

In the Council Chambers of the Municipal Building, on Thursday, June 6, 1974 at 7:30 p.m., with Councilpresident James S. Ackerman presiding.

REGULAR SESSION
COMMON COUNCIL
CITY OF BLOOMINGTON
INDIANA

Present: Jack Morrison, Wayne Fix, Charlotte Zietlow, Sherwin Mizell, Alfred Towell, Flo Davis, James S. Ackerman

ROLL CALL

Absent: Richard Behen

CITY OFFICIALS PRESENT

Eve Berry, Director of the Drug Commission; Tim Hodenfield, Director of the Board of Public Works; Martha Ellen Sims, City Controller; James Regester, Corporate Counsel; Tom Crossman, City Planner; Larry Owens, City Attorney; Archie Walker, Director of Redevelopment; Rasoul Istrabadi, City Engineer; Grace E. Johnson, City Clerk;

About 40 other people including members of the press.

OTHERS PRESENT

Councilman Morrison moved that the minutes of May 2, 1974 and May 16, 1974 be approved as submitted. Councilman Towell seconded the motion. The motion was carried by a unanimous voice vote.

Minutes

5/2/74, 5/16/74

NONE

MESSAGE FROM THE MAYOR

Councilpresident Ackerman welcomed Councilman Mizell back after his accident. Councilman Mizell is still unable to speak with great clarity. Councilpresident Ackerman said that Councilman Mizell has asked him to make two public statements for him.

MESSAGES FROM COUNCIL-
MEMBERS

I was astounded to hear of the attack Tuesday night from the Chamber of Commerce on the professional qualifications of the City Plan Department. In the past this same body has chided the Plan Commission for not following the professional advise of the Planners. No one not even the Chamber of Commerce can have it both ways to serve their own needs. My question is does the Chamber of Commerce really have doubts as to the competency of the Plan Department.

Councilman Mizell

Two and one-half years ago when this City Council took office I was impressed by the plan of the Parks & Recreation Board to bring recreational facilities within a 5-minute walk of each resident of the city of Bloomington. To this end I have continuously been highly supportive of the Parks Department and their bond issue. Because of external events the full impact planned for the bond issue has been frustrated. This is leaving large sections of this community with undeveloped tracts of land where recreational facilities

should be. I would hope that the Parks Board would now focus their attention on the placement of at least playground equipment, benches, etc., perhaps on a temporary basis, on the property purchased but not developed due to revenue problems. All areas originally earmarked for development were so designated because of a high priority assigned to these areas by the Parks Board. It is inconceivable to me that interest in these very areas would now be shelved. I will look for evidence of plans to equip these areas in the budget proposals of the Parks Board.

Councilman Towell said that he had comments on several topics, first the free swimming. I came back from a short five day trip to discover that the City Administration refused to back up the Park Boards decision that the pools would be free this year. The paper said that the Mayor was saying that there was no money and the Council was confused or equivocating. I immediately tried to find out what the Council really said. I discovered that councilmembers in a poll had backed free swimming for youth under 17. This was backed without exception. This seems to me clear and unequivocal. Originally the Parks Department said that this option would cost in the neighborhood of \$12,000. At the crucial time they were saying that free swimming for all would cost in the neighborhood of \$9,500. They not only came down in money but widened the group that would benefit to all citizens. Thus the decision not to go ahead was based on the point that we could not find \$9,500 for this purpose. My own feeling is that if we cannot find \$9,500 to suit this purpose any further emergency appropriations will have to be super justified. Swimming for the youth of the community without hassel of being able to pay or not being able to pay, or going over to the CAP office or what ever is a high priority for me. My second point is about the discussion on the Economic Development Commission. Today's paper included the appointments of the Mayor and gave the whole discussion we had that night another aspect. I noticed that a number of councilmembers felt that they could chide the audience for asking questions about the Monroe Development Corporation. We are not voting on them we are voting on a commission and it turns out of course that at least two members of the Monroe Advancement Corporation are appointments to the Commission and it makes it seem as if the Mayor's discussion which he said that the Council did not have a monopoly on compassion was really a defense of his appointments or close to that. I would like to chide the Council on that kind of statement

Councilman Towell

when already the appointments were known to some members of the Council. I think that was unfair. There was an opportunity for the public to find out what were the purposes of that group and question them and the Council cut it off. As I said that night I don't impute those motives to those people. I didn't feel that I did in any of my discussion but, it seems to me that members of the Council did play into the hands of cutting off discussion of something that was appropriate. I would like to thirdly discuss the possible proposals for amendments to the Utilities Service Board ordinance. There was an editorial which I have before me, June 4, 1974, Herald Telephone which says that the City Council is trying to usurp powers that they should not have and indeed is trying to, well interfere in a number of ways with the executive branch and also with the Board. I would like to say as Chairman of that committee and I can be corrected by the members who are here, that this was never our intention; that the editorial imputes intentions to us that we never had. For example after building up to this through a number of stages the editorial concludes, in either instance, these proposals which they think we entertain, such an amendment would be a gross misuse of the Council powers. The Council was never intended to be a day to day decision making body. I would like to point out that neither was the Utilities Service Board and what ever we do to that body cannot improve upon the powers granted them by state law. They are to make policy, the director is to run the Utilities on a day to day basis and however we change the constitution of that body or provide a check on some of its decisions if we ever do that. We could never succeed in going as far as the editorial says. However, I am sure that would not stop the editor from writing such editorials. In response to the reporter's questions and he is here tonight, When he asked me what was the result of our meeting on a discussion of possible proposals being embodied in an ordinance changing that body, said that we had basically reaffirmed the previous proposals which were already publicized and that we had refined them to some extent and were doing some additional research. When pressed I went on to enumerate things that we had discussed but had not in anyway sanctioned which might have been attributed to the Redbud incident. I said that they were logical possibilities that we did not give them necessarily practical weight. That we were discussing them simply to see what we could do we were up against the kind of question one is always up against when you try to deal with delegation of power from one body to another that kind of thing.

I may not have used that last phrase. I never said that the committee was in anyway committed to an ordinance which will define the decisions the Utilities Service Board can make and what decisions would require Council approval or possibly subjecting all Utility Service Board decisions to Council review. Those are the possibilities I mentioned as logical possibilities. Here we have some members of the Council upset because the Utility Service Board has not been subserviant to their wishes and are interested in passing an ordinance with those possibilities. I submit that is a fact which is entirely false of the members of the council committee. Secondly, it goes far beyond any report that was given the newspaper and that such opinions are to be disregarded as in any way reflecting our intention. I don't know what to say about an editorial like this except that there seems to be an interest in certain conclusions and the willingness to impute whatever facts or arguments are needed to reach those conclusions. I would like to reiterate that we are doing research on the possible relations between the two bodies like the Utilities Service Board and a City Council. I take it that when we created the Utilities Service Board in the first place we were delegating certain powers that were invested in the Council to another body of appointed persons and therefore essentially the powers in that body which are not day to day decision making powers still reside in the Council. So I don't know what to do about the rest of the editorial it is so wild as to make me say that it is just beyond belief. The separation of powers is not an inappropriate relation between the executive and the legislative. We have a separation of powers. I am not sure if we imputed equality or lack of it between the two branches. We simply had our own areas of competence. The whole so called factual narrative of our relationship with the Mayor is to my mind entirely made up. I think I am to know but, other members of the Council may comment if they wish. I think if we were ever doing the sorts of things that are imputed to us in this editorial we might be evaluated one way or the other. perhaps not badly for doing it I am not sure but, factually we have not tried to do those things. Our particular kind of emphasis is in looking at the history of the Utilities Service Board far before we had any inkling of Redbud.

