

In the Council Chambers of the Municipal Building, on Thursday, October 3, 1974 at 7:30 p.m., with Council President James Ackerman presiding.

REGULAR SESSION
COMMON COUNCIL
CITY OF BLOOMINGTON,
INDIANA

Present: Jack Morrison, Dick Behen, Charlotte Zietlow, Brian de St. Croix, Wayne Fix, Sherwin Mizell, Flo Davis, Al Towell, James Ackerman

ROLL CALL

Absent: None

James Regester, Larry Owens, Stu Reller, Martha Sims, Gary Kent, Walt Sorg, Mr. Cook, Grace Johnson.

CITY OFFICIALS PRESENT

About 15 people including members of the press.

OTHERS PRESENT

None

MINUTES

NONE

MESSAGE FROM THE MAYOR

There were very severe tape recorder problems the entire first part of this meeting and therefore the minutes will be a very general summary.

MESSAGES FROM
COUNCILMEMBERS

There was discussion raised about the situation now at Carrico and the legality of it, due to the article in the October 3, 1974 Herold Telephone. During this discussion Mr. Regester spoke for the legal department. Charlotte asked about the occupancy and how ^{the} legal ^{department} would determine their status. Then Councilman de St. Croix asked when a facility becomes a warehouse. In response to these, Mr. Regester said; a facility becomes a warehouse when the owner is making charges to people who store goods in such a facility. But that in the present situation, even though the people involved did have certain things sitting unused in the building, it was not in such a manner to be considered a warehouse. That in this situation the owner was charging rent for occupancy of the building.

Councilman Morrison asked Mr. Regester when and if another furniture company could move in there and be legal? Mr. Regester said yes that they would be able to operate there but that he didn't feel this was the issue at hand.

Councilman Behen then asked that we get to the business at hand due to our very lengthy agenda.

As a further message, Councilman Mizell highly complemented the Eastland Merchants on their efforts to beautify the area. That he felt they had, on their own, done a very good job of attempting to make their surroundings much more beautiful.

Councilman Behen noticed a number of students in the audience and asked them to identify themselves and then explained the procedures and operations of a council meeting.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES

Councilman de St. Croix moved the following additions be made to the agenda. Councilman Morrison seconded the motion.

- 1. Ordinance 74-86 be added to the first readings
- 2. Ordinance 74-15 be removed from the agenda.
- 3. That the original ordinance 74-47 be removed and a new ordinance 74-47 be substituted in it's place on the agenda.
- 4. That ordinance 74-72 come before ordinance 74-60 on the agenda.

The motion was passed by a unanimous voice vote of the council.

Councilman de St. Croix moved that Ordinance 74-73 be introduced and read by title only by the clerk. Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-73 - annexation of area between Windermere Addition and Moore's Pike.

Grace Johnson, City Clerk, introduced and read ordinance 74-73 by title only.

Councilman de St. Croix moved that ordinance 74-74 be introduced and read by title only by the clerk, Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-74 - annexation of Stier Park

Grace Johnson, City Clerk, introduced and read ordinance 74-74 by title only.

Councilman de St. Croix moved that ordinance 74-75 be introduced and read by title only by the clerk. Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-75 - annexation of area north of Moores Pike and east of Winfield Road

Grace Johnson, City Clerk, introduced and read ordinance 74-75 by title only.

Councilman de St. Croix moved that ordinance 74-76 be introduced and read by title only by the clerk, Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-76 - annexation of area between Maxwell Terrace and Greenwood Avenue

Grace Johnson, City Clerk, introduced and read ordinance 74-76 by title only.

Councilman de St. Croix moved that ordinance 74-77 be introduced and read by title only by the clerk. Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-77 - annexation of area including Bloomington Southgate Shopping Center

Grace Johnson, City Clerk, introduced and read ordinance 74-77 by title only.

