

In the Common Council Chambers of the Municipal Building held on December 2, 1976, in regular session with Council-president Blume presiding. The meeting began at 7:37 p.m.

REGULAR SESSION
COMMON COUNCIL
December 2, 1976

Present: Councilmembers Blume, Kinzer, Middleton, Morrison Olcott, Richardson, De St. Croix and Towell. Absent: None.

ROLL CALL

Councilpresident Blume then gave the agenda summation. For Second Reading, Ordinance 76-83, Budget Transfers; Ordinance 76-74, To Amend Zoning Maps re: 902 W. 1st St. RS to SM; Resolution 76-43, Utilities Franchise Agreement; Ordinance 76-84, To Approve and Confirm Rate Increases for Monroe County Cable TV. The agenda was amended to include Resoution 76-44, Encomium for I.U. Varsity Soccer Team; Resolution 76-45, Encomium for Marvard Clark; and Ordinance 76-32, Historic Designation for Century House. Also the minutes of November 18, 1976.

AGENDA SUMMATION

Mayor McCloskey then gave his message. He noted that he had just returned from four days in Denver where he was attending the National League of Cities and Towns Conference. He said he heard a very good speech by Jesse Jackson on the problems of the cities. He said his main contribution was to get the Resolutions Committee to come out with a stronger resolution as to sources of contamination with toxic substances. As an example, Westinghouse feeding into sewage systems PCB's. He added that Channel 30 has a fund drive underway, and urged citizens to contribute towards it. He commended the spirit of the resolution for Marvard Clark, and noted his 50 years of service to the city. He concluded by saying that he endorses the Utilities/Civil City franchise agreement, as written. He said he thought the 8% increase per year is reasonable for the city.

MESSAGES FROM THE
MAYOR

Councilmember Morrison moved and Councilmember Kinzer seconded a motion to amend the agenda to include Resolution 76-44, Resolution 76-45, and Ordinance 76-32. Unanimous approval of the Council for the resolutions. Councilmember Middleton objected to including Ordinance 76-32, stating that they had sufficient time to bring it up before, but after explanation from Councilmember Olcott that it would not change the zoning of the Century House, but merely designate it as historic, he said he would approve of introducing it.

Councilmember Towell noted in his message that the Downtown Committee had met that morning and there was a sizeable turnout, which he said reflects a lot of impetus for doing something in the area of the downtown.

MESSAGES FROM
COUNCILMEMBERS

Councilmember Richardson reiterated that the Utilities Rules and Regulations have been revised for the first time since 1949. He continued that the USB approved all of the recommendations made by InPIRG, such as giving public notice to consumers re: the content of the rules and regulatations, appeals processes, installment plans, etc., and he thanked them for it. He then thanked the Mayor for his support of the Youth Shelter Facility in terms of funding, and he expressed the hope that county officials will follow suit. He then read the note he sent to Public Service Indiana in which he returned the pocket calendar they'd sent, and said he wished that they would better demonstrate their friendship to the citizens of Bloomington by ceasing sending gifts, and use the money for some other part of their operation that would hopefully allow PSI to reduce their rates. He also commented on a proposed retaliatory eviction ordinance, noting that the State Legislature may deal with the issue this year, but that he has asked Steve Richardson to draft an ordinance re: retaliatory eviction, so that tenants do not have to fear reporting inadequacies in their housing units will bring eviction. He also reported that there seems to be a pattern developing of having pornography shops on College Avenue, which is one of the major entrance corridors of the city. He said the Council will have to address this issue very soon. He then thanked the staff for their work in 1976.

Councilpresident Blume then thanked PSI for sending him a calendar, and wished everyone Merry Christmas.

Councilmember Kinzer then expressed her support to Councilmember Richardson's remarks about the calendar from PSI.

Councilmember De St. Croix then spoke to Resolution 76-45, Encomium for Marvard Clark. He moved that it be introduced and read in entirety. Councilmember Kinzer seconded the motion. RESOLUTION 76-45
Encomium/M. Clark

Councilmember De St. Croix then read Resolution 76-45 in entirety. He then moved, and Councilmember Kinzer seconded, a motion to adopt Resolution 76-45.

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

Resolution 76-45 was then approved 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 Ordinance 76-83 by title only. ORDINANCE 76-83
Budget Transfers

Clerk Dolnick then read Ordinance 76-83 by title only.

Councilmember De St. Croix moved and Councilmember Kinzer seconded a motion to adopt Ordinance 76-83, and Councilpresident Blume read the legislative synopsis.

Councilmember Morrison then gave the committee report, noting that the committee recommended amending the ordinance to add Parks and Recreation - Federal Revenue Sharing, with funds transferred from 072, Equipment, \$1,700 to 026, Services Contractual. Councilmember Middleton seconded the motion.