Regularizing their procedures, demanding they have rules, specifying the number of votes needed for a decision, notice to the public before any such decision so input can be provided. We were attempting to limit the kind of political influence that their might be on such a board. I feel that all parties in this matter have been basically moving in the direction of less politization of the body so I don't think the Council is taking special credit for that. Far beyond the period when the Mayor could simply use the money for the Utilities for any purpose he liked without an appropriation and without any budgeting process. We now have a citizen board which overlooks, which makes sure that the money is not spent badly, that decisions for spending of money are scrutinized by people who have their own reputations; and so on to protect. We are trying to get to the point where utility is run in the interest of utility and other questions are decided appropriately by other bodies. I would say that in a one newspaper town we are in a very bad situation if the editor can impute such facts and intention that were not present and go on to draw any conclusion that he likes even when state law would prevent it from ever getting into the condition that he finally reached. So those are my three matters. I do not think that I have had a message for a number of council meetings but I had a giant one tonight.

Councilwoman Zietlow announced that there are eleven out of the twelve appointments made on the Commission on the Status of Women. The Council appointees are Madelyn Frohn, Mary Jane Hall, Jeanne Lahrman, Andrea Pecchionne, Myriam Wood, and Mel Yancy. The Commission will tentatively be meeting for the first time on June 25th. On June 26th the Governor's Commission on the Status of Women is going to meet in Bloomington in the morning in a consortium of people from all over the state of women's commission and task forces and interested women from all over the state. That evening on June 26th here in the council chambers there will be a public hearing on women's problems in the community before the governors commission. The Bloomington's commission will determine whether or not they want to zero in on one problem or another and that will be in the paper. I want to alert people that on the 26th the Governor's Commission will be here to hear the problems in the community which concern the status of women.

Councilwoman Zietlow

Councilman Fix

Councilman Fix said that he has a few items he would like to bring up on an appropriation ordinance that is up for first reading tonight, the Land Use Capability Study on Lake Monroe. This study is outlined to using local people instead of consultants from all part of the world. People who are concerned about the area by the consequences of the actions around the area who do have the expertise to make these studies and reach a proper conclusion. When we think about a study like this I think we need to look a little bit at the regional waste board and why it was set up. Contrary to what we hear sometimes that the regional waste board is there to provide sewers to anyone who wants them. Now the enabling legislation goes far beyond that; it goes to the protection of the resource that we have not only for Lake Monroe but for all areas such as this. I think that this study is one of the first attempts I have ever seen from local government to actually tie in local people who do have the knowledge and do not have to go thousands of miles away from home to get their thoughts listened to. We can do this here instead of paying \$100,000. This is going to be something like \$30,000 or less to achieve this. This comes back to the point I always make. It is just as easy to do things right as the expediant way. And it is a whole lot easier to live with what you do if you do it right than if it is if you do it expediently. In keeping with this an advisory group has also been tentatively established to work with the people from the geological survey, SPEA and etc. in making this, and I would suggest that the regional waste board, if they have settled on a engineering firm that they should have this engineering firm on the advisory committee during this study instead of having the engineers lay out the project before the study is complete and having a study not to rest on the walls and gather dust. Have a study resting on the shelves after the fact. I would urge the engineers that the regional waste board hires to work with this study and do the planning after the study is completed and not the other way around.

Councilwoman Davis moved that Ordinance 74-41 be introduced and read by the Clerk by title only. Councilman Towell seconded the motion. The motion was carried by a unanimous voice vote.

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-41 by title only.

Ordinance 74-41
BL-Business to RS-
Residential Single
Family RM-Residential
Medium Density District

Tom Crossman, City Planner, explained that this is an area in the vicinity of the Bloomington Hospital along Rogers Street on both sides of the street. There is an area that is zoned at the present time BL-limited business a portion of that zone the Planning Commission investigated and is requesting a change there are two residential classifications that are involved. The heart of the zone of the east side of Rogers Street which has commercial businesses in it is recommended to remain in the BL classification. This is an attempt to bring the zoning more in line with the actual land use that exist there today.

Councilman De St. Croix commended the Plan Department on the backup information on this rezoning.

Councilwoman Davis moved that Ordinance 74-42 be introduced and read by the Clerk by title only. Councilman De St. Croix seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-42
Annexation

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-42 by title only.

Mr. James Register, Corporate Counsel, explained that this involves the proposed annexation of about four city blocks. This would include the property of Public Service Company Indiana on West Second Street, also a church and the Wible Brothers Company, the owners are Ralph Rogers Inc., a residence owned by Ralph Rogers Inc., down on the corner of Adams Street and Indiana Highway 45; coming back east there is a small tract of land owned by Farm Bureau Inc. All the land that is sought to be incorporated is now served by City utilities. That is why it was included at this point.

Councilwoman Zietlow asked if this was involuntary.

Mr. Register said yes.

Councilpresident Ackerman asked if this includes the entire Ralph Rogers Building Supply area out there.

Mr. Register said no. It says a part of the land which is owned by Ralph Rogers. This does include some quite valuable holdings.

Councilwoman Davis moved that Ordinance 74-43 be introduced and read by the Clerk. Councilman De St. Croix seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-43
Salary Ordinance

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-43 in its entirety.

Councilwoman Davis moved that Appropriation Ordinance 74-9 be introduced and read by the Clerk by title only. Councilman De St. Croix seconded the motion. The motion was carried by a unanimous voice vote.

Appropriation Ord. 74-9
Lake Monroe Land Use
Study

Grace E. Johnson, City Clerk, introduced and read Appropriation Ordinance 74-9 by title only.

Councilpresident Ackerman explained that this is an appropriation from revenue sharing to the Board of Public Works. \$5,000 contributions from the City for the Lake Monroe Land Use Study that Councilman Fix discussed earlier.

Councilwoman Davis moved that Appropriation Ord. 74-11 be introduced and read by the Clerk by title only. Councilman De St. Croix seconded the motion. The motion was carried by a unanimous voice vote.

Appropriation Ord. 74-11
Day Care

Grace E. Johnson, City Clerk, introduced and read Appropriation Ord. 74-11 by title only.

Councilpresident Ackerman explained that this is a federal revenue sharing appropriation to the Board of Works for the Christian Day Care Center project. All of the ordinances that were read for first reading tonight will be discussed in greater detail at the meeting two weeks from tonight.

Councilman De St. Croix moved that Appropriation Ord. 74-10 be introduced and read by the Clerk. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Appropriation Ord. 74-10
Drug and Alcohol
Services Center

Grace E. Johnson, City Clerk, introduced and read Appropriation Ord. 74-10 in its entirety.

Councilman De St. Croix moved that Appropriation Ord. 74-10 be adopted. Councilman Morrison seconded the motion.

Councilwoman Zietlow asked that Rev. Miller from the Drug Commission to explain the request.

Paul Miller, Chairman of the Drug Commission, said that the Council received earlier today the appropriate material outlining the purposes and functions of the Drug and Alcoholic Services Center.

Councilman De St. Croix asked Mr. Miller to run through it very briefly.

Mr. Miller said that we are at a point now that in order for us as a Drug Commission for the community to secure sizeable outside funds we must have an actual physical facility. Most of you recall that last November we began talking to you about finding resources within the community to purchase such facilities, in order to attract outside funds. We now have been significantly successful to indicate to you that there is a real possibility that at least four of these six functions will be funded by outside funds. Let me talk briefly about those six functions.

1. Funded by both regular monies of the city and in part by revenue sharing monies is what we call a central intake service. That will really become the Drug Commissions office. Office for the sake of programing, coordination, communication, public information and public education.