Councilman de St. Croix moved that ordinance 74-78 be introduced and read by title only by the clerk. Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-78 - annexation of area including the Ardmore Apartments

Grace Johnson, City Clerk, introduced and read ordinance 74-78 by title only.

Councilman de St. Croix moved that ordinance 74-79 be introduced and read by title only by the clerk. The motion was seconded by councilman Behen. The motion was carried by a unanimous voice vote of the council.

74-79 - annexation of area between Maxwell Lane and High Street.

Grace Johnson, City Clerk, read ordinance 74-79 by title only.

Councilman de St. Croix moved that ordinance 74-80 be introduced and read by title only by the clerk. Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-80 - annexation of area Moores Pike and Valley Forge Road.

Larry Owens, City Attorney, then gave this explanation of each annexation.

These are islands within the city, some of which are quite sizeable. Some of these are not petitioned by owners. Ordinance 74-73 is the largest area with numerous owners involved. It is land lying South of Windemere. Ordinance 74-74 is known as Steir Park. This land contains six or seven acers. Ordinance 74-75 is three acers north of Moores Pike and east of Winfield Road. Ordinance 74-76 is a small section of land south of Maxwell Lane and is owned by two people. Ordinance 74-77 is owned by three parties and is for all practical purposes is Southgate Shopping Center. Ordinance 74-78 is Ardmore Apts. Ordinance 74-79 is the southwest corner of Maxwell and High Streets. Ordinance 74-80 is property lying north of Moores Pike. It is owned by two people and consists of three acers.

Councilman Behen and Councilman de St. Croix then complimented Mr. Owens and the legal department for their good work in this area.

Councilman de St. Croix moved that ordinance 74-81 be introduced and read by the clerk by title only. Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-81 - amending zoning map dated June 22, 1973

Grace Johnson, City Clerk, introduced and read 74-81 by title only.

Mr. Reller of the planning department gave a very brief explanation of this ordinance.

Councilman de St. Croix moved ordinance 74-82 be introduced and read by the clerk by title only. Councilman Behen seconded the motion. The motion carried by a unanimous voice vote of the council.

74-82 - annexation of Northeast corner of North Walnut and 17th Street.

Grace Johnson, City Clerk introduced and read 74-82 by title only.

Mr. Owens stated in explanation of this that this is a voluntary annexation involving a corner lot at 17th and Walnut that is now part of a car dealership and was before a filling station.

Councilman de St. Croix moved ordinance 74-72 be introduced and read by the clerk in its entirety. Councilman Behen seconded the motion. The motion carried by a unanimous voice vote of the council.

74-72 - amending Bloomington Municipal Code Chapter 2.78 Entitled "Utilities Service Board."

Grace Johnson, City Clerk, read 74-72 in its entirety.

Councilman de St. Croix moved ordinance 74-72 be adopted. Councilman Towell seconded the motion.

Councilman de St. Croix moved that 74-72 be amended by adding (.010) to the Code Section number in line one of section 1. Councilwoman Davis seconded the motion.

The motion to amend passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

Councilman de St. Croix moved section 2 be amended as follows:
SECTION 2. Bloomington Municipal Code Section 2.78.020 (b) is hereby amended to read as follows:

"(b) Budget. Each year the Board shall submit to the Common Council a budget and salary ordinance for the Utilities Department at the same time that the city budget and salary ordinance are presented to the Common Council. Submission at this time shall be for the purpose of comparing the city budget and salary ordinance with those proposed by the Utilities Board for the Utilities Department. The budget presented by the Board shall detail the projected incomes and expenditures of the Utilities Dept. for the ensuing year as well as the amount of utilities funds available for city positions which are in part funded by the Utilities Department. The Budget shall be presented in the form required by state law as well as in the form which is followed by other city departments in order to facilitate correlation of the two budgets. The budget shall be presented for first reading by the first Council meeting in November. It shall be enacted in ordinance form by regular procedure as set out in Indiana Code 18-1-3-6 with the provision that the Council may lower, but not raise any item in the proposed budget. In no case shall Utilities funds be expended except in compliance with the budget Ordinance."