Bill Wilson explained that city equipment was used to redo four city parks; however, on the East Park Ridge park, Parks and Recreation had to contract out to Ralph Rogers to do extensive dirt removal, so the funds had to be transferred to Services Contractual

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

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-83 as amended.

Ordinance 76-83 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 Resolution 76-44 in entirety. RESOLUTION 76-44
Encomium/I.U. Soccer Team

Councilmember Richardson then read Resolution 76-44 in entirety. He then moved, and Councilmember Morrison seconded a motion to adopt Resolution 76-44.

Nick Mativouli, Publicity Director for the Soccer Team, then accepted the Resolution for the team, and thanked the Council for their support.

Councilpresident Blume then read the legislative synopsis for Resolution 76-44.

Resolution 76-44 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 Ordinance 76-74 by title only. ORDINANCE 76-74
To Amend Zoning Maps
902 W. 1st RS to SM

Clerk Dolnick then read Ordinance 76-74 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-74. Councilpresident Blume then read the legislative synopsis.

Councilmember Morrison then gave the committee report from Planning/Community Development, noting a Do Pass recommendation. He said that it was tabled for over a month pending an answer to the drainage problems on First Street. Dr. Robison agreed not to pave his parking lot so that the runoff of water would not be as great. He also added that the Pastor of the Church near the property was contacted regarding the rezoning, but did not show up at the committee meeting, so the committee assumed they did not object.

Ordinance 76-74 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 0, Abstentions: 1 (Blume).

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Resolution 76-43 in entirety.

RESOLUTION 76-43
Utilities/Civil City
Franchise Agreement

Clerk Dolnick then read Resolution 76-43 in entirety.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Resolution 76-43, and Council-president Blume read the legislative synopsis.

Councilmember Kinzer then gave the committee report from Utilities/Public Facilities, noting a Do Pass recommendation. She explained that the committee considered an amendment proposed by the Utilities Service Board which would limit the increase Utilities pays the Civil City to 8% in 1978. The amendment was not approved by the committee.

Councilmember Young commented that the City had received criticism for taking funds from Utilities, when the City also pays the Utilities a substantial yearly sum. For example, they pay approximately \$165,000 for fire hydrants, the City provides the Commercial Water Office space for the amount of \$75 per month, they pay for gasoline at the rate of 65 cents per gallon while they could be getting it elsewhere for ten cents less. The City also pays for water and sewage. In conclusion, he said the amount the Utilities pays the city is not much more than the sum they receive from the City.

Mayor McCloskey thanked Councilmember Young for his comments on the Franchise Agreement. He noted that he took personal front at the editorial in the HF which had his picture with the title "fraud" over it, regarding an agreement that was implemented and endorsed by the Utilities Service Board and the Common Council.

Councilmember Middleton agreed that the editorial was "out-of-line", commenting that the funds are "users fees", and that they are actually keeping taxes down by doing so. Councilmembers Olcott and Blume agreed.

Councilmember Towell said he would like to see a more defined basis for the exchange of fees between the City and Utilities, since he can't believe the "services equals money" rationale.

Councilmember Olcott moved that the 8% limit for 1978 amendment, as proposed by the Utilities Service Board, be included in the resolution, noting that it would be helpful to be able to plan ahead on funding for both the City and Utilities. Richardson seconded.

Councilmember De St. Croix suggested that the amendment be made under Item 10: "...not to exceed an increase of 8% of \$300,000 in 1977 and 1978". He then spoke against the motion, noting that it is difficult to predict what 8% will be in 1979. Secondly, he agreed with Councilmember Towell that the process for funding should be looked into. He said he didn't want to lock the USB into a situation where they could only get 8%, and didn't want to lock the city into one where they couldn't get additional funds if they needed it. He proposed that it be negotiated in good faith. Council-president Blume reiterated Councilmember De St. Croix's remarks.

Robert Schmuhl, President of the Utilities Service Board, then spoke to the Resolution. He started by saying that he agrees with Councilmember Towell that the arrangement should be studied. He recalled that last year a Utilities/Civil City Finance Committee was formed to find a resolution to this perpetual problem. He said the work of the committee was never finished, and he suggested that the committee reconvene once again. He continued that the USB was shocked that the increases in the franchise agreements were so large: in 1973, the agreement was \$158,936; the proposed amount for 1977 is \$300,000. The increase from 1976 to 1977 is 40%. Board members were willing to go along with the \$300,000 figure if certain lids could be put on the funding agreement for the next two years. He said the amount that the franchise agreement has risen compared to revenues is up from 4.7 in 1973, to 7.4 in 1977, which is a sizable increase. Another reason for the concern is the imminent construction of the new sewage treatment plant, and in order to do bond prospectus, it is very helpful for the Utilities to be able to say to the bond purchasers that "x" number of dollars are committed for the next few years. He said purchasers may look inquisitively at a situation where there is an increase of 2% between 1973 and 1974, and 40% between 1976 and 1977. He said the 8% was arrived at by the Board with the Mayor present, after the Mayor had spoken to several Councilmembers concerning the issue. He asked that if the Council does not approve the 8% limit, that they return the resolution to the Utilities Service Board for consideration at their December meeting.