2. Court referral alcoholic education project. This function would encompass all of those within our community who are arrested for public intoxication and/or driving under the influence of alcohol. In the year 1973 that number totaled 1,218 and we have good hopes of securing outside private estate money for the purpose of funding this project and I think that Outreach will be centered there in the Drug and Alcohol Services Center.

3. Weekend Community For Youth. This program is designed primarily for 13 to 17 year olds who have been involved in what seems to be destructive life patterns. In some cases this will mean that these young persons have been involved in drug usage. In other cases it might mean just that kind of adolescent behavior. Which is beginning to be very destructive and perhaps a sign of long range detrimental effect on the individual involved but also his family and community. This program will mean that these young persons can come in and live in during the weekend for approximately 15 to 18 consecutive weekends. They will also receive professional counseling during the week in the context of their families and the siblings in their family and also parents. This program has already been funded by the ELLI LILLY Endowment and we have good prospects of two year funding from them, but for the time being the money is only for the first year, hoping if we progress through that first year they will be satisfied with our performance. We simply cannot accept that money unless we have a physical facility. In addition to the Elli Lilly Foundation granting to us about \$46,000 for this weekend community

for youth, The State Drug Abuse Division has also ear-marked for this program \$5,000. One of our church bodies here in southern Indiana called the Presbytery of Ohio Valley have ear-marked \$3,000 for this project for next year.

4. Again related to Drug and Alcoholic Services will be what we hope is called a half way house for alcoholics. At the outset this maybe a very modest program. About six to eight alcoholics will live in for a period of six to eight months. That residential setting and support will help them maintain what they have already achieved but reinforce that pattern. Our hope is that some of that will be funded by some of those who are participating in the program. By living there and going to work each day and hence provide for themselves, but also pay some kind of per diem support to the program. It has recieved at least initial approval by the Monroe County Group Screening for Criminal Justice monies. That program will be under written ultimately by Criminal Justice.

The last two functions are not specifically drug related.

5. Short Term Crisis Care Center. This could be for almost any individual and what ever his particular needs might be. He has needs where he needs housing, three square meals a day, clean sheets, and perhaps reference to social agencies in the community to provide other services to him like counseling, employment. That this person could come in and live in our facility on a short term basis. I should make it very clear in this context that we have not yet established the board of managers. Whom we will charge with the establishing the criteria for admission and also How long a person should qualify for short term care. Is short term care 72 hours or is it seven months. That would be determined to a great extent by the Board of Managers.

6. This comes out of requests from the Redevelopment Commission and to a certain extent the public housing authority and the CAP. That is to provide an emergency housing facility for those paritcular families who may need emergency housing. This could be a week to two weeks. The smaller of the two buildings over there actually has three apartments. We can use one or two of those apartments to provide that function. In all we now have six basic function which we perceive taking place in and through this facility if you tonight as a body are willing to approve this ordinance.

Councilwoman Zietlow asked what the relationship of this appropriation and the appropriation from the township trustee.

Mr. Miller said that the figure you have before you is \$58,000 and it is our clear understanding that we can not pay more than this amount for the property. \$15,000 of that \$58,000 has already been approved by the Bloomington Board of Trustees and advisory Board; hence that money is available and assuming that you approve this action tonight the City would be in touch with the Bloomington Township Trustee in order to secure that \$15,000. So we are really talking about a maximum of \$43,000 from the City at this point for this purchase.

Councilwoman Zietlow said that than the Township Advisory Board would than appropriate their money to the City.

Mr. Miller said yes. We have already taken action with the township advisory Board. Trustee action was taken on March 13.

Councilwoman Zietlow said that she would like to speak very strongly in favor of this ordinance. A number of community organizations will be able to work together in a unique way to provide facilities for programs which simply have not been available any where in the community.

Councilman De St. Croix said that he remembered when the Council made the second appropriation for the Drug Commissions budget out of revenue sharing funds and I believe that I indicated at that time we had an earlier commitment and that the Drug Commission would have to go out and find other funds. I would like to commend them on their work in putting this program together. I share Councilwoman Zietlow's opinion on the importance of this.

Mr. Miller said that we have had very strong support from the Mayor and his office as most of you know. I personally think that Eve Berry who is our coordinator for the Drug Abuse Commission has done an outstanding job and what ever credit you are passing out tonight should be directed primarily to Eve.

Appropriation Ordinance 74-10 passed by a ROLL CALL VOTE OF AYES 8; NAYS 0.

Councilman De St. Croix said that he felt that this was the appropriate time to do this. Today Mayor McCloskey nominated three people to fill some seats on the Drug Commission; those nominations were Virginia Buchwald; Edgar W. Todd, Bloomington Police Department Narcotics Division; and James M. Murivich, Drug County Probation Officer. The nominations require the consent of the Common Council before they can in fact become official. I believe that all of these people bring special talents and involvement in the community. They are good appointments and I would like to move that the Council approve them. Councilwoman Zietlow seconded the motion. The motion was carried by a unanimous voice vote.

Councilman De St. Croix moved that Resolution 74-32 be introduced and read by the Clerk. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Resolution 74-32
Rate increase for
Cable TV

Grace E. Johnson, City Clerk, introduced and read Resolution 74-32 in its entirety.

Councilman De St. Croix moved that Resolution 74-32 be adopted. Councilman Morrison second the motion.

Councilwoman Davis said that she was in favor of this resolution. They have complied with everything that we have asked. They have been more than gracious and cooperative in providing services to Bloomington.

Councilman Towell said that he was the representative to the Cable TV prior to the establishment of the Telecommunication Council and prior to the Davis's taking an interest in that. I had some very frustrating moments on that committee; finally we established the Council. Having added more recent data to what I knew than I believe this rate increase is justified.

Councilwoman Zietlow said that one of the provisions that we considered in the past in considering this rate increase was whether WGN would indeed come to Bloomington. We have it now.

Councilman De St. Croix asked Mr. Oring from the Telecommunications Council to speak on this.

Mr. Mark Oring, Chairman of the Telecommunications Council, said that this recommendation was unanimous on behalf of the Telecommunications Council.

and if I remember correctly it was unanimous on the part of the Board of Works. There has been no increase since the original franchise in 1965 and for the following reasons we would like to see this increase go through. One is just the general unparalleled gains in service. Two is the technical compliance report which you have before you from the Ralph Evens Associates; three is the money that is going into community access to the library, the importation of WGN which was done at a cost of about a half a million dollars worth of micro-wave equipment. The Cable Company could have waited for permission to bring in WGN and than started building those micro-wave towers all along the state. What they did was they took a chance on us; they put up all that capital invested in equipment and sat on that as quite a loss until we got compliance. The Telecommunications Council feels that it was helpful in getting this compliance from the FCC. In a sense we have been working with each other. I might say that the company is still in the red, they are losing money and we can't ask them to keep pouring money into the community without somehow getting them into the black in the future. We have compared the rate with other systems offering comparable services. There are not any other systems in Indiana at present offering comparable services and, second, the amount of money being asked is not over a good many systems in Indiana. For both of those reasons I would like to urge that this ordinance be passed.

Council president Ackerman said that it says that the company is running this at a loss does this mean the Telsis or the local.

Mr. Oring said it is local monroe channel.

Council president Ackerman asked if this Evens report was financed and initiated by the Board of Works.

Mr. Oring said it was by the Telecommunications Council. We have more money appropriated; that is not a one time report. This is simply the first one of a series of five or six that will come to you over the course of the year. There is a new east-west leg being built so that if you live somewhere out on the east side you are not getting as perfect a picture as you would like to see that whole system is in the process right now of being rebuilt.

