

## REGULAR MEETING

Tuesday, February 7, 1956

THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, met in the Council Chamber in City Hall, on Tuesday, February 7, 1956, at the hour of seven-thirty o'clock (7:30 P.M.) in regular session, with Mayor Lemon presiding. The meeting was opened with a prayer by Rev. Robert J. Hazen.

Members present: Cook, Chitwood, Engleman, Miller, Simpson, Sikes, and Var Meter

Members absent: None

The minutes of the last meeting were approved as read on motion of Councilman Miller, seconded by Councilman Chitwood.

Mayor Lemon expressed his appreciation for the number of persons attending the meeting, and asked for remonstrances and objections for those affected by public improvements, specifically in connection with the advertised public hearing on Ordinance No. 1, 1956. In answer to Mayor Lemon's question, the Clerk-Treasurer advised she had Proof of Publication of the notice of hearing in both the local newspapers.

Mr. Arthur E. Kirtley, Assistant Vice President of The First Boston Corporation, Chicago, was introduced as a representative of the syndicate which bought the Sewer Works Revenue Bonds, August, 1955. Mr. Kirtley asked that his letter addressed to Mayor Lemon under date of January 4, 1956, be read to the Council as follows:

"The Honorable Thomas Lemon  
Mayor of the City of Bloomington  
Bloomington, Indiana

January 4, 1956

Dear Sir: Under date of August 23, 1955, our firm headed an underwriting group, which at competitive bidding purchased \$2,000,000 par value City of Bloomington, Indiana, Sewage Works Revenue Bonds, maturing 1958-94.

All bidders, at a date well in advance of the sale, were furnished with a 46-page Official Statement containing; resolutions, ordinance, sewage rates, connection charges, and other data which in total represented a complete file on which to base the credit and market value of these revenue bonds.

Our bid was the winner at an interest cost of 3.235%, topping the second bid of 3.297%, and that spread incidentally represented an interest savings of \$31,787 over the life of the bond issue--without any reference to other subordinated bids which ranged 3.32% to 3.37% interest cost.

The official information furnished to us was reproduced in presenting the bonds in our offering to investors.

One of the Institutional buyers, who reviewed our presentation and the official prospectus issued by the City of Bloomington resulting in his purchase of \$200,000 of bonds, has written us expressing concern regarding suggestions made for the reduction of the new connection charge from \$242 to \$50. This has not arrived in published form at our office, so we are writing you merely on the above mentioned report coming to us. If there is any basis to this report, may we take the liberty of suggesting the following to be our impressions for consideration before any official action is taken.

Cities, even with the fine standing of Bloomington, in creating an ordinance to support revenue bonds must live with it for the life of the bond issue, in this case the final maturity originally scheduled for 1994. Should anything occur reducing the original protection on which investors based their judgement, nothing beneficial in credit rating could result. On the contrary, there could be produced a negative reaction which would reflect on the City's borrowing status for many years to come. The standing of revenue obligations has a direct bearing on general obligation bonds of the same issuer among investors.

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The amount of this Sewage Revenue Obligation (\$2,000,000) would have looked extremely large and almost unbelievable for Bloomington no more than 20 years earlier than 1955 issuance. What the next 20 years will require is a matter of conjecture, but on the basis of history and forecast of future general developments it is not unreasonable to expect Bloomington to again be a borrower in whatever substantial amount is required at the time. Specifically, we invite attention to the restriction included in this bond ordinance which precludes additional sewer borrowing except as subordinated to these outstanding bonds of 1955.

It would seem to us that without questioning the solid base behind these bonds; i.e., the legal commitment to maintain rates sufficient - anything altering basic recent impressions of the investors regarding protective acts and covenants might have an unfortunate effect, and we are sure that Bloomington should do everything to safeguard its permanent credit future.

Respectfully yours,  
S/Arthur E. Kirtley  
Asst. Vice Pres."

