add the following sentence: Whether or not extreme hardship exists, and whether or not municipal employees who work at a location outside the city limits will be residing near their place of work is a question of fact to be determined by the board. 3) Under Section VII, Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections of the ordinance. Councilmember Kinzer seconded the motion. He then summarized the amendments and how they would affect the ordinance, noting that if people now work for the city, it does not matter where they live (as long as it is in Monroe County), or where they move.

John Komoroske, Council Attorney, then spoke to the legality of the ordinance. He said the Supreme Court decided, in McCarthy v. the Civil Service Commission on March 22, 1976, that if the city wants to limit its employment to city residents, it does not destroy any constitutional rights by doing so. The nature of the employment contract is such that there is no constitutional right to city employment; since they can quit at any time, and the city can terminate them at any time without incurring any damages. He added that employment with the city is a privilege and not a right. Thirdly, in Indiana Code, police and firemen cannot live any farther from the city than fifteen miles. The city can restrict them further since it requires them to live in a smaller area.

Councilmember De St. Croix then went through the history of the ordinance, and explained how it came to be written.

Councilmember Morrison moved that Ordinance 76-45 be amended to delete in section II, the words "promoted to a city salary rate of greater than 18 or". In Section III, delete "equally qualified incumbents for promotion to a city salary grade level of 18". In Section IV, delete "all employees who are promoted to a city salary grade level greater than 18 must reside in Bloomington no later than 90 days from beginning of promotion or forfeit their promotion". In Section VI, delete "and by employees promoted to a city salary grade level greater than 18 upon promotion. Failure to comply with this section shall result in termination of employment or forfeiture of employment". In Section VII, "and by employees promoted to a city salary grade level greater than 18 upon promotion", also "or forfeiture of promotion". Councilmember Middleton seconded the motion.

Councilmember Middleton moved that Ordinance 76-45 be amended in Section VI, second section, delete "a new affidavit to the same effect shall be made by all city employees at the beginning of each year". Councilmember Morrison seconded the motion.

Councilmember Young commented that he does not like the ordinance, and added that if people are going to be required to live in town, it might be best to bunch them up, so their recreational activities can be controlled, etc. He said he would like for them to live at either 3209 E. Tenth Street or 800 Smith Road.

Councilmember Middleton moved and Councilmember Morrison seconded a motion to divide the question on Ordinance 76-45, to vote on the amendments one at a time.

Councilmember De St. Croix noted that if Councilmember Middleton's amendment is adopted, new employees will no longer have to affirm their residency within the city, and present employees will not even have to affirm that they live within Monroe County.

Councilmember Middleton replied that it is unnecessary to have the sentence in Section IV since it says in Section I that the employee will report any change of address and makes an affidavit and swears that he will do so. Therefore, it doesn't make any sense to have them reaffirm it once a year.

Councilmember Towell remarked that he would prefer that he would prefer to have the affidavit signed once a year, as it is simply reasonable information and attesting to its truth.

The motion to amend Section VI, to remove the sentence to require resigning of affidavits each year was then adopted by a ROLL CALL VOTE of Ayes: 6, Nays: 3. Nays: Councilmembers Towell, Young, and De St. Croix.

The motions proposed by Councilmember Morrison (see p. 2), were then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 1. Nay: Councilmember Young.

Councilmember De St. Croix then gave a breakdown of who would be considered above grade level 18 in the Police Department and Fire Department. In the Police Department: Police Lieutenant, Police Captain, Deputy Police Chief and Police Chief. In the Fire Department: Fire Captain, Battalion Chief, Deputy Fire Chief, Fire Chief, Deputy Fire Chief Inspector and Chief Fire Inspector. Those positions are not in the ordinance.

Councilmember Richardson noted that the Police and Fire Department have their own step system for promotions, and advocated the Council not make a cut-off at grade 18 for them. He explained that incentive is very important, as they have a twenty-year program for promotions.

Councilmember De St. Croix commented that he has spoken to many people recently and that he would go along with Councilmember Morrison's amendments, noting that they would go along with his amendment number two.

Councilmember Towell said that grades 19 and above are the ones that form programs, and said he would like to have them have a fair amount of contact with city residents if they will be presenting programs to the Council and the Mayor for implementation. He continued that in that way they are like elected officials. Secondly, he explained that the expectations of employees have changed so that they are more stable in the last few years. Previously, jobs depended more on patronage and employees could not count on having their jobs if a member of a different political party took office, particularly in the police and fire departments. He said that will not change with passage of this ordinance.

The motions proposed by Councilmember De St. Croix (see p. 2), were then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 1. Nay: Councilmember Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-45 as amended.