Councilman Towell said that we use to be able to strike terror into the hearts of cable TV by considering anything in this Council. I would like to point out that at the times we were arguing for the Telecommunications Council we said that the Council would be a good advocate for the company and what we have heard is that kind of advocacy. It just reminds me of all of those frustrating hours when we tried to say things like this to the company. I hope this message goes back to the higher ups in Telesis.

Councilman De St. Croix asked if Mr. Fennering from All Channel Cable vision would like to say something.

Mr. Fennering said that he did not have anything to say and he felt that Al said it all.

Resolution 74-32 passed by a ROLL CALL VOTE OF AYES 8; NAYS 0.

Councilman De St. Croix moved that Ordinance 74-29 be introduced and read by the Clerk by title only. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-29
Annexation Cook Inc.

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-29 by title only.

Councilman De St. Croix moved that Ordinance 74-29 be adopted. Councilman Morrison seconded the motion.

Mr. Regester explained that if this property is annexed it will annex the industrial property of Cook Inc. The description is correct at this point. This land lies north of Otis and on the east side of Curry Pike. This is immediately adjacent to the City.

Councilpresident Ackerman asked if this was a voluntary annexation.

Mr. Regester said that it was not.

Ordinance 74-29 was passed by a ROLL CALL VOTE OF AYES 8; NAYS 0.

Councilman De St. Croix moved that Ordinance 74-33 be introduced and read by the Clerk by title only. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-33
RS-Residential Single
Family to BA-Business
arterial district
rezoning

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-33 by title only.

Councilman De St. Croix moved that Ordinance 74-33 be adopted. Councilman Morrison seconded the motion.

Mr. Tom Crossman explained that this is a parcel of land at the intersection of Arlington Road and Gourley Pike. The parcel is surrounded by residential uses on the other property. The parcel itself contains several existing commercial uses and an existing truck operation. The purpose of the rezoning is so that the owner of the trucking operations could enclose a building or work area for repairs and services. The Planning Commission was concerned primarily that there are residential uses surrounding the area and secondly the area is presently not serviced by sewer and water. However the staff and the commission were of the belief that the site plan regulations which require site plan review and would in fact review in detail any change in usage of this property other than what is currently proposed would in effect protect the community against the fact that there are no sewers here. The general plan for the community shows commercial uses at this intersection if not at this site. This is a general plan and should not be specific as to site. A commercial facility at this intersection would be in accordance with the plan.

Councilwoman Zietlow said that this is the furniture road along the by-pass that is the northern boundary.

Mr. Crossman said yes, that is Gourley Pike.

Councilwoman Zietlow said that this goes all the way back to Monroe Street.

Councilpresident Ackerman asked how long are those lots.

Mr. Crossman said that Mr. Riggins, who represents the applicant, advises me that even though we have a plotted street on the map there is in fact no street there. It is a drive-way.

Councilpresident Ackerman said that he was going to ask if our rezoning would lead to further development on what looks like another street here.

Mr. Crossman said that at this point in time we could flatly say no in as much there are no sewer facilities in this area. The only reason that a rezoning was even considered was that the existing uses on this parcel are already commercial.

Councilpresident Ackerman asked how deep are the lots?

Mr. Crossman said that they are approximately 400 to 500 feet deep. As you know Arlington runs at a slight angle.

Council president Ackerman asked if there were plans to development off of the highway.

Mr. Steve Riggins passed out pictures of the area to councilmembers. On the tract itself he does all of his truck repair and storage of his trucks for the trucking operation. He has to do it outside he has no building. He wants to build to the very rear of the site. Just a regular barn type building. No plumbing, no concrete floor, just so that he can get his trucks in and out of the weather and do all of his repairs. That is the only reason for the rezoning. When he went to get the building permit he found out that he was not longer zoned for business and therefore could not get the building permit. Without sewers there is no way that he can develop anything that will require sewage facility.

Councilman Morrison said that he is assuming that the entrance will still remain as it is.

Mr. Riggins said right.

Councilman Morrison said that it would be pretty difficult to cut this alley way through.

Mr. Riggins said that the only reason that that is still open is because he lets a neighbor use it as a driveway to their home.

Councilwoman Zietlow asked if there were any remonstrances from the property owners of block four and five.

Mr. Riggins said none what so ever. The use has been there since 1962.

Councilwoman Zietlow asked if they were notified of the rezoning.

Mr. Riggins said yes they had to be notified.

Mr. Crossman said that they were notified by certified mail it was advertised in the newspaper as a legal ad.

Councilman Mizell said that he voted against this rezoning on the basis that there is now no sewer available nor are there any plans for sewer in the future. I find it inconcievable that we could award an arterial business zoning without any intentions of providing sewers. I anticipate extreme difficulty in the Plan Department explaining why someone cannot use this land as arterial business simply because there is no sewage there. When the zoning is correct. On this basis I voted against the rezoning.

Councilpresident Ackerman asked if the City assumes an obligation to service utilities through a rezoning if this land is to be redeveloped through more arterial business.

Mr. Crossman said that the City would incur no liability any greater than it does in any other zone. This is not the only area in our jurisdiction that is not served by sewer.

Councilpresident Ackerman asked for Mr. Register to concur.

Mr. Register said that the rezoning would not create any obligation on the part of the City. You may have in mind the last piece of legislation that was passed that the City in a three year period of time would be obligated to provide sewers to parcels annexed by the City. Rezoning does not do it. It does not come within the scope of that package.

Councilwoman Zietlow said that any construction in the Business Arterial Zone would have to be approved under the site planning ordinance.

Mr. Crossman said yes, anything other than single family development would have to be approved under the site plan ordinance and this would specifically come under that.

Councilwoman Zietlow said that this particular type of situation is indicative of something lacking in the zoning ordinance. Where we have to go to a rezoning in order to allow this kind of construction. This kind of construction really should not require a business arterial rezoning. It sounds like a realistic kind of construction and on the other hand rezoning may be too much.

Councilman Mizell said that the only zoning which would accomodate the use to which the owners would like to place the land is an arterial business zone. It currently is residential. I agree that the petitioner is trying to improve the property by constructing this facility. As I said at the Plan Commission meeting it really places the Plan Commission and the Council between a rock and a hard place.

Councilwoman Zietlow said that she was wondering if it doesn't raise a red flag as far as the zoning ordinance itself goes. There is some category missing in the zoning ordinance that doesn't apply here.

Councilman Mizell said that this is a case where we are lacking the planning

in the distribution of utilities, particularly in the sewer lines.

Councilman Fix said that we have discussed this problem everytime we face a nonconforming use. It is a fact that a person cannot improve his property on a nonconforming use. I think definitely there is something missing in the zoning laws when one cannot improve in a nonconforming use without a rezoning. There are a lot of cases that arise that rezoning is just not proper at all. But improvement of a particular site would be proper.

Mr. Crossman said that generally speaking he would concur. We did meticulously work through the nonconforming use of the zoning ordinance and some provisions are very diffinitely made for maintenance and upkeep of property if not expanding it. In this case we are talking about adding a new structure which is not there at the present time. It is physical improvment to the property but it would go beyond any considerations that I have ever seen in the nonconforming use section of the zoning ordinance to allow a new structure on this property. Had sewers been available at the time the ordinance was adopted there would have been little question that this property would have been placed in a commercial zone.

Councilman Towell asked what happens to the back of the property and to the side where they are joining residential areas. What guarantees do we have if we go ahead with the rezoning that something done on that property will not affect the surrounding property. That has to be answered directly.

Mr. Crossman said that he could only speak to the legislative requirements that the city has and that specifically requires approval of the development site plan and affords the Planning Commission the opportunity to review and assure that the proper screening and land-scaping and other facilities that we look towards the protection between zones will be provided.

