

## REGULAR MEETING

June 16, 1959

THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, met in the Council Chambers in City Hall, on Tuesday, June 16, 1959, at the hour of seven-thirty o'clock (7:30 P.M. D.S.T.) in regular session.

Members present: Graves, Chitwood, Griffith, Sikes, and Van Meter.

Members absent: Miller and Peace.

The meeting was opened with a prayer by Councilman Graves.

In the absence of Mayor Thos. L. Lemon the meeting was opened by the Clerk-Treasurer. Upon motion by Councilman Graves, seconded by Councilman Sikes, Councilman Chitwood was elected Chairman for the meeting; motion unanimously carried.

Councilman Sikes moved, seconded by Councilman Griffith that the minutes of the last regular meeting of June 2, 1959 be approved as submitted to each individual councilman; motion unanimously carried.

Councilman Sikes presented Ordinance No. 11, 1959 for first reading by the Clerk-Treasurer.

Mr. Philip Smith and Mr. Dale McAdams representing the Optimist Club reported on the development of Leonard Springs Camping Area. Councilman Sikes moved, seconded by Councilman Graves that the lease between the Optimist Club of Bloomington and the Board of Public Works and Safety for the City of Bloomington be approved; motion unanimously carried.

Attorney K. Edwin Applegate petitioned the Council not to oppose the suit in Circuit Court to vacate the strip of ground between the concrete sidewalk and the building located on the east side of Washington Street between Sixth and Seventh north of the alley. Councilman Graves moved, seconded by Councilman Van Meter that the City Attorney be instructed not to oppose the suit in Circuit Court and to file an answer; motion unanimously carried.

A petition for street lights was read by the Clerk-Treasurer for the corner of Davis and Dunn Streets and Davis and Henderson Streets. Councilman Van Meter moved, seconded by Councilman Sikes that this petition be referred to the proper committee for study and report back to the Council at their next regular meeting; motion unanimously carried.

A petition from Robert Metcalf, 1007 South Washington Street, to cut the curb was read by the Clerk-Treasurer. Councilman Sikes moved, seconded by Councilman Van Meter that this petition be approved and the work be done under the supervision of the City Engineer; motion unanimously carried.

The following Committee Report was received:

COMMITTEE REPORT  
TO  
MAYOR THOMAS L. LEMON

Your Committee was instructed to inquire into the feasibility of an ordinance to regulate or direct the location of taverns within the City. We submit the following report.

In the statute known as the Municipal Corporations Act of 1905, section 53, clause 40 was this provision relative to the powers of the Common Council of Cities.

"To license, tax, regulate and restrain all shops, inns, taverns, or other places where intoxicating liquors are kept for sale, to be used upon the premises; and in regulating, restraining and licensing such inns, taverns, shops or places aforesaid, such Common Council shall have the power to designate the room, building or structure where such liquors may be sold..."

The Supreme Court of Indiana has held in construing this statute that cities had "Power to regulate the manner of keeping places where intoxicating liquors were sold to prohibit the location of liquor saloons in the residence portions of cities, to require a license for

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the sale of intoxicating liquors within their corporate limits, and to exercise many other powers in controlling taverns and saloons."

The Liquor Control Act of 1935, however, greatly centralized the control of the manufacture, distribution and sale of intoxicating beverages. This Act, through the vesting of authority in other state and local agencies, through a general repealer clause of laws in conflict with its provisions, and through the specific repeal of clause 40, section 53, of the Municipal Corporations Act of 1905 seems to have stripped the Common Councils of Cities of authority formerly vested in them to control the location of taverns within and in the environs of such cities.

Your Committee is in sympathy with the sentiment often expressed by the Mayor that the state does not vest sufficient powers in cities to allow them to exercise more local self government, but unless there are statutory changes with which we are not familiar we feel any ordinance passed by this Council to control the location of taverns would be a complete nullity.

The members of the Committee severally deplore the continued centralization of powers logically belonging to cities. We believe the time has come for a reversal of this trend. In the final analysis we think the people in cities are best able to decide what will best promote their welfare. We would like to see Bloomington, the first city in the state to be awarded All-America City honors, take the lead in restoring local self government to the cities of the state. Over three-fourths of the people of the state are city residents. Their welfare should be the concern of the leaders of the entire state.

With the approval of the Common Council we would like to have copies of this report mailed to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, of the State of Indiana, and the Executive Secretary of the Indiana Municipal League.

S/ Pressly S. Sikes, Chairman

Councilman Sikes moved, seconded by Councilman Graves the adoption of this report of the Common Council; Upon a roll call vote the motion was unanimously carried.

The following committee report was received and placed on file:

#### COMMITTEE REPORT

The Common Council of the City of Bloomington has been requested to give consideration to the enactment of an ordinance to forbid the operation of power lawn mowers during church hours on Sunday. This matter was referred to the Ordinance Committee. The committee has given the subject earnest consideration and submits the following report:

In the first place the Committee would like to say that the Mayor and Council appreciate the fact that the people of the City feel free at any time to contact or petition their City government regarding any grievance whether or not it is one appropriate for government action.

Being active churchmen ourselves the members of the Committee deplore any disturbance of worship services by extraneous noises whether they be by power mowers, locomotive whistles, motorcycle and automobile motors and exhausts, hammers, saws, or other necessary or unnecessary tools and devices that are so much a part of our modern urban life.

As lovers of that liberty and freedom which we Americans cherish, however, we believe the heavy hand of government should move with extreme caution into the premises of private citizens.

The members of the Committee have such a deep and abiding faith in our fellowmen that we believe the great majority of the homeowners in this All-America City are and would be willing to discontinue any noises disturbing to people worshipping in a house of God if apprised of the fact and if asked to do so.

There is, in our opinion, in addition to the possible impropriety of an ordinance regulating a single kind of noise on private property, a serious question as to the City's power to enact such an ordinance.

For the reasons stated, therefore, we are not recommending the preparation of an ordinance.

S/ P. S. Sikes, Chairman

The monthly report of the Street Department for the month of May, 1959 was received and placed on file.

Councilman Griffith nominated Mr. Frank Southern for re-appointment on the Metropolitan School Board. There being no further nominations, upon a roll call vote Mr. Southern was unanimously elected.

Councilman Van Meter moved, seconded by Councilman Griffith that the claims presented for payment June 17, 1959 be allowed as submitted; motion unanimously carried.

Meeting adjourned.

  
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Presiding Officer

ATTEST:

  
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Clerk-Treasurer

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