AEK/fb

Mayor Lemon then asked that his letter to Mr. Kirtley dated January 31, 1956, be presented to the Council and a letter from Consoer, Townsend, and Associates to Mayor Lemon dated January 24, 1956, be presented to the Council:

"The First Boston Corporation  
231 South LaSalle Street  
Chicago, Illinois

January 31, 1956

Attention: Mr. Arthur E. Kirtley  
Assistant Vice President

Dear Mr. Kirtley: I can certainly appreciate the interest of your firm in any reference to the \$2,000,000.00 bond issue consummated for the purpose of paying for the Bloomington Sewer Improvement program of 1955. We realize that your firm sold the bonds on representations furnished by the City of Bloomington and substantiated by qualified and competent engineers and bond attorneys. We agree that your clients should have first consideration in any changes which might affect their investment. However, grave mistakes were made.

First, let me say that no one, either inside or outside the City of Bloomington, Indiana, is more interested than I in safeguarding and even improving the permanent credit future of the City of Bloomington. With that thought in mind, I would like to recite to you certain phases of the program and point out a few facts that probably were not brought to your attention prior to this time.

1. Our first concern, of course, and the only reason for borrowing money, was to rid the City of Bloomington of the health and sanitary hazards created by outhouses, septic tanks, and disease-producing wastes. In order to do this job we must, as fast as possible, make available to every person in our city the facilities necessary to carry away such refuse and destroy the filth, waste and unsanitary materials through treatment. Building and financing mains, laterals, and treatment plants is effective and profitable only to the point of usage. If our people are barred from hooking on to the system because of excessive hook-on charges we are creating a stumbling block to sanitary improvement, and a stumbling block to utility income which definitely would be a negative concern to the bondholder or investors.

In most of the areas which will be served by the sewer extension program, the residents and property owners, like myself, are ordinary working people who want a better, cleaner, and more sanitary and healthful community for themselves and their children. In one respect they are exactly in accord with those people who are now being served by the sewer system. They all believe that what affects the health of any one area of the city affects the health of the community as a whole. Our people all want on the sewer system but they have financial and economic problems. Under the provision of the ordinance as it now stands (but which will be changed) the property owners and tax payers who would like to hook on the sewer system face the following costs and restriction --

1. The cost of running a lateral connection from their homes to the main in the street.

2. The cost of tearing up and rebuilding the street in front of their homes from the main to the property line (the city did not make provision to stub the mains in to the property lines as should have been done) plus the posting bond to insure the job).
3. The cost of installing plumbing fixtures and facilities in their homes.
4. An additional excessive cost for the privilege of hooking on the system of \$242.00 (originally set at \$450.00 but changed at my insistence and which publicly was admitted by former Mayor Kelly as a "Shot-in-the-Dark" guess).
5. In addition, if the property owner does not have the \$242.00 in cash, a lien is placed on the property until same is paid off in monthly installments.
6. Plus the necessary high monthly sewer service rate which was established in December 1954 and which became effective January 1, 1955. The rate itself was approved high enough to pay for the entire \$2,000,000 program plus all the other necessary costs, such as maintenance, depreciation, extensions, etc.

As you can readily see, the sum total of all the above has created a high wall or burden over which the normal property owner cannot easily get across. This fact in itself should be of great concern to the bondholders as it is to me and the people of Bloomington.

While we can't change the monthly sewer service rate (it is ample enough to carry all costs anyway) and while it is too late to have the services stubbed into the property line; and we can't help the property owner and prospective user build his lateral and install his plumbing facilities, we can provide, by ordinance, a reasonable hook-on charge of \$50.00 or less. This in itself will insure many hundreds of users within a very short time. The number of property owners able to hook on the system at \$50.00 is many times greater than the number of property owners willing and able to hook on to the system at \$242.00.

We must realize that as soon as the property owner is tied in to the system he starts paying a monthly service charge. The income possibilities, therefore, to the program and to the City of Bloomington is much greater with the \$50.00 hook-on charge. Even the bondholder will realize how much safer his investment will be under these conditions. The bondholder knows that many more people can purchase Fords and Plymouths than can buy Cadillacs. Likewise, he can understand that many more people will hook on our sewer system at Ford costs than possibly can hook on at Cadillac prices. In the final analysis, it is the monthly sewer service rate that really brings in the revenue, so we propose for the sake of our people and for the sake of the bondholder that we put a lot of people on the system fast at a reasonable charge and start the monthly revenue rolling in. Rather than producing a negative reaction, we will be creating a positive reaction as far as future credit is concerned.