Councilman Towell asked if those requirements stringent enough. Do they protect the adjoining property owners.

Mr. Crossman said that generally they are. As we experience the ordinance we may find specific areas where we will need to modify it but so far they have proved reasonabl effective.

Mr. Riggins said that picture #3 which shows the back of the TIS building. Because of the topography of this dropping at least 15 to 18 feet from the road on down to the rear of the property. You see no residence behind the property

because there is a large ravine that goes through there. The whole property is surrounded by solid woods. Any screening is already done naturally. As far as what else can be done to the property it goes back to engineering and planning and they will control it.

Councilman Towell said that it is his function to think about other property owners in the public interest.

Councilman Mizell said that he would like to point out that Councilman Towell has hit a central question and that is the placement of the highest business category next to the lowest residential category. The RS surrounds this property and across Gourley Pike and the By-pass is an RE zone.

Councilwoman Zietlow said that this goes with her question to that a reasonable request to put a building in to put this truck repair inside a building rather than outside. On the other hand to give it the BA zoning seems to be an unnecessary act.

Councilman Mizell said that it is commendable that the owner wants to improve his property. However, the requirement for the zoning is what stops me.

Councilpresident Ackerman asked if the Planning Commission and the Plan Department could explore a way of revising the zoning ordinance to allow people to make improvements without petitioning for rezoning.

Mr. Riggins said that we have a pre-existing nonconforming use and a section in the new zoning ordinance of the city of Bloomington provides for additions to and improvements thereon. But this is a totally new structure on a different part of the parcel.

Councilpresident Ackerman said that if this was not a new structure there would not be a problem. It could be improved even though it is a nonconforming use.

Councilman Morrison said that he knows that area very well and all of the lots being taken up on the south side of the property and this TIS building which is an exceptionally long building. To the north of it you have Gourley Pike; then you have the highway to the west of it. As Mr. Riggins said you do have the ravine to the east of it. The little white house sits just east of the ravine. I would see no way that there could ever be a street opened up. The lots that front Monroe Street the people would build on Monroe or Gourley Pike the people would have the natural screen of the woods.

The residential property to the south would be buffered by the TIS building plus the fact by the woods back east. By allowing this to be rezoned I could not see this infringing upon any residential district. It is a corner isolated by itself.

Councilman De St. Croix said that one question that the Council has to deal with here is that in all good faith the petitioner may be asking to improve the property for the existing business. It could very well be that in the immediate future that that business may no longer be located there. The property would in fact be zoned for arterial business which would then mean that any wide number of uses could go in. Which could be less compatible with the area. I would like to know if the Planning Department or the Zoning Ordinance has any mechanism at its disposal that could insure that with the rezoning that future use of this rezoning would not be more detrimental than perhaps some of the objections that could be raised on this one.

Mr. Crossman said not entirely of course, there is always the prospect of modifying the zone to be in more accordance with existing, proposed and future desired land use. This is within the pervue of the Planning Commission and the Council's recommendation and that would be the best possible assurance. If it were to be retained in the BA zone of course those uses which are permitted in the BA zone could be developed there. The protective devise than becomes the site plan regulation. At this point in time what we also have to consider is that there would be really no additional use that this property could be put to without the provision of the sewer system.

Councilman Towell said that there is one exception. Could they put something comparable to the Gulf Sign on that property.

Mr. Crossman said that after they work out all of the bugs in the proposed sign ordinance that the answer to that would be flatly no. Under the present zoning requirement with the set-back requirements I won't say that it would be absolutely impossible but it would be extraordinarily difficult.

Councilman Mizell said that the present sign ordinance allows the Gulf Sign to go in and that is what we are operating under.

Councilman Morrison said that Councilman Mizell was mistaken; the sign ordinance was passed to defeat the great moon on the by-pass.

Mr. Crossman said that a sign of that scope would both violate the height and set back requirements. I do not want to say that an objectionable sign could not be put on that property.

Councilman Mizell said that there is a possible solution to the question that Councilman De St. Croix raised and that is to send the petition back to the Plan Commission with the recommendation that it be redrawn so that the BA only includes that land which is necessary for the construction of this particular structure and leave the rest of this property out of the BA zone.

Councilpresident Ackerman asked why did all of that property have to be included in the BA zone in order to build this structure.

Mr. Crossman said that the petitioner applied for the property that he owned and in reviewing it as you will note there are three existing separate uses on the property that are presently all commercial.

Councilman Mizell said that the existing commercial property can exist as a nonconforming use and in fact it can be improved under the nonconforming use section.

Councilman De St. Croix asked Mr. Riggins for comments that he might have on Councilman Mizell's proposal.

Mr. Riggins said that in planning and zoning you have to recognize uses and surrounding uses. Evidently I disagree with whoever planned this particular area and determined the zone. There have been commercial use there since 1962. It is on a major intersecion of state road 46 and state road 46 by-pass. That is definately not what I would call an RS-single family residential zone. It is not condusive at all to that type of living. We are recognizing the existing uses and the surrounding use and the high traffic so let's just zone the whole thing and bring it in conformity with the existing code. That was the only reason; we have no devious motives.

Councilman De St. Croix said that the problem we are trying to solve is clearly a problem we have with the zoning ordinance. As a person involved in business you understand that a business can change over night in terms of ownership, in terms of somebody having to give up their business or sell the property or what not. If we do rezone the entire parcel we are in fact opening it to uses well beyond the existing uses.

We are all in agreement that the existing uses are well established and that they do not represent an overall problem for the community. If the entire parcel was rezoned than that does open up the potential if somebody were to sell out for example.

As an interim step I am wondering if we could not use Councilman Mizell's recommendation and have the planning staff and the planning commission look into some of the questions that other councilmembers have raised.

Mr. Riggins said that he would talk to Mr. Cotton and asked him to survey off the piece of land. But I do not think this will solve your problem because you talk about spot zoning you have picked a spot.

Councilwoman Zietlow said that as far as the spot zoning goes it is just a little spot than a bigger spot.

Mr. Riggins said that it is a spot right in the middle of no-where.

Councilman De St. Croix said that if the Council were to do something like this it would carry along with it instructions to find a remedy to the general problem we have.

Mr. Riggins said that it seems inconceivable to him that it could ever be approved through all of the regulatory agencies. Some of the things that you may fear— a gas station, the fast food resturant with the flashing lights. Without sewer I see no way that they could get through the state administrative building counsel alone, The Board of Health. We have no other use for the property because I do not think that we could get anything through.

Councilman De St. Croix asked about a storage facility.

Mr. Riggins said that is basically what this is going to be.

Councilman De St. Croix said that there may be storage of other materials that would be less compatible like chemicals.

Mr. Crossman said that there are two points that he would like to make: Most of the hazardous storage would require an industrial zone rather than a commercial zone; so from that stand point we are safe. I just checked with Mr. Register and it is entirely within the perview of the council to reduce the recommendation of the planning commission without the necessity of sending it back.

Councilman De St. Croix said that they do not have the legal description for a reduction.

Mr. Riggins said that he has the legal description from the planning records.

Councilpresident Ackerman asked if it could be stated in the record that it be based on that legal description.

Councilman De St. Croix said that the best way to do that would be to table it and amend it once the legal description was provided. Is there an alternative remedy; if we do do this can the planning staff come up with some method of dealing with the potential for the property as a BA use, if the whole parcel were to be rezoned. I can easily understand Mr. Riggins point that it is pretty practicle that a nonconforming use of 13 year standing and no objections from the area residents perhaps ought to be given the realistic zone. I do not think the site plan ordinance gives us the protection that we need.

Mr. Crossman said that there are other commercial zones in the existing framework and we always have the possibility of adding new zones to the ordinance that could solve those sorts of problems.

