

In the Council Chambers, Municipal Building on August 4, 1966, at 7:30 p.m., E.S.T., Councilman Charles J. Faris presiding.

Council President Charles J. Faris

By Deputy City Clerk Miriam Pruett

Members present: Councilmen Ermal Byers, Robert L. Clegg, Clyde Day, Harry Day, Charles J. Faris, Richard Fee, Ralph Johnson and Guy Moulden.

Members absent: Councilman David Derge.

Mayor John H. Hooker, Jr.; Raymond E. Long, City Engineer; James Cotner, City Attorney; Howard A. Young, City Controller; James D. Sargent, Street Commissioner; F. Wilson Thrasher, Director of City Utilities; James R. East, Police Chief; Marvard Clark, Assistant City Engineer and Ralph Landry, City Electrical Inspector.

Thirty-two including Mrs. Louise Ondrik, reporter for the Indiana Daily Student; James Root, reporter for the Daily Herald Telephone and Richard Beikman, newscaster for WTTS-Radio.

Councilman Ralph Johnson introduced the Reverend K. C. Tiller, of the 16th Street Pentecostal Church, who gave the invocation.

Councilman Harry Day moved that the minutes of the regular meeting held July 21 and the minutes of the special meeting held July 28, 1966 be approved as typed and distributed. Seconded by Councilman Fee and carried unanimously.

Mrs. Joan Ralston spoke against the lack of control of the dust from the calcium mill on South Henderson Street and announced her intention of speaking for an air pollution ordinance.

Councilman Harry Day suggested that annexation of the area containing the calcium mill might be a step toward the solution of this particular problem.

Mayor John H. Hooker, Jr. said the condition is still acute but that the Administration hopes to be able to take positive action soon with an air pollution control ordinance.

None

None

Councilman Fee moved that proposed Resolution No. 8 be introduced and read by the Clerk. The motion was seconded by Councilman Clegg and carried.

Deputy City Clerk read proposed Resolution No. 8.

Councilman Fee moved that proposed Resolution No. 8 be adopted. The motion was seconded by Councilman Johnson and carried unanimously.

Councilman Fee moved that proposed Resolution No. 9 be introduced and read by the Clerk. The motion was seconded by Councilman Johnson and carried.

Deputy City Clerk read proposed Resolution No. 9.

REGULAR MEETING
COMMON COUNCIL OF THE
CITY OF BLOOMINGTON, INDIANA

CALL TO ORDER

ROLL CALL

OFFICIALS IN ATTENDANCE

NUMBER OF CITIZENS
IN ATTENDANCE

INVOCATION

MINUTES OF FORMER MEETINGS

REMONSTRANCES AND OBJECTIONS

ORDINANCES -- SECOND READING

INTRODUCTION OF GENERAL AND
SPECIAL ORDINANCES

RESOLUTIONS

Resolution No. 8
(Recommended changes
in Municipal Government)

Resolution No. 9
(Changes in laws governing
the operation of two-
wheeled motor vehicles)

Councilman Harry Day objected to the use of the word "unrestricted" in the paragraph regarding required license and asked that this word be stricken from the proposed Resolution.

Resolution No. 9
(continued)

Councilman Johnson moved that proposed Resolution No. 9 be adopted as amended. The motion was seconded by Councilman Moulden and carried unanimously.

Councilman Harry Day moved that proposed Resolution No. 10 be introduced and read by the Clerk. The motion was seconded by Councilman Johnson and carried.

Resolution No. 10
(Endorsement of Proposed
Indiana Implied Consent
Bill)

Deputy City Clerk read proposed Resolution No. 10.

During the ensuing discussion when Police Chief East was asked for his opinion, he stated that he had mixed feeling concerning the proposed resolution. He said he felt that it left a great deal to the discretion of the individual officer and he believed lowering the 1.5 percentage of intoxication level would be more effective.

City Attorney Cotner said he did not believe the passage of this proposed resolution would diminish drunk driving. He said he felt it might curtail personal rights somewhat but would make punishment more certain.

Councilman Harry Day moved that proposed Resolution No. 10 be adopted. Councilman Byers seconded the motion. Roll call vote: 6 ayes, 2 nays. Aye: Councilmen Byers, Clegg, Clyde Day, Harry Day, Johnson and Moulden. Nay: Councilmen Faris and Fee.

None

PETITIONS AND COMMUNICATIONS

None

REPORTS FROM OFFICIAL BOARDS
AND COMMISSIONS

Councilman Ralph Johnson, Chairman of the Municipal Development and Growth Committee, reported that proposed Ordinance No. 66-32 is still under study by the committee and a report will be made early in September.