The motion to amend passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

Mr. Cook, President, Utilities Service Board brought to the floor the motion to strike the words "specifically and other" from paragraph 3 of section 1.

Councilman de St. Croix moved to make the above amendment. Councilman Towell seconded the motion.

The motion to amend passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

During discussion from the floor, Mr. Cook authorized that the Council has power to approve and the Plan Commission to advise. He stated the Utilities Service Board wants the right of recommendation. Councilman Mizell then stated the Plan Commission serves simply as an advisory body to the Council.

Councilman de St. Croix moved to amend section 3 as follows:

"(a) In General. The Board shall have general supervision over the Utilities owned by the City of Bloomington, but said supervision shall not interfere with the detailed supervision of the Utility Manager, who is to be held responsible to such Board for the business and technical operation of the Utilities. The Utility Manager shall keep the Board, Mayor and Common Council informed of Utilities activities and operations and shall provide whatever information is requested and make reports as required. The Board and Utilities Manager shall meet with the Council or its liason committee at least six times yearly. In accord with the ultimate responsibility of the Common Council for land use and community growth policy decisions the construction and location of all major service lines, the location and planning of all major capital improvements as well as decisions made by the Board which affect long range planning for the city must be subject to the approval of the Common Council. The Common Council shall specify to the Board through resolution or directive the types of decisions which the council wants to review within these general guidelines.

Councilwoman Zietlow seconded the motion.

Councilman Towell moved to amend the above amendment to add the language to the ordinance instead of substituting it for the original language. Councilman Mizell seconded the motion.

The motion passed by a ROLL CALL VOTE OF AYES 7, NAYS 2. Nays: Behen and Davis.

Roll was called on the original amendment. The amendment passed by a ROLL CALL VOTE OF AYES 7; NAYS 2. Nays: Morrison and Behen.

Councilman de St. Croix moved to amend section 5 as follows:

"Membership-Appointments. The Board shall be composed of 7 members, of whom no fewer than 5 shall be residents of the City of Bloomington, and of whom no more than a simple majority shall be of the same political party. All members of the Board, whether or not city residents, shall be users of one or more services provided by the municipal utilities under the control of the Utilities Service Board. The Mayor shall appoint four members of the Board and the Common Council shall appoint three members. The Mayor shall initially appoint members as follows: One for a term of one year; one for a term of two years; one for a term of three years; and one for a term of four years. The Council shall. . . ."

Councilman Towell seconded the motion.

The motion to amend section 5 passed by a ROLL CALL VOTE OF AYES 9; NAYS 0.

Councilman Fix then moved that in Section 5 that membership shall be limited to one salaried or elected city official. This is for voting members. Councilwoman Zietlow seconded the motion.

After some discussion about other ordinances concerning this matter Councilman Fix withdrew the above motion.

A young lady from the audience, whose name was not audible, asked that the Council consider actions for tin can recycling. She also expressed concern for the animals in the city, and the lack of care and concern for them. Councilpresident Ackerman said they would certainly look into those matters.

PETITIONS & COMMUNICATIONS

Councilman Towell moved to insert "no future appointments of a voting member of the board shall be salaried or elected city officials." Councilman de St. Croix seconded the motion.

Councilwoman Zietlow asked to postpone discussion of this motion. Councilman Behen seconded the motion.

Councilman Towell with approval of his second withdrew the above motion.

Councilman de St. Croix moved that section 7 be deleted and other wording be substituted. Councilwoman Davis seconded the motion. The wording read as follows:

Removal. Members of the Board shall be subject to dismissal for cause after being given notice and informed of the right to have a public hearing before the Mayor, a member of the Common Council to be selected by the Council, and a third independent person to be agreed upon by the Mayor and the council. The right to public hearing is to be exercised within thirty days after receipt of official notification of dismissal. Such dismissal for cause shall be by the Mayor in the case of mayoral appointments and by a two thirds vote of the council in the case of council appointments. Members shall also be subject to dismissal for excessive absenteeism. Absenteeism shall be deemed excessive when a Board member, without reasonable cause is absent from three consecutive regularly scheduled Board meetings.