Councilman Towell said that most of the zones in the city are by there very nature spot-zoned. Our zones are much smaller than the zones in a large city. Our ordinance is the exact same sort as are the ordinances in large cities. This kind of consideration was brought up during consideration of the zoning ordinance. I do not think that this zone would be too much different than what we already have in the city. What we have here is a situation where a by-pass has been built since the people built their houses there. The by-pass is now the justification for a different kind of rezoning near their property. That in turn will have some effect on the value of their property, probably adverse. They will have a different kind of neighborhood there than they anticipated when they built with no compensation. There are situations around Bloomington which are similar. For instance, the east by-pass there are numerous number of streets that go into it by the reason we are using here they could become arterial business. I do not think we have right now the appropriate kind of zoning to handle the situation without hurting residential properties which are near these arteries or any other large through street. Perhaps this kind of thing is always going to happen in the growth of a city, I do not know, to some extent that is probably true.

There is a fundamental question here and I do not know the answer tonight. It just seems that somebody is going to lose whichever way we go.

The reason for having a site planning ordinance is to separate performance standards from potentials that a property can have. To allow uses but to control how they are done. Do our site planning provisions protect people if we go ahead and give an out of the way zoning compared to the surrounding zoning. The arterial business we normally do not expect that to be near residential zones. Does the site planning ordinance protect us in situations like that. I am not prepared to vote on this particular ordinance.

Councilman De St. Croix moved that Ordinance 74-33 be tabled until the next meeting and ask that the planning staff see if there is anyway that we can come up with some sort of a solution at least partially for some of the concerns here for this particular property. If we can't than I think that the Council has the responsibility at the next meeting to vote it up or down. Councilman Towell seconded the motion. Councilman Towell said that it will be up for revote with out additional mentions.

Councilman De St. Croix said that he was opposed to further tabling of this ordinance.

Councilwoman Zietlow said that she hoped the Planning Department would look at this in terms of the adequacy of the kind of zoning which is being asked and of the provisions for dealing with nonconforming uses. That is one practical problem in the zoning ordinance which has to be investigated in light of this kind of request. Perhaps make recommendations for the revision of the planning ordinance with that in mind.

Councilpresident Ackerman said that he would feel better about voting for a small spot zone than a larger one.

Councilman Mizell said that the one provision in the zoning ordinance that is worth while is the provision for a mandatory review at the end of two years or at least every two years. Now we find that there is a particular problem and I think that the Council is completely justified in requesting the plan department to come up with some modification of this ordinance. To present to the Plan Commission for its review to modify this problem.

Mr. Crossman said that there is no serious problem in complying with your request in respect to the consideration for the nonconforming use section. In order to make any substantial change we are going to have to consider

a change in the basic policy on which the nonconforming use section was drawn up. That is the theory that it is desirable to plan for the discontinuance of the nonconforming use. If that is not going to be our policy in the future than the non-conforming use policy can be redrafted with a different policy in mind. We are really trying to accomplish a specific end that was stated at the time of the public hearings.

Councilman De St. Croix asked Mr. Riggins if the Council does table this for two weeks that seriously impair the ability to construct this building.

Mr. Riggins said no.

Ordinance 74-33 was tabled by a ROLL CALL VOTE OF AYES 6; NAYS 2; Nays: Fix and Morrison

Councilman De St. Croix moved that Ordinance 74-36 be introduced and read by the Clerk by title only. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-36
BL-Limited Business
in its entirety

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-36 by title only.

Councilman De St. Croix moved that Ordinance 74-36 be adopted. Councilman Morrison seconded the motion.

Mr. Crossman said that this ordinance was discussed for a lengthy period of time and prepared by the staff and recommended to you by the Planning Commission. It is an amendment to the text of the BL zone. In essence the existing description in section 205201, it was felt, was not very definitive, however, some descriptions are general and are not intended to be definitive. It was in some respects contradictory. The proposed description is intended to permit the lowest intensity commercial use in all business districts in Bloomington's jurisdiction; the BL districts may be established adjacent to residential districts to furnish desired neighborhood convenience goods and services in such areas of the city where commercial facilities are thoroughly appropriate. That limitation upon the traffic generating capacity or intensity of uses is desirable. In addition to providing neighborhood services the BL district mainly will be established to provide transition between zoning districts which may otherwise be incompatible either by use or intensity is further the intent to limit

That is BL districts established by these regulations and etc. which would include some pre-existing uses but would also limit the BL to a number or grouping rather than a single lot which I beleive was our intent during our discussions.

Councilman De St. Croix read the last sentence BL district established by these regulations should provide a logical grouping of convenience facilities rather than a single lot for commercial purposes although some small commercial lots may be pre-existing in some neighborhoods and will be designated BL. Councilman De St. Croix pointed out that this was one of the two amendments recommended by the Park Ridge Association.

Mr. Crossman said that he finds no conflict in that sentence with the intent of the staff when they drafted it or the intent of the planning commission when they passed it; this would be entirely appropriate.

Councilman Mizell moved that Ordinance 74-36 be amended at the end of the proposed text description of section one, the following sentence be added. BL district established by these regulations should provide a logical grouping of convenience facilities rather than a single lot for commercial purposes although some small commercial lots may be pre-existing in some neighborhoods and will be designated BL. Councilman Towell seconded the motion.

Councilwoman Zietlow asked if the Plann Commission passed this ordinance unanimously.

Councilman Mizell said that he believed so.

Councilwoman Zietlow asked if this was discussed the ommission of this sentence.

Councilman Mizell said that he does not recall and the minutes of the meeting do not serve to refresh my memory.

Councilwoman Zietlow said that she does not remember the reasoning that went into the logical grouping it seems to me that it would be more desireable not to insist that we have a group rather than an individual.

Councilman Mizell said that the original intent was to preclude spot zoning by developing a single lot for the BL use except where those already exist.

Councilpresident Ackerman said that Mrs. Jenkinson's letter talks about vague language I am wondering about the term logical grouping of convenience facilities. That is pretty vague too, isn't it.

Mr. Crossman said that we may get carried away with making the generalized zone district to specific. They are of necessity going to be relatively vague. The one paragraph description covers the basic intent of the zone; we cannot spell out all of the provisions. I do not think that there will be any qualms on behalf of the staff or the plan commission; we are talking about a logical grouping. I don't think by that we want to imply however that a logical grouping may not be a series of similar offices on individual lots such as we have on east third street or conversely a logical grouping could be a small neighborhood shopping center.

Councilman Fix said that he was confused as to how this was going to work. If I poll a neighborhood and I find out that everyone there wants me to open a jewelry shop. Does this mean I have to get a book store, a flower shop and a gift shop to go along. How do we determine when someone comes in and wants a shop whether or not that should be allowed.

Mr. Crossman said that we do not want to talk about individual uses on individual lots. We have sort of a tedious procedure for that sort of thing happening if a neighborhood really wants it. When we talk about a general zone we really should not be talking about a use on a lot; we should be talking about a grouping of uses. All of our zoning districts imply that there should be a grouping of similar uses.

Councilman Fix said that the only advantage I see to this is to give some sort of standardization to the people already in business would fit into this category. It would not be much help for people who would like to open shops that are not in existence now.

Councilman Towell said that it was refreshing to hear the traditional view of segregated zoning stated so clearly. I would like to react to that by saying that the newer parts of our zoning ordinances are all in the parts of mixed uses.

Mr. Crossman said that he could not argue that point. When you start talking about our PUD sections and our performance standards sections that is precisely correct. Our community is faced with an existing

pattern that we must recognize and the basic structure of the zoning ordinance is traditional and we have established traditional segregated zones. This is one in its present form and it is one in its proposed form. In its proposed form we have simply added several uses and deleted a couple.