NOW - a few more facts should be explained --

In December of 1954 the city administration passed an ordinance establishing sewer rates ample to finance the \$2,000,000 sewer program. As a matter of fact, the city administration promised the users and the people of Bloomington that no further increases in rates or charges would be needed or imposed. (This promise is printed in black and white in the bond prospectus.)

However, in August 1955, the city administration, contrary to the promise made, hurriedly passed another ordinance setting up a new charge of \$242.00 for the privilege of hooking on to the new sewer system. This action by the city administration was an illegal action because by state law it is necessary to advertise and hold public hearings before an ordinance, creating sewer charges, can be passed. The people of Bloomington (the users of the utility) did not get an opportunity to approve or remonstrate.

In effect, the ordinance establishing the \$242.00 hook-on charge was, and is, illegal and actually we don't really have a legal hook-on charge of any amount.

The ordinance which was introduced by this administration a few weeks ago,

and which has been published and advertised as per law, and which will be subject to a public hearing on February 7, was prepared, introduced and processed legally and when passed, will be pursuant to public law.

Attached to this letter you will find a letter and schedules from our consulting engineers, Consoer, Townsend and Associates of Chicago, Illinois, substantiating the contention made by myself as to the interests of the bondholder and as to the revenue and income accruing to the City of Bloomington on the basis of the \$50.00 hook-on charge as advocated by myself and as desired by the people of my city.

In closing, let me say that the credit of the city, and the welfare of the city, is reflected, not only in dollars and cents, but also by the human needs, the desires of the public for economic and sanitary improvement, and the ability of the user to pay, thereby creating usability and a broad base of revenue. As one who understands our needs and ability and as one who is sincerely and honestly concerned about our future growth, I am happy to present this information for your consideration and, I hope, your approval.

Yours very truly,  
CITY OF BLOOMINGTON  
THOS. L. LEMON  
Mayor"

TLL:sh

"Mayor Thomas L. Lemon  
City Hall Building  
Bloomington, Indiana

January 24, 1956

Dear Mayor Lemon: It was an extreme pleasure to have met with you, your new City Attorney, Mr. Leroy Baker, and your new City Engineer, Mr. Barry Doyle, in your office on January 10, 1956. The principal topic of discussion at that meeting had to do with a new ordinance establishing the amount of connection charges for connecting to the system of sanitary sewers.

Having worked with you eight years ago on the water supply problem and the first Water Revenue Bond Issue of \$1,750,000, I know that you recognize the importance of accurately and realistically forecasting income, operating and maintenance expenses, depreciation and fixed charges, as may be covered by specific bond covenants.

The sewer improvement program consists of three phases of improvements: (1) trunk line sewers and pumping stations; (2) local or lateral sewers on all unsewered streets within the corporate limits; and, (3) additions to the sewage treatment plant facilities. Your Engineers' estimate of total project cost was \$2,000,000 and the cost was to be paid for by the issuance of Sewer Revenue Bonds.

The operation and maintenance of the sanitation utility, together with financing costs and other fixed costs, was to be satisfied from income derived from a connection charge for the new customers, and from a sewer charge levied against the volume of water used.

The connection charge was developed by the prior administration and your Engineers, and contemplated that substantially 50% of all potential users would connect to the system during the period 1955 to 1965. Based upon past experience of the Sanitation Department, it was determined that the average annual charge would approximate \$24.00 for sewage discharged to the system.

The charge of \$242.00, or \$6.73 per month for 36 months, represented the average cost per potential user based upon actual construction bids without engineering, legal, and financial costs added thereto. On that premise and the rate increase passed, we, the Engineers for the City, developed the financial figures incorporated in the bond prospectus and presumably that form the background data for the sale of the \$2,000,000 in Sewer Revenue Bonds at an average interest rate of 3.23514%.

You have indicated to us that a change in the connection charge from \$242.00, or \$6.73 per month for 36 months, to a flat charge of \$50.00 per connection will attract many more customers to the system, and that the income from this connection charge, together with the annual income from the additional users, will produce substantially the same or a greater income.