Councilmember De St. Croix then responded. Regarding the percentage of increase, he said he could recall at least two major revisions in the bookkeeping procedures of the Utilities, and questioned the accuracy of the data. He added that it would also be helpful to the City if they could tell the citizens of Bloomington that they could only expect an 8% increase in costs of services delivered as demanded, but they cannot tell about such things. He ended by saying there are two sides to the story, and the Council also has concerns in this area.

Mayor McCloskey pointed out that one of the greatest concerns in the City is the fragmentation of authority, the powers of various Board and Commissions, etc., and he said he was glad to work with the various branches. He noted that he went into negotiations with the USB with amounts he had thought were approved by eight members of the Council. He said he had the authority to speak for the Council in the negotiations, and that the tension and uncertainty will continue if an amount is not agreed to. He added that if the Council does not agree with the 8%, it could be construed as a breach of faith.

Councilmember Richardson asked, if the Mayor has committed himself to an 8% increase, with the agreement of the USB, then there is nothing the Council can do, since he is the only one who can initiate any funding proposal.

Councilpresident Blume disagreed, noting that the resolution authorizes the Mayor and the Council to decide on behalf of the Civil City.

Councilmember Towell commented that the Council has to okay important policy matters that the Utilities Service Board initiates. The Mayor does not come into the process. He said this is not the same as a budget proposal.

Councilmember Kinzer agreed that Utilities/Civil City Finance Committee should be continued to investigate the relationship between the City and Utilities. She said the amendment would give the stamp of approval to the present franchise agreement for the next three years, and for that reason, she prefers not to see the amendment.

The amendment was defeated by a ROLL CALL VOTE of Ayes: 1 and Nays: 8. Nays: Councilmembers Morrison, Towell, Young, Kinzer, De St. Croix, Middleton, Richardson and Blume.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Resolution 76-43.

Councilmember Young commented that he would like to see the amounts the city takes from utilities decreased each year instead of increased. He noted that if the City raises the amount paid to them each year, they will in turn charge the Utilities a higher amount over the years. Councilmember ~~reiterated~~ Councilmember Young's remarks.

ADDITIONAL

Councilpresident Blume pointed out that the negotiated amount could go either up or down, and that the 8% is merely the ceiling figure.

Councilmember Young said that by allowing the amount to go up each year, you are asking for an increase in water and utilities bills. He suggested that the amount be lowered or eliminated.

Councilmember Olcott said he agreed, and that he could not figure out why the city turned over to the Utilities such a large capital improvement worth such a large sum of money. He said the people of Bloomington deserve a return for it, whether it be in salaries, rental space, etc. He said someday they may think of selling it, invest the funds at 5%, and get a much larger return than \$300,000.

Resolution 76-43 was then adopted by a ROLL CALL VOTE of Ayes: 7, Nays: 2. Nays: Councilmembers Morrison and Young.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-84 by title only.

ORDINANCE 76-84
To Approve and Confirm
Rate Increases for
Monroe County Cable TV

Clerk Dolnick then read Ordinance 76-84 by title only.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to adopt Ordinance 76-84, and Councilpresident Blume read the legislative synopsis.

Councilmember Kinzer then gave the committee report from Utilities/Public Facilities, noting a Do Pass recommendation. She said there was some reservation on her part and Councilmember Richardson's, regarding some questions that were raised (by InPIRG) and have not been answered.

The Council then took a fifteen minute break.

Councilpresident Blume called for Petitions and Communications, and being none, called on Mike Corbett to speak to the ordinance.

PETITIONS & COMMUNICATIONS

Mike Corbett then suggested several procedures for use in the future when considering rate hikes. He said there is no objective method, with the materials in hand, to determine if the rate hike is justified. He pointed out that in section nine of the agreement, which states how the rate hikes will be determined, he quoted "if the increased unit cost does exceed the combined average of the same unit cost of the Indiana cities listed, then the increase is not granted". The Telecommunications Council stated in a 10/23/76 memo to the Board of Public Works, analyzed the request in terms of the franchise and found that they are in compliance with the franchise. However, he stated there are other ways to analyze it. He said the Cable Co. sets their rates at whatever the market will bear, and there is a question of whether Telecommunications should serve in the public interest and require the rates be as low as is economically feasible. The Board of Works has already cut the amount once. The public utility rate of return method could also be used, although it is administratively burdensome, as it involves detailed examination of revenues, accounting procedures, etc. to determine a proper rate of return for the company. There could also be rate surveillance, where the City could retain the power to police the profits to be sure they are not unreasonable. The city could analyze, using this procedure, how rate adjustments would affect the system's cash flow, the difficulty or ease by which the