Amendment to Ordinance 74-36 failed by a ROLL CALL VOTE OF AYES 4; NAYS 3; one abstention: Fix; Nays: De St. Croix, Zietlow and Morrison.

Councilman Towell explained that as he understood it we would be limiting mixed uses to PUD and things like that. We would be asking for a grouping in other cases.

Councilman Towell said that the mixed uses would be limited to PUDS or newer types of zone and for uses of this kind we will be requiring that they be grouped. The ordinance as it stands now does require that kind of logical grouping. So if we vote for the proposal now we are deleting that requirement. It may be still administered that way but it is not in the description.

Councilwoman Zietlow said that the wording of the present ordinance is unclear because it should provide a logical grouping.

Councilpresident Ackerman said that we have already voted that down.

Mrs. Jenkinson said that she would give the Council a little background. Part of this BL was brought up to the Planning Commission on the fact that we have a developer in ParkRidge who wants to put up an office building. What he wants is that some of the businesses that are being asked to be put in there. You are talking about streets that are described as less than local. It leads to something which I call spot zoning. I feel that it is illogical that you defeated that amendment. You are going to have buildings that are separate you do on third street. You do on third street have buildings which include dentist and doctors offices now. You have professional offices and businesses but it does not state specifically that you cannot allow doctors or dentist offices. This creates a generation of traffic which is quite heavy. The table of what is being allowed should be looked at. As I was reading the ordinance between BL and PUD became very confused as to where one stopped and one started. Some of the businesses that are allowed presently in the BL zone are not limited as to size to create generation of traffic. The table needs to be looked at the ordinance itself needs to be looked at a little more thoroughly and maybe reworded.

I would like to see that the buildings are compatible with the surrounding neighborhood. If you live in a poor neighborhood you can put a building in and give it a BL zoning. Because they do not have enough money to fight you.

Councilman Fix said going back to logical groupings would indicate to me that a new use like a gift shop would out of necessity have to be located next to a professional office or close by to my mind is the beginning of a little shopping center which would generate more traffic than isolated shopping.

Mrs. Jenkinson said that if you look out on 3rd Street and the area that Mr. Crossman is more or less talking about because they felt that it should conform with what is written you have a group of buildings and they do generate traffic. There is nothing that states in that table or this ordinance that says that it cannot be doctors or dentists office. Can you tell me what professional or business offices are.

Mr. Crossman said that part of the intent of the BL zone is to serve as a transition between existing residential district and the BA zone or possibly BG, ML zone. I don't think that I would take issue with Mrs. Jenkinson on any of the points that she made. The mapping and the text should be considered as two different acts.

Councilman Fix said that he could not see anything on spot zoning in this. I do not necessarily think that spot zoning is bad in a situation like this.

Mr. Crossman said that whether or not we have spot zoning does not depend on what we say here but on how we act upon it and where we map it. It is already mapped in several areas. If we are talking about a new area that is to be mapped we are setting up a new criteria.

Councilpresident Ackerman asked when they made this ordinance what they had in mind when they broke down BL into use A and use B categories. I am not bothered with the use A because I agree with Mrs. Jenkinson that the business, professional offices are a much heavier volume of traffic use than jewelry, gift shops, book shops and bakery and banks eating and they are all called use B and the others are called use A.

Mr. Crossman said that the A and B were reference to two different changes in the text. You will note under paragraph A

what we have are additions to the present text of the ordinance. In paragraph B we either have a deletion or a restriction that is presently permitted. Branch banks for example are presently permitted, we recommend that they be deleted. Eating and drinking establishments are presently permitted and we recommend that they continue to be permitted and restricted.

Councilpresident Ackerman said how about number six under A.

Councilman Mizell asked Mr. Crossman to read it completely.

Mr. Crossman said that the table there simply refers to different categories that the table is broken down to. For example use B is not a commercial retail establishment. The A uses are commercial retail establishment. The B uses are either commercial trade or a use other than retail. That is what that distinction refers to. In the present table it is broken down into A retail trade, B commercial trade which is things other than retail facilities. If you will notice under the commercial trade section we have banks, we have confectionaries, which could be retail but do not necessarily have to be, we have restaurant, we have laundry and dry cleaning and other personal services; to this is added business and professional offices. That is two basic categories that fall in the existing zoning ordinance use table.

Councilpresident Ackerman asked if Use B would produce more traffic and the commercial more than the retail.

Mr. Crossman said that generally speaking probably not. When you get to our parking table you recognize several categories of retail trade with different parking requirements. It is simply a fact that one is retail and one is basically non-retail. There is no direct relationship between the basic use classifications and the amount of traffic they might generate.

Councilman Mizell said that by looking at the uses you could see that banks, eating and drinking establishments and professional offices would create more traffic.

Councilman Towell asked what is some of the other footages in our ordinance. Is 3,000 the smallest.

Mr. Crossman said that we only have one restriction to retail trade and it applies in limited cases and almost exclusively in the BL zone. That restriction to square footages is 3,000 square feet.

Councilman Towell asked if 3,000 is the entire shopping center.

Mr. Crossman said no. Shopping centers are depended upon the plan and they require special consideration under the commercial PUD section of the ordinance. It simply says that shopping centers are permitted. On a 3,000 square foot is where we have individual lots with individual structures on that lot.

Councilman Towell said that during the discussion of the new zoning ordinance we found that the general description rarely fit what was actually in a zone.

Mr. Crossman said that the table is a great deal more definitive than the general description. It was the staff and the planning commission's basic consideration that in this particular case the general description and the use table were farther apart than they were in most zones. This was an attempt to get the general description compatible with the use tables.

Councilman Fix said that 3,000 square feet might be an awfully big building in certain areas.

Mr. Crossman said that the example that Councilwoman Zielow brought is the most precise example that we have of 3,000 square feet.

Councilwoman Zietlow said that it is a pretty big building.

Mr. Crossman said that whether 3,000 square feet is large or small depends upon the lot on which it falls.

Councilman Fix said that the BL zone should actually be a limited business zone. When you take a certain area and there is only an allowable percentage within that area. The logical sequence is that you get a limited business and that generates people so than you step up a little higher in the business cycle. You really do change the charactor of an area.

Mr. Donald Cohen, member of the audience, referred Mr. Crossman to the section #2 where it says use B eating and drinking not drive inn. Does not drive in refer to just drinking or does it also refer to eating establishments. This is important to the proposed Noble Roman's site on E.3rd and South Union which is proposed as an eating establishment and a drinking establishment. Does that not drive in phrase only refers to drinking since it appears directly after the word drinking or does it refer also to eating.

Mr. Crossman said that it refers to the entire category.

Councilwoman Zietlow said that Mr. Cohen is president of the Green Acres Association. One of the questions that might be brought up is what a drive in is. One of the concerns of the Green Acres Association is that there is going to be a great deal of carrying out covered by drive in. I don't think that we have adequately dealt with drive inns.

Mr. Cohen said that the estimate of the drive in business was given to use by a co-owner of Nobel Romans as somewhere in the neighborhood of 30 to 40%. Which I think constitutes a significant portion of the business and therefore would be drive in.

Councilwoman Zietlow said that drive in might be driving up ordering it there and eating it in the car.

Councilpresident Ackerman asked if we have a definition of drive in.

Mr. Crossman said that it is not really defined and did not think that issue was germane at this time. The establishment has presented to us a petition a good deal different than what Mr. Cohen has.

Mr. Cohen said that Mr. Crossman does have an interpretation that I would like to have him share.