Mayor Frank McCloskey remarked that he commends the spirit and the substance evident in the amendments proposed by Councilmembers Morrison and De St. Croix. He said he urges department heads and key staffers to live in the city. He continued that he agrees, almost to the point of it being a requirement by executive order or ordinance, for future city employees to live in the city. He added that what an employee owes the city as far as a contract goes is a good days work, and it should be irrelevant to the city where the employee lives. He said there would be two classes of city employees created, those that have geographic mobility and those without it, which he said could cause some tension. He noted that a residency board that looks over employees shoulders asking where they live rather than what they are doing on the job smacks of a company store aspect which he doesn't approve of. Finally, he commented that with the amendments, the ordinance is much less onerous than it previously was. He said he didn't think the Council would get into any veto type thing.

Nancy Salmon of the Planning Department commented that she didn't know if the intention of the ordinance is domiciliary or residential. She said a person can have only one domicile, but could have many residences under the law. She noted that there are people who have more than one residence. She added that the city does not need another unenforceable ordinance, adding that the cost to taxpayers of enforcing the ordinance would be ridiculous. She urged the Council to reject the ordinance.

John Komoroske, Council Administrator, replied that the distinction between residency and domiciliary is archaic. In a residency, you have to be physically present with the intent to stay indefinitely. He added that it is determined by a number of different things.

Councilmember Richardson said that from his experience, the domicile/residency question is a very serious and confusing one. He said even though he'd lived in Bloomington for eight years, the contention of the residency committee was that he was not domiciled in Bloomington. He continued that it is possible that fifty city employees could chip in one dollar to get a sleeping room and they could all have residency. Secondly, he said he would like to echo Ms. Salmon's sentiments regarding the enforceability of the ordinance, noting that there are so many that are not enforced now.

John Komoroske answered that the domicile question is between conflicting jurisdictions, which Bloomington does not have. He said there are over fifteen different criteria the university uses to determine residency.

Duane Conkey, President of the city's AFSCME union, said the most important point to the people present is that they do not feel that the Council has any business telling them where they should or shouldn't live. He said he understands the arguments regarding efficient management, the tax structure, etc., but that most of the people present will probably live in Monroe County for the rest of their lives, and they do not think the Council has a right to decide their place of residency for them.

Gus Enguidanos of the Utilities Department commented that he lives in the city now, but when he gets the money, he plans to move out in the country. He added that many people move to Monroe County because it is such a beautiful place.

Robert White, of Monroe County United Ministries then spoke against the ordinance. He said it is discriminatory against potential employees for the city, adding that it

is unfortunate that new employees cannot be grandfathered. He said the idea in Section III, in cases of equal qualifications for new hires or for promotion, he said Bloomington residents should be given preference. However, the principle that anyone newly hired must live in the city is absurd.

Candy Pinkston remarked that just because an employee lives in the city does not mean that he works harder than someone who lives in the county. She then echoed what Councilmember Towell said regarding the patronage system.

Donna Farmer said if the Council passes the ordinance, new employees may eventually feel discriminated against if they work side-by-side with a present employee who has the freedom to move wherever they please in the county. She said even if county residents do not live in the city, they do spend their money in Bloomington.

Carl Chambers, Chief of Police, remarked that the Yarger plan has not been applied to the Police and Fire Departments. He asked how the criteria for giving service to the city by a department head or supervisory could be established. He said he has been a member of the city government for 19 years and that he can't see how one ordinance is going to produce more efficient leadership in the community, or more work productivity. He continued that there is no reason for legislation that reaches out to try to control the United States citizens' lives. He said the ordinance would have a tendency to create hardship on the citizens of Bloomington.

The Council then took a ten minute break.

Councilpresident Blume then called for Petitions and Communications.

A petition was then presented to the Council from a resident of Maple Grove to ask the city to install water lines in the Maple Grove area. He noted that cisterns are used now, which are very expensive. He said there is not way to drill a well in the area, the northwest corner of Bloomington township. In answer to a question from Councilmember Young regarding whether the residents will share the cost of installing the water lines with the city, he replied they would be willing to do so. (Discussion then resumed on Ordinance 76-45).

Councilmember De St. Croix remarked that he has heard no reference to the 50,000 citizens of Bloomington who pay the taxes, elect the Council and Mayor, and come to him saying how difficult to get jobs and there needs to be industry brought into town. He noted that 58% of the jobs the citizens pay for do not go to citizens of Bloomington.

Ordinance 76-45 was then adopted by a ROLL CALL VOTE of Ayes; 5, Nays: 4. Nays: Councilmembers Morrison, Young, Richardson and Middleton.

Comments made by Councilmembers during vote:

Councilmember Morrison remarked that he hopes that employees will be equally concerned when the Council passes the budget. He said since county residents can work for the city, the Council also serves those county residents.