The motion passed by a ROLL CALL VOTE OF AYES 6; NAYS 3. Nays: Zietlow, Towell, Behen.

Councilman Towell moved to amend section 8 as follows, as brought to the floor by Mr. Cook:

"Upon call of the chair person and waiver of notice by a majority of members of the board."

Mr. Cook wanted this inserted in the sentence after 'published notice upon'. Councilwoman Zietlow seconded the motion.

Councilman Towell stated that he wondered if the chairman is missing what happens? And that he would rather say, "if Chairperson or the designated vice."

Mr. Cook stated that this change sounded fine with him.

Councilwoman Zietlow stated that the wording sounded more precise to her now, but wondered what exactly designates an emergency meeting.

Mr. Cook then said maybe it would be better if they canceled out chairperson and simply said call by a member.

Councilwoman Zietlow again asked what kind of emergency situation were they talking about?

Mr. Cook replied that it was something where 48 hours notice is not passible.

Councilpresident Ackerman then read the language now on the floor, as follows:

"meetings may be held with published notice upon call by a member and waiver of notice by a majority of members of the Board."

The motion passed by a ROLL CALL VOTE OF AYES 9; NAYS 0.

Councilman de St. Croix moved to amend section as follows:

"Every member of the Board shall be under the affirmative duty to publicly disclose any personal interest they may have in a matter prior to participation in the hearing or decision of such Board on the matter in question. Provided however, that the existence of a personal interest, other than a direct or indirect financial interest, shall not prevent a member from participating in the hearing or decision of a matter unless a majority of the voting members of the Board feels the member should not participate, and further provided that the failure to disclose personal interests, as provided above shall not invalidate the vote of the members failing to disclose any personal interest,"

Councilman Towell seconded the motion.

The motion passed by a ROLL CALL VOTE OF AYES 9; NAYS 0.

Councilman de St. Croix moved ordinance 74-72 be adopted as amended. Councilwoman Zietlow seconded the motion.

The ordinance passed by a ROLL CALL VOTE OF AYES 5; NAYS 4. Nays: Morrison, Behen, de St. Croix, Davis.

Councilman de St. Croix moved that ordinance 74-60 be introduced and read by the clerk. Councilman Behen seconded the motion. The motion was passed by a unanimous voice vote of the council.

Scheduled Business
ORDINANCES -- SECOND READING
74-60 - Utilities Salary

Grace Johnson, City Clerk, read 74-60 in its entirety.

Councilman de St. Croix moved that ordinance 74-60 be adopted. Councilman Behen seconded it.

Councilwoman Zietlow asked who set a number of the wages and how. The response from the audience was not at all audible. He spoke of the wages and how they established the raised rates.

Councilpresident Ackerman; But you had two of them that went up higher than 30¢. The Carpenter went from 3.44 to 4.13 and the painter went from 3.15 to 3.88, according to this table.

Gary Kent; We raised the maximum

Councilpresident Ackerman; Usually when a person is being paid way. . . When the ordinance was way beyond

what the person was actually being paid, you didn't raise the ordinance you allowed the person.

Gary Kent is not audible but explained the position regarding this. And he went into hourly wages and salaried positions.

Councilman Towell; I asked you this question when we had a work session on the ordinance, about the positions that are not filled.

Gary Kent then listed these positions:
Projects Coordinator
Chief Accountant
Assistant Controller
Assistant Engineer
Meter Service Superintendent
He then talked about some reorganization in the Treatment Operations Department.
He then stated that the total number of person 1 on the October payroll was 131 of which maybe 4 were parttime.