REPORTS FROM STANDING
COMMITTEE

Ordinance No. 66-32
(Objects & Signs -
Sidewalks and Right of Way)

Councilman Robert L. Clegg, Chairman of study committee for proposed Ordinance No. 66-33, asked for comments from citizens present.

Ordinance No. 66-33
(Electrical Code)

Wayne Bivens, an electrician on construction work, objected to having to obtain a license for a short period of time. Councilman Fee reminded him that the proposed ordinance specified only one licensed electrician necessary for each contractor or electrical firm. Mr. Bivens questioned having to have a license since there is a city inspector, to which City Engineer Long replied that licensing makes for better control.

Lloyd Graham, a member of the local International Brotherhood of Electrical Workers, said it is not fair to penalize the local union members because of a few itinerants.

Councilman Faris asked City Electrical Inspector Ralph Landry for his opinions. Mr. Landry said he had very little trouble with Union electricians and that the proposed Ordinance would benefit them. He also stated that the proposed Ordinance would help prevent an insurance rate increase.

Council President Faris asked that the proposed Ordinance be sent back to the study committee and requested a report at the first meeting in September.

Ordinance No. 66-33
(continued)

Councilman Harry Day asked that additional copies of Ordinance No. 66-33 be made available so that any one who wants a copy may have it.

Mayor Hooker commented that because Bloomington is such a fast growing community it should be concerned with safety in all areas. He stated that proposed Ordinance No. 66-33 is a companion code to the plumbing code and is intended to protect the citizens of Bloomington. He added that the Administration strongly endorses this proposed Ordinance.

Councilman Harry Day, Chairman of the study committee on proposed Ordinance No. 66-34, said the members of his committee are still studying the proposed Ordinance. They will have copies available for the public and urge them to attend the Council meetings and participate in the discussions of this as well as other ordinances. He hoped that the press would participate also in giving good coverage to the workings of the Council.

Ordinance No. 66-34
(Waste Control)

Councilman Moulden moved that proposed Ordinance No. 66-35 be returned to the Plan Commission for further study, with the thought in mind of setting up a zone for trailer parks only. Councilman Fee seconded the motion and it carried.

Ordinance No. 66-35
(Amend Zoning Map)

William Tennell, manager of Tennell Village Trailer Court, said that he and others concerned with trailer courts were working on zoning for mobile homes with the Community Planning Committee at Indiana University.

None

REPORTS FROM CITY OFFICIALS
AND DEPARTMENT HEADS

Councilman Fee reported that an excellent article on the Bloomington industrial boom had appeared in the July 31, 1966 issue of the Louisville Courier-Journal. He said he would write a note of thanks to the newspaper.

MESSAGES FROM COUNCILMEN

None

MESSAGES FROM MAYOR

None

OTHER NEW BUSINESS

Councilman Moulden moved that claims presented for payment on August 5 be allowed. The motion was seconded by Councilman Clyde Day and carried unanimously.

EXAMINATION OF CLAIMS

Councilman Fee moved for adjournment at the hour of 9:32 p.m., E.S.T.

ADJOURNMENT


Charles J. Faris, Council President

ATTEST:


Marian Tardy, City Clerk

Adopted 8-4-66

RESOLUTION NO. 66-8

WHEREAS the Municipal League of Indiana has requested that the Common Council of the Cities of Indiana inform such Municipal League of those matters pertaining to municipal government which the members of such Common Councils feel should be altered and changed providing for more efficient and effective government, and

WHEREAS the members of the Common Council of the City of Bloomington have carefully considered such request and have determined that the government of the City of Bloomington would be more effectively carried on and performance of the governmental duties by the various agencies of the City of Bloomington would be better performed if certain changes were effected in the laws of the State of Indiana,

NOW, THEREFORE, BE IT RESOLVED that this Common Council recommend to the Municipal League of Indiana the following changes in the laws regulating municipal government within the State:

1. That there be created statutory authority for a metropolitan system of government so as to create a unified government for municipal and county areas having a unanimity of interest problems and authority.

2. That there be created statutory authority for the imposition of a tax upon payrolls within the City so as to afford relief from property taxes and that as a part of such authority to impose a payroll tax thereby imposed upon any city imposing a payroll tax a maximum amount to be collected by such city from property taxes.

3. That there be created statutory authority for a merit board system in second class cities regulating the employment and dismissal together with promotion in the police and fire departments of such cities.