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cable operator could raise debt and equity capital, measure the effect on subscriber saturation and determine if the rate adjustment could differentially affect certain groups of subscribers. In addition, he said one of the two methods should be considered in the future, and suggested that the Telecommunications Council could be charged with that responsibility. He pointed out that seven other towns in this vicinity are charging from seven to eight dollars per month. Don Finneran has said that the rate is not completely based on need, but that they are a profit making business, and can therefore run themselves out of the business by pricing themselves out of the market. Most of the companies under Telesis have requested a one dollar increase recently. Another area he spoke of was the amount of revenues the city receives from Cable TV. He said the City gets 3% of the revenues, as set out in Section 12 of the agreement. Monroe Cable also contributes \$5,000 to the Public Library for the Public Access Coordinator. He suggested that the percentage may be raised to four to five percent, so that all monies received would be put through the city's budgetary process. In conclusion, he said Monroe Cable is living within the agreement, but that there are better ways to determine the amount, which should be considered in the future. In answer to a question from Councilmember Richardson, he said that the information requested by InPIRG should be available, in Mr. Finneran's estimation, in a month or so, and that such information would be extremely helpful in the future setting of rates.

Councilmember Towell said that he thinks the City has a contractual agreement to raise the rates in comparison to cities around Bloomington. Councilmember Middleton agreed, noting that the Council's responsibility is not to set rates, but to see that they are living up to the franchise agreement.

Don Finneran, Manager of Monroe County Cable TV, said the increase compares favorably to surrounding areas, and added that the figures used were compiled by the Telecommunications Council, and not by Monroe Cable.

Claire Gregory, Chairperson of the Telecommunications Council, then spoke to the ordinance. She said there are twelve companies listed in the franchise, and in Spring of this year, the average monthly rate was \$5.81, and Monroe Cable was \$6.00. However, she said the services provided by Monroe Cable are in excess of services of other companies listed in the franchise. She said based on information gathered, their request for an increase was not out of line. Again, she reiterated that Bloomington has a 12 Channel Service, while others do not. The national average of Teleprompter, a National Company, is \$7.20, Warner Cable is \$7.46. She said the community access station is very unusual. She acknowledged that the Company has made profit, but that they have submitted their financial statement which shows a loss is indicated, noting that it often takes Cable Companies ten years to get on their feet. She said based on customer surveys, the customers are satisfied, there have been only two complaints since January of 1976.

Councilmember Richardson remarked that it is a good thing to have community access and twelve channels, but if the cost is so prohibitive, it may not be much good for anyone, and the community would not be served by it. He said communication needs to be opened up so that people can get involved before the Council Committee stage.

Councilmember Young said that if they are granted the rate increase, they could improve and upgrade their services and equipment. He said they are entitled to a profit, and the increase should be approved, and the Council should watch to see how they perform.

Ordinance 76-84 was then adopted by a ROLL CALL VOTE of Ayes: 8, Nays: 1. Nay: Councilmember Richardson.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to introduce and read Ordinance 76-32 by title only.

ORDINANCE 76-32
Historic Designation
for the Century House

Clerk Dolnick then read Ordinance 76-32 by title only.

Councilmember De St. Croix moved and Councilmember Kinzer seconded a motion to adopt Ordinance 76-32, and Council-president Blume read the legislative synopsis.

Councilmember Morrison explained that the ordinance has been brought off the table, noting that Bill Brown is still interested in having Century House designated historic.

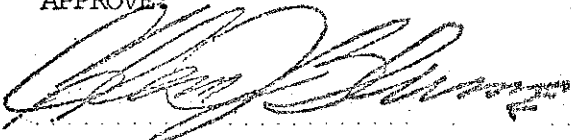
Ordinance 76-32 was then adopted by a ROLL CALL VOTE of Ayes: 9, Nays: 0.

Councilmember De St. Croix moved and Councilmember Morrison seconded a motion to approve the minutes of November 18, 1976, as submitted. Unanimous approval of the Council. MINUTES 11/18/76

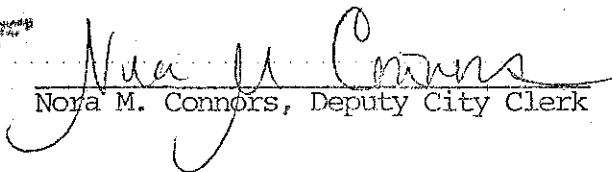
The meeting was then adjourned at 10:12 p.m.

APPROVE:

ATTEST:



Clem J. Blume, President
Bloomington Common Council



Nora M. Connors, Deputy City Clerk