Councilman Mizell; If the plant superintendant is expected to put in more than 40 hours a week, why are the assistant superintendant and chief operators then paid on an hourly basis?

Mr. Kent's answer and following discussion was not audible.

Councilman de St. Croix asked Mrs. Simms, City Controller, if she saw any discrepancy in the pay rates between the Utility employees and the city employees?

Mrs. Simms stated that as far as she was concerned the Utilities pays far more than the city. The pay scales are not very comparable.

Councilman Morrison asked about the status of the electrician, and how they could get one for the salary stated in the ordinance, which seemed to be very low.

Mr. Kent said they did not actually have one at that rate but were told they could get one and plan to do so.

There was further discussion on the question of the electrician.

Ordinance 74-60 passed by a ROLL CALL VOTE OF AYES 9; NAYS 0.

Councilman de St. Croix moved that ordinance 74-83 be introduced and read by the clerk by title only. Councilman Behen seconded the motion. The motion passed by a unanimous voice vote of the council.

Grace Johnson, City Clerk, read 74-83 by title only.

*Intro of General & Special Ord. Cont.
74-83 - Zoning*

Councilwoman Zietlow stated that she was very pleased with the material from the planning department concerning the ordinance.

Councilman de St. Croix moved that ordinance 74-84 be introduced and read by the clerk. Councilman Behen seconded the motion. The motion passed by a unanimous voice vote of the council.

74-84 - Amending Site Plan

Grace Johnson, City Clerk, read 74-84 in its entirety.

Councilman de St. Croix moved that ordinance 74-85 be introduced and read by the clerk. Councilman Behen seconded the motion. The motion passed by a unanimous voice vote of the council.

74-85 - Taxicabs

Grace Johnson, City Clerk read 74-85 in its entirety.

Councilman Behen; I know we don't discuss ordinances at first readings, but I do want to know who introduced this so I may check with them before next council meeting.

Councilpresident Ackerman; Mr. McNeely of the Cab Company.

Councilman Behan; He introduced the ordinance?

Councilpresident Ackerman; No it was at his request to the council that this was introduced.

Councilman de St. Croix moved that ordinance 74-86 be introduced and read by the clerk. Councilman Behen seconded the motion. The motion passed by a unanimous voice vote of the council.

74-86 - amending city code titled "June, July and August."

Grace Johnson, City Clerk read 74-86 in its entirety.

Councilman de St. Croix moved that ordinance 74-16 be introduced and read by the clerk. Councilman Behen seconded the motion. The motion passed by a unanimous voice vote of the council.

Grace Johnson, City Clerk, read 74-16 in its entirety.

Councilman de St. Croix moved that ordinance 74-66 be introduced and read by the clerk, by title only. Councilman Morrison seconded the motion. The motion carried by a unanimous voice vote of the council.

ORDINANCES - SECOND READING

74-66 - annexation of properties on E. 3rd St.

Grace Johnson, City Clerk, read 74-66 by title only.

Councilman de St. Croix moved ordinance 74-66 be adopted. Councilman Morrison seconded the motion.

Mr. Owens, City Attorney, described the property, stating it was owned by Ralph Deckard and Ellis Greenhouse Inc.

Ordinance 74-66 passed by a ROLL CALL VOTE OF AYES 9; NAYS 0.

Councilman de St. Croix moved ordinance 74-67 be introduced and read by title only by the clerk. Councilman Behen seconded the motion. The motion was carried by a unanimous voice vote of the council.

74-67 - annexation of properties in the 400 block of S. High St.

Grace Johnson, City Clerk, read 74-67 by title only.

Councilman de St. Croix moved 74-67 be adopted. Councilman Behen seconded the motion.

Ordinance 74-67 passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

Councilman de St. Croix moved that ordinance 74-68 be introduced and read by the clerk by title only. Councilman Towell seconded the motion. The motion carried by a unanimous voice vote of the council

74-68 - annexation of on East 3rd Street owned by Buck Lemon Furniture Store of Bedford, Inc.