4. That there be created by the Indiana General Assembly an academy of public safety within the state, acting in cooperation with a state university, which academy would provide training and education of the law enforcement, fire department, and civil defense agencies of the cities and counties of the State of Indiana.

5. That a constitutional convention be called for a review and amendment of the constitution of Indiana, taking into consideration that

more than a century has passed since the last constitutional convention of the State and that numerous changes in social and economic relationships have occurred since that time.

BE IT FURTHER RESOLVED that the Clerk of the City of Bloomington forward to the Municipal League of Indiana a copy of this Resolution.

Presiding Officer

WHEREAS, The City of Bloomington has a number of young people residing in the City because of the location, within the City, of Indiana University, and

WHEREAS, the use of motorcycles by such young people has greatly increased the problems of traffic control and safety within the City, and

WHEREAS, it has been found that the existing laws of the State of Indiana permit the operation of a motorcycle without the qualifications required for the operation of a regulation four-wheeled vehicle, and

WHEREAS, certain changes in the laws regulating the use of motorcycles are necessary to effect greater traffic control and safety within the City of Bloomington, and

WHEREAS, it is assumed that the problems resulting from the operation of motorcycles within the City of Bloomington also exist to a lesser degree in other cities of Indiana,

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, that it be recommended to the Indiana General Assembly that laws governing the operation of two wheel motor vehicles be enacted as follows:

1. That no person be allowed to operate a two-wheeled motor vehicle until such person shall have reached his seventeenth (17th) birthday.
2. That no person be allowed to operate a two-wheeled motor vehicle unless he shall hold a valid automobile driver's license issued by the State of Indiana, and in no case be allowed to operate a two-wheeled motor vehicle while holding a license known as a beginner's permit.
3. That no person be allowed to operate a two-wheeled motor vehicle until he shall have taken and passed a driver's test specifically designed and intended to test his ability to operate such a two-wheeled motor vehicle and his familiarity with the traffic control laws of the State of Indiana and the rules of traffic safety.

BE IT FURTHER RESOLVED that the Clerk of the City of Bloomington forward to the Municipal League of Indiana a copy of this Resolution.

Adopted 7-7-66

RESOLUTION NO. 66-10

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA
ON THE PROPOSED INDIANA IMPLIED CONSENT BILL

WHEREAS, the safe operation of motor vehicles on our streets and highways is a heavy responsibility and of much concern throughout the City of Bloomington and the State of Indiana, and

WHEREAS, it is universally acknowledged that the operation of motor vehicles on our public streets and highways under the influence of alcohol must be controlled to protect the lives and property of innocent persons as well as such operators, and

WHEREAS, the adopted modes of protection must be applied within the limits of our constitutional guarantees, and

WHEREAS, the results of chemical tests, properly applied as is provided for in the implied consent statutes of at least eighteen states, constitute competent evidence in the determination of fitness to operate motor vehicles, and

WHEREAS, "to paraphrase Justice Clark in Breithaupt v. Abram, the idea behind the implied consent laws is that a driver on the highways, in obedience to a policy of the state, should consent to have a chemical test made as a part of a sensible and civilized system of protecting himself as well as other citizens, not only from the hazards of the road due to drunken driving, but also from some dubious law testimony, or else forfeit his driving privilege for a time," and

WHEREAS, the State of Indiana has not yet adopted an Implied Consent law, now

THEREFORE BE IT RESOLVED by the Common Council of the City of Bloomington, Indiana, That: it endorses an

Implied Consent Bill such as the Proposed Indiana Implied Consent Bill which is attached hereto, and it urges the enactment of such legislation at the forthcoming meeting of the General Assembly of the State of Indiana.

Date:

Charles J. Faris, President

Marian Tardy, City Clerk

PROPOSED INDIANA IMPLIED CONSENT BILL

DIGEST

Under this Bill, all motor vehicle operators are deemed to have given implied consent to breath or blood tests for blood alcohol content; the Bill provides for revocation of license upon refusal to submit to the test, provides for administrative and judicial review, and repeals all inconsistent laws.

A BILL FOR AN ACT providing a chemical test for intoxication.

Be it enacted by the General Assembly of the State of Indiana;

SECTION 1. IMPLIED CONSENT OF DRIVER OF
MOTOR VEHICLE TO SUBMIT TO CHEMICAL TESTING TO
DETERMINE ALCOHOLIC CONTENT OF BLOOD.