Councilmember Towell said everyone in the audience has a friend, which is how they got hired by the city, and how much of the promotions occur in the city. He said he is willing to vote for the ordinance with the grandfather clause. He added that gradually there will be more people who live in Bloomington who will rub shoulders with the residents who work for the city, perhaps making for a different attitude in the city.

Councilmember Young said he thinks the ordinance is unnecessary, and it is also upsetting many of the people who work for the city. He added that there is not enough available housing for an additional 300 people.

Councilmember Middleton explained that the ordinance does not address itself to the real problem, which is the

decision making should be done in this area by the executive branch of the city, not the legislative.

Councilmember Olcott said he likes the ordinance, noting that the city will be moving in a forward motion towards having employees more involved in the city.

Councilmember Richardson noted that his vote has been influenced by some of the comments made tonight; the Mayor's touching on the city/county cooperation and competition with the private sector; Councilmember Young's mentioning of the housing shortage question; Councilmember Morrison on the non-enforceability aspects; and Councilmember Middleton regarding administrative type problems. Another aspect is the concept of the "American type-of dream" to be able to move around, in this case into the county to build a home, etc. He said he didn't agree that city employees are more dedicated than county employees.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-48 by title only.

ORDINANCE 76-48
Fire Prevention
Code

Clerk Dolnick then read Ordinance 76-48 by title only.

Councilmember De St. Croix moved and Councilmember Middleton seconded a motion to adopt Ordinance 76-48.

Councilpresident Blume then read the legislative synopsis for Ordinance 76-48.

Councilmember Morrison then gave the committee report from Planning/Community Development, noting a Do Pass recommendation.

Steve Richardson then suggested an amendment to Section 18.04.030, the third section. He noted that "Code" and "code" were both used. The amendment would substitute in lines through eleven the word "Chapter" for "Code". He said since they drafted the original ordinance in July a new version has been produced of the code. He said they have proposed amendments in Section 18.04.010, the first section and in lines 2, 5, and 9. He said the changes are basically gramatical, noting in line nine that the fire prevention code is recommended by the American Insurance Association 1976 edition, instead of 1970 edition. He said there was some question in 18.04.030 regarding the right of entry. The clause would set up the Legal Department so that they could secure a search warrant in instances where people refuse them entry.

Councilmember Young mentioned that in the housing code, multiple-family housing is required to be inspected yearly, but the inspector is not qualified to inspect fire extinguishers.

Steve Richardson noted that is something they could take up, adding that they do cooperate with both the fire department inspectors and housing code enforcement inspectors. He said they could present an amendment to require that. He continued that this is the type of clause that is in most inspection ordinances. (Proposed amendments from Legal Department attached to ordinance). He said inspections of the private residences is not really the focus of the ordinance, but rather to enforce fire life safety standards through multiple-dwelling units.

Councilmember Middleton moved and Councilmember Richardson seconded a motion to adopt the proporsed amendments by the Legal Department as submitted.

The amendments to Ordinance 76-48 as proposed by the Legal Department were then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

Councilmember De St. Croix moved and Councilmember Kinzer seconded a motion to adopt Ordinance 76-48 as amended.

Harold Godsey, Fire Inspector, in response to a question from Councilmember De St. Croix regarding how he felt about having housing inspectors inspect fire extinguishers, replied that the fire inspectors would be glad to work with them or train them to inspect the extinguishers. He said it does not require that much training, noting that there are only three types of extinguishers and there are different requirements on the three as to when they need to be serviced.

Chuck Johnson, Housing Inspector, commented that he and Gary Lajoi had been talking about going on inspections with people from the fire department to see how it is done. He said they deal mostly with ABC extinguishers, 3/4 pound and 5 pound, and they do not require weighing, only looking at the gauges. He said he would talk to Mr. Godsey to get it worked out.

Councilmember Richardson noted that there are often duplications in inspections. He said what is needed is to give the inspectors broader training. Secondly, the Mayor has stated that he may not approve the third housing inspector that had been approved by the Common Council with Community Development funds. He added that the whole inspection^{ated} needs to be looked at closely.

Ordinance 76-48 was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Appropriation Ordinance 76-16 by title only.

APPROPRIATION ORDINANCE 76-16 From Fed. Rev. Sharing to Human Res. Department

Clerk Dolnick then read Appropriation Ordinance 76-16 by title only.

Councilmember De St. Croix moved and Councilmember Middleton seconded a motion to adopt Appropriation Ordinance 76-16.

Councilpresident Blume then read the legislative synopsis for Appropriation Ordinance 76-16.