Grace Johnson, City Clerk, read ordinance 74-68 by title only.

Councilman de St. Croix moved ordinance 74-68 be adopted. Councilman Towell seconded the motion.

Mr. Owens located the property in question on the maps and explained it to the council.

Ordinance 74-68 passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

Councilman de St. Croix moved ordinance 74-69 be introduced and read by the clerk by title only. Councilman Towell seconded the motion. The motion carried by a unanimous voice vote of the council.

74-69 - annexation of College Mall Road South of Second street and Moores Pike East of College Mall Road.

Grace Johnson, City Clerk, read 74-69 by title only.

Mr. Owens located the property on the maps and explained it to the council.

Ordinance 74-69 passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

Councilman de St. Croix moved Ordinance 74-70 be introduced and read by the clerk by title only. Councilman Behen seconded the motion. The motion carried by a unanimous voice vote of the council.

74-70 - annexation - of properties on South High Street, owned by T. Raeber, W. Moran, M. Meister, J. Spannuth, R. Haddawi, and R. Kinser.

Grace Johnson, City Clerk, read 74-70 by title only.

Councilman de St. Croix moved 74-70 be adopted. Councilman Behen seconded the motion.

Ordinance 74-70 passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

Councilman de St. Croix moved resolution 74-46 be introduced and read by the clerk. Councilwoman Davis seconded the motion. The motion carried by unanimous voice vote of the council.

Res. 74-46 - Appeals of Budget Cuts .

Grace Johnson, City Clerk, read 74-46 in its entirety.

Councilman de St. Croix moved resolution 74-46 be adopted by acclimation. Councilwoman Davis seconded the motion.

Councilman Mizell; I'm sorry, I'll have to speak against this, not because I'm opposed to any of the items listed in the particular resolution, but I find it would be inconsistent since I voted against the budget originally because of my disagreement with other portions of the budget. I therefore cannot vote favorably.

Councilman de St. Croix, with the permission of his second withdrew his motion to adopt by acclimation.

Councilwoman Zietlow then stated that she understood Councilman Mizell's position, but urged that he support this resolution. Most of her statement was inaudible.

Councilman de St. Croix; Yes, this also is another reason to stand with Councilwoman Zietlow's remarks, that is the appropriateness of non-civil city residents taking action upon the budget of the civil city. They do not pay city taxes or vote for city elected officials, making determinations as to the validity of the city budget which I suspect they have little knowledge of and have a political prospective on it. I think this is a very important issue.

Maggie Shaffer, Council Aide; This resolution is a necessary step for the city to appeal the cuts. In other words, it wasn't just motivated by some Council members wanting to disagree. It also must be passed by a certain time limit which is why it is on tonight's agenda.

Councilman Towell; I have spent the last week with this board and my observations were that their cuts were not valid cuts designed to efficiently give service to the citizens.

Grace Johnson; I would just like to point out, that for the first time ever, anything was ever cut out of my budget, it was a \$1,000 cut from Pam's salary.

There was some general discussion regarding this.

Resolution 74-46 passed by a ROLL CALL OF AYES 6; NAYS 3. Nays: Morrison; Behen, Sherwin.

RESOLUTION 74-47

Councilman de St. Croix moved resolution 74-47 be introduced and read by the clerk in its entirety. Councilman Morrison seconded the motion. The motion carried by a unanimous voice vote of the council.

Grace Johnson, City Clerk, read 74-47 in its entirety.

Councilman de St. Croix moved resolution 74-47 be adopted. Councilman Morrison seconded the motion.

Resolution 74-47 passed by a ROLL CALL VOTE OF AYES 9, NAYS 0.

There being no other business Councilpresident Ackerman adjourned the meeting at 11:10 p.m.

ADJOURNMENT

James S. Ackerman
James S. ACKerman, Councilpresident

ATTEST:

Pam Carper
Pam Carper, Secretary