Mr. Crossman said that we are talking about an issue that has little or nothing to do with the proposed text of the zoning ordinance. The definition that we have been working under when we are talking about any facility that has a primary use. In this case we are stating that the restaurant should be a sit down service within the established restaurant. Since bars and taverns are excluded does it become a bar and tavern if it serves alcoholic beverages. The interpretation that we have been working under is that if the beverage service is clearly subservient to the primary use food service than it could be permitted. If the carry out service is clearly subservient to the on premise food service than it could be permitted.

Councilman De St. Croix asked Mr. Crossman to define subservient.

Mr. Crossman said that the information that they received was a range of 5 to 16% of the total business.

Councilman De St. Croix said that he was having a problem when you say that the question of drive in has little to do with the amendment here.

Mr. Crossman said that we can define or modify the administrative procedure or we can define more clearly what a drive in is. What we are essentially saying in this ordinance is that we do not want drive in facilities or bars and taverns in the BL zone.

Councilman De St. Croix said that the reason we do not want a drive in facility is the esstitics involved in terms of trash and what not, the traffic volume, noise and what not. What happens if you have an establishment with a sizeable volume and 30% of that volume so perhaps that is not subservient to the rest. The volume is that you are going to have twice as much as you get at A & W.

Mr. Crossman said that there is no clear answer to that.

Councilman De St. Croix said that what the Green Acre people have to do is hope that we have the same integrity and staff and planning commission that would prohibit that.

Mr. Crossman said that the intent of this ordinance and the intent of eliminating or prohibiting drive in establishments is to not permit drive in resturants. There are a number of food services which may not be carry out but which deliver; now what kind of a facility does that become. The definition problems in handling this become very complex.

Councilman Fix asked what happens if the nature of the business changes.

Mr. Crossman said that any change in use requires an occupancy permit or in most cases it will probably require a building permit or a remodeling permit.

Councilman Fix said he meant just a gradual change in business.

Councilwoman Zietlow moved that Ordinance 74-36 be tabled and that a committee work on some of the problems. Councilman Mizell seconded the motion. Councilpresident Ackerman asked if Mrs. Jenkinson would volunteer to serve on it.

Councilman Towell said that he was against tabling this and would urge the defeat of this ordinance.

Councilpresident Ackerman said that what makes it difficult for him to vote against it are the things that are already allowed in there. We should reinvestigate the whole BL thing. We should either vote this ordinance up or have the whole category studied.

Councilwoman Zietlow said that she agrees with that and that we have brought up problems that should be dealt with. Instead of amending the ordinance I think we should do it properly.

Councilman Fix said that our discussion here indicates that it is more of a council problem than the plan commission.

Councilman Fix said that what he dislikes about it is that it being a transitional zone. I would prefer to see a limited business zone a limited business zone and not a transition to a bigger business zone.

Councilman Towell said that it is serving two purposes and niether of them well.

Councilman De St. Croix asked if you were suggesting that we ought to look at two zones.

Councilman Towell said that our transitional zone in general should be studied.

Ordinance 74-36 was tabled by a ROLL CALL VOTE OF AYES 7; NAYS 1; Nays; Towell.

Councilpresident Ackerman appointed a committee of Councilwoman Zietlow, Councilman Towell and Councilman Mizell to study this BL zone.

Councilman Towell declined.

Councilpresident Ackerman appointed Councilman Fix to take his place.

Councilman De St. Croix moved that Ordinance 74-37 be introduced and read by the clerk by title only. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-37
Funeral Directors

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-37 by title only.

Councilman De St. Croix moved that Ordinance 74-37 be adopted. Councilman Morrison seconded the motion.

Mr. Crossman said that in the last year we have had several inquiry into the locations of funeral services. In each and every case these inquiries involved a piece of property that was zoned residentially but had some merit either in the locational stand point or traffic access stand point that would perhaps make it an appropriate use. With this sort of thing in mind we felt that it might be more appropriate to allow

these types of uses as a conditional use in an area that was otherwise residential and it would be better to consider this as a conditional use together with the public hearing that is required for conditional use and the assurance that this specific use could be made compatible with the surrounding area. There is at the present time no compatible text that we are changing; we are simply requesting that this section be added to the use table as a use permitted as a conditional use.

Councilman Towell said that he was wondering about the use of the Board of zoning appeals in situations like this. Is it not true that the zoning board of appeals can permit this.

Mr. Crossman said not under the present ordinance. Under this proposed draft it is proposed as a conditional use which would come before the planning commission.

Councilman Towell said that any exception would go before the Board of Zoning Appeals.

Mr. Crossman said that this is not an exception; this is a use permitted if these conditions are met.

Councilwoman Zietlow asked if you could build a gas station in RS if the Board of Zoning Appeals would allow it.

Mr. Crossman said that is not his interpretation.

Mr. Register spoke at this time but it was not transcribable from the tape.

Mr. Crossman said that our ordinance was drafted so that sort of thing would not be permitted.

Ordinance 74-37 was passed by a ROLL CALL VOTE OF AYES 8; NAYS 0.

Councilman De St. Croix moved that Ordinance 74-38 be introduced and read by the Clerk by title only. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-38
Electrical Code

Grace E. Johnson, City Clerk, introduced and read ordinance 74-38 be title only.

Councilman De St. Croix moved that Ordinance 74-38 be adopted. Councilman Morrison seconded the motion.

Ordinance 74-38 was passed by a ROLL CALL VOTE OF AYES 8; NAYS 0.

Councilman De St. Croix moved that Ordinance 74-39 be introduced and read by the clerk by title only. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Ordinance 74-39
Electrical Code

Grace E. Johnson, City Clerk, introduced and read Ordinance 74-39 by title only.

Councilman De St. Croix moved that Ordinance 74-39 be adopted. Councilman Morrison seconded the motion.

Councilwoman Zietlow said that this was the ordinance that we were waiting for in order to pass Ordinance 74-38

Ordinance 74-39 was passed by a ROLL CALL VOTE OF AYES 8; NAYS 0.

Councilman De St. Croix moved that Resolution 74-33 be introduced and read by the clerk. Councilman Morrison seconded the motion. The motion was carried by a unanimous voice vote.

Resolution 74-33
Budget Transfer

Grace E. Johnson, City Clerk, introduced and read Resolution 74-33 in its entirety.

Councilman De St. Croix moved that Resolution 74-33 be adopted. Councilman Morrison seconded the motion.

Councilman De St. Croix commended the Telecommunications Council on a good explanation.

Councilman Mizell commended them on saving money besides.

Councilwoman Zietlow asked what a message wheel is.

Mr. Mark Oring explained what a message wheel was.

Resolution 74-33 was passed by a ROLL CALL VOTE OF AYES 8; NAYS 0.

NONE

PETITIONS AND COMMUNICATIONS

NONE

REPORTS FROM OFFICAL BOARDS AND COMMISSIONS

NONE

REPORTS FROM STANDING COMMITTEES

NONE

REPORTS FROM SPECIAL COMMITTEES

NONE

REPORTS FROM CITY OFFICIALS AND DEPARTMENT HEADS

NONE

OTHER NEW BUSINESS

NONE

UNFINISHED AND MISCELLANEOUS BUSINESS

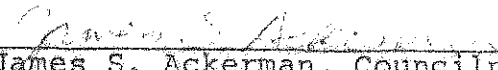
NONE

EXAMINATION OF CLAIMS


Councilman De St. Croix moved
that the meeting be adjourned
at 10:30 p.m. Councilwomen Davis
seconded the motion.

ADJOURNMENT

Councilpresident Ackerman adjourned
the meeting at 10:30 p.m.


James S. Ackerman, Councilpresident

ATTEST:


Julaine Thomas