Any person who operates a motor vehicle in this state shall be deemed to have given consent subject to the provisions of this act to a chemical test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood if arrested for any offense arising out of acts alleged to have been committed while the person was driving a motor vehicle while under the influence of intoxicating liquor. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving while under the influence of intoxicating liquor. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered.

SECTION 2. PERSONS QUALIFIED TO ADMINISTER TESTS.

The administration of chemical tests using breath shall be performed by persons, including enforcement officers, who are duly certified by the State Toxicologist to perform such tests and whose certification is valid at the time of the administration of the test or tests. The arresting law enforcement officer shall not perform the chemical test. If a blood test is used, the blood sample shall be drawn only by a licensed physician, registered nurse, or medical technician working under the supervision of a licensed physician. The analysis of blood sample for alcoholic content under this act shall be performed by laboratories whose procedures have been approved by the State Toxicologist. The person tested may have a physician, registered nurse, or medical technician of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. Upon request of the accused, the enforcement officer shall make one of the chemical tests available. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the law enforcement officer shall be made available to him.

SECTION 3. INFORMATION TO BE GIVEN ACCUSED BEFORE

TEST. At the time a request is made for the submission to a test, the enforcement officer shall inform the accused that refusal to submit to the test will result in revocation or suspension of his operator's permit. In addition the accused shall be informed that he may have independent tests performed by persons of his own choosing at his own expense.

SECTION 4. CONSENT OF PERSON INCAPABLE OF REFUSAL NOT WITHDRAWN. Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by Section 1 of this act and the test or tests may be given, and the provisions of Section 3 shall not apply.

SECTION 5. REVOCATION OF PRIVILEGE TO DRIVE MOTOR VEHICLE UPON REFUSAL OF ARRESTED PERSON TO SUBMIT TO CHEMICAL TESTING. If a person under arrest refuses to submit to chemical testing of breath or blood, none shall be given, but the commissioner of motor vehicles, hereinafter referred to as the Commissioner, upon the receipt of a sworn report of the law enforcement officer that he has reasonable grounds to believe the arrested person had been driving and was in actual physical control of a motor vehicle being driven in the State of Indiana while under the influence of intoxicating liquor, and that the person had refused to submit to the test or tests, shall revoke his license or permit to drive and any nonresident operating privilege for a period of six (6) months; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the Commissioner shall deny to the person the issuance of a license or permit for a period of six (6) months after the date of the alleged violation, subject to review as hereinafter provided.

SECTION 6. ADMINISTRATIVE HEARING ON REQUEST. Upon the written request of a person whose privilege to drive has been revoked or denied the Commissioner shall grant the person an opportunity to be heard within ten (10) days after the receipt of

the request, but the request must be made within thirty (30) days after arrest. The hearing shall be before the Commissioner or his authorized agent, in the county wherein the alleged events occurred for which the person was arrested, unless the Commissioner or his authorized agent and the person agree that the hearing may be held in some other county. The hearing shall be transcribed and its scope shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, whether the person was placed under arrest and whether he refused to submit to the test or tests. The Commissioner or his authorized agent shall order either that the revocation or denial be rescinded or sustained.

SECTION 7. JUDICIAL REVIEW. If the revocation or denial is sustained the person whose license or permit to drive, or nonresident operating privilege has been revoked or denied, may file a petition within thirty (30) days after the determination by the Commissioner or his authorized agent for a hearing of the matter in the circuit court in the county wherein the alleged event occurred for which he was arrested or in the county in which the administrative hearing was held. It shall be the duty of the court to set the matter for hearing, and the petitioner shall give twenty (20) days' notice thereof to the Commissioner. Within fifteen (15) days after receipt of the notice, the Commissioner shall file in the office of the clerk of the court to which the appeal is taken a certified transcript of the testimony and

all other proceedings. It shall constitute the record on which appeal shall be determined. No additional evidence shall be heard. The court shall affirm the decision of the Commissioner or his authorized agent unless it finds the evidence insufficient to warrant the conclusion reached.

SECTION 8. EFFECT OF EVIDENCE OF CHEMICAL TESTS.

The provisions of this act do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

SECTION 9. NOTICE TO OTHER STATES. When it has been finally determined under the procedures of this act that a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the Commissioner shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which he has a license.

SECTION 10. UNIFORMITY OF INTERPRETATION. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

SECTION 11. SHORT TITLE. This act may be cited as the Uniform Chemical Test for Intoxication Act.

SECTION 12. CONSTITUTIONALITY. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

SECTION 13. REPEAL. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

SECTION 14. TIME OF TAKING EFFECT. This act shall take effect on and after January 1, 1968.