Councilmember De St. Croix then gave the committee report from Community Resources, noting a Do Pass recommendation which was broken down into two sections. He explained that Councilmember Olcott and himself voted to give the ordinance a Do Pass recommendation on the condition that a rider be attached to request that the Work Release Center repay 48% of the funds (\$2,592) by the end of the calendar year 1978. He noted that they are essentially following the same procedure as with the Stonebelt Center appropriation. The 48% is a reflection of the cumulative population of county residents using the center. Councilmember Towell recommended that the city grant the funds with no strings attached, but requests that the Work Release Center explore the possibility of funding from Lawrence County and Bedford.

Councilmember Middleton stated that he felt it was unrealistic to expect the Work Release Center to repay grants they receive, as they do not have a source of income that allows for any accumulation of funds. He continued that the per diem fees charged to residents of the center are not sufficient to keep the Center operating. He said the Work Release Center has been trying to obtain funds from other sources.

Mr. Pilbrow of the Work Release Center replied that the Work Release Center have been trying to get funding from other sources. He said they are hopeful of receiving criminal justice monies again to carry them through 1977.

Mr. Ed Howell, Director of the Work Release Center, then spoke to the ordinance, noting that the basic issue of the Work Release Center is that the clients come to them without having gone into institutions, which is not usually the case in Indiana. He said the population of the Work Release Center has increased, adding that the probation offices, the courts in the area, the prosecutor's office and others have begun to use the Work Release Center for sentencing and as they do so, the Work Release Center's potential to generate revenue will increase as the number of residents do. He said they have asked for funds from Monroe County, Lawrence and Sullivan Counties and others, but that Bloomington was the only place to give them positive feedback for immediate funding. He said each resident pays from \$4 to \$7 per day to the Center.

Councilmember De St. Croix moved that Appropriation Ordinance 76-16 be amended to include a new section two to read as follows: the Common Council of the City of Bloomington expects and anticipates the repayment of 48% (\$2,592) of these funds prior to the end of the calendar year 1978". Councilmember Morrison seconded the motion.

Leo Burke explained that the per diem fees were to support the Center when it originally opened, but it did not turn out that way. He said the Center will need to rely on outside sources of funding, continuing that the funding stability of the Center is tenuous. He noted that there is a savings to the taxpayers when you consider the alternative, which would have most of the residents in prisons at a much higher cost. He continued that Stonebelt's funding is much more stable.

Ed Howell commented that as the Center is set up, the first priority for placement in the Center would go to Bloomington and Monroe County residents. Due to the court structure in the county, they cannot differentiate in criminal cases between Bloomington City Court and Monroe County Court. He said they differentiate on the last known address to check for their place of residency.

Councilmember De St. Croix noted that he feels the Common Council has an obligation to encourage other counties to kick some money in, and by attaching the new section, the Council would be doing it. He said it would also help the Work Release Center establish a stronger funding base by having commitments from other communities and other counties.

Councilmember Towell stated that the Work Release Center is a new type of program that offers some hope in keeping men out of prison. He said he would like to see the State Legislature find a special tax for the purpose. He said the Council would be helping to support an idea and should make a special effort to see that it gets established.

Mr. Smith of the Work Release Center said the Work Release Center's funding is in flux, noting that all of the funding they have been able to come up with has been short-term funding on a year-by-year basis, usually with grants. He said most of the grants require them to provide local support in the form of matching funds. He said one of the long-term solutions is legislation. He continued that they have had a hard time breaking even every year. He said they will take it as a moral obligation to repay the funds.

Councilmember Richardson noted that most agencies spend most of their time looking for money, noting that the amendment in itself will not solve that problem. Secondly, administratively it will be a bureaucratic problem to deal with, noting they often don't have enough time to work on the problems at hand. He suggested that the

next time the Work Release Center comes to the Common Council for funding, that they show the Council their record of what they have done in the interim, showing who they have gone to, etc. He said if the Council does support the program, they should give them the funding with no strings attached and work out alternatives in the meantime.

Councilmember De St. Croix replied that if they do spend most of their time looking for money, it is from the City of Bloomington while they should explore other possibilities.

The motion to attach a rider to request 48% repayment of funds to the City of Bloomington from the Work Release Center was adopted by a ROLL CALL VOTE of Ayes: 6, Nays: 3. Nays: Councilmembers Towell, Middleton, Richardson.

Councilmember De St. Croix moved and Councilmember Kinzer seconded a motion to adopt Appropriation Ordinance 76-16 as amended.

Appropriation Ordinance 76-16 was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

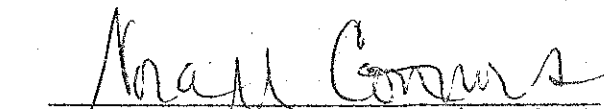
Councilmember Olcott moved and Councilmember Morrison seconded a motion to adjourn. The meeting was then adjourned at 10:40 p.m.

ADJOURNMENT

APPROVE:


Clem J. Blume, President
Bloomington Common Council

ATTEST:


Nora M. Connors, Deputy City Clerk