We have not made a canvass of the potential users of the proposed facilities. We have relied in the past and will have to rely in the future, in the absence of any actual canvass, upon the judgment of the City Officials and citizens and their realistic appraisal of existing conditions. The potential customers suggested by you upon which our revised forecast has been made is as follows:

<u>Year</u>	<u>Connections</u>	<u>Year</u>	<u>Connections</u>
1956	250	1961	100
1957	500	1962	75
1958	150	1963	75
1959	150	1964	75
1960	100	1965	25

We have prepared a complete analysis and attach hereto the following Tables:

Income Analysis Connection Charges and Services - 1 sheet  
 Schedule of Estimated Flow of Funds - 3 sheets - Table #2  
 Table #1 - Bond Schedule Actual Interest Charges

The results of our engineering and financial analysis predicated upon the hypothesis set forth by you is as follows.

The income from connection charges and the use of the sewer system for the years 1955 to 1970 inclusive, as set forth in the Table, reflects a net increase of \$57,334 for said period, and the annual income for the years 1971 to 1994 have been increased \$13,200. During the life of the bond issue the Improvement Fund, columns (m) and (n) Table #2, has increased from \$1,629,715 to \$2,005,629, and increase of \$375,914. This account will be further increased by \$387,102 as a result of the lower interest rate.

Respectfully submitted,  
 CONSOER, TOWNSEND AND ASSOCIATES  
 BY: SPaul H. Johnson, Partner"

PHJ/GV  
 Enc.

In response to questions Mayor Lemon acknowledged that it would be necessary to pass an ordinance for compulsory sewer connections. Also, it was established that the estimate of the number of connections anticipated under each of the connection charges was made by the Board of Public Works and Safety of the administrations proposing the different connection charges.

There was considerable discussion as to the question of the legality of Ordinance No. 16, 1955, and it was decided that there might be a difference in the interpretation of the law. On motion of Councilman Sikes, Ordinance No. 1, 1956, was presented on second reading. After second reading, Councilman Engelman requested a short recess for a conference between the Council members, Mr. Paul Johnson of Consoer, Townsend, and Associates, and Mr. Arthur E. Kirtley of The First Boston Corporation. After the recess, Councilman Sikes moved the adoption of Ordinance No. 1, 1956. Councilman Simpson seconded motion. After admonition of Mayor Lemon to the Council to remember their duty to the City of Bloomington, a roll-call vote was taken and the response was: Ayes: Chitwood, Sikes, and Simpson; Nos: Cook, Engelman, Miller, and Van Meter. Ordinance No. 1, 1956, was declared defeated.

Mr. Donald Rogers appeared on behalf of Vernon, Belva, and Jemina Dutcher, concerning their petition in Monroe Circuit Court for vacation of an alley running north and south from Hunter to Atwater Avenue between Highland Avenue and Ballentine Road, and requested that the City Attorney be instructed to not oppose this action in Circuit Court. On motion of Councilman Miller, seconded by Councilman Van Meter, this request was referred to the Committee on Public Works for investigation and report at the next meeting.

A petition was received from residents of the Fairview School community requesting one police patrolman at Fairview School before and after school, substantial raise in pay of Bloomington Police Force, and more police on the City payroll. On motion of Councilman Sikes, seconded by Councilman Miller, the petition was referred to the Committee on Public Safety with instructions that the Committee get in touch with the Police Commissioners, and that the Chief of Police

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take immediate action in connection with the patrol at the school.

Mr. Eugene H. Bender, President of the Park Board, presented to the Council a written report of the Park Department for the year, 1955, as prepared by Gilbert Knight, Superintendent. On motion of Councilman Engelman, seconded by Councilman Miller, the report was accepted and Mr. Bender requested to come to another meeting of the Council for question and discussion.

Councilman Simpson reported for the Committee on Public Works that an investigation had been made of the request for a street light at the intersection of East Fourth Street and Hillsdale Drive. He advised the Committee recommended that this street light be installed 100 feet south of the intersection of Fourth and Hillsdale. One of the residents of this area protested to the Council the installation of a light at this intersection. On motion of Councilman Miller, seconded, action on the petition was deferred until the next meeting of the Council to give residents of the area an opportunity to be heard pro and con on this matter. It was pointed out that the City's contract with the Public Service Company of Indiana, Inc. in connection with new installation of street lights provides that the City pay for cost of the installation that exceeds revenue estimate for five years.

The Campus Cab Company submitted application for 1956 license which was referred to the City Attorney for investigation and approval on motion of Councilman Miller, seconded by Councilman Van Meter.

On motion of Councilman Van Meter, duly seconded, the Council approved reports submitted for the month of January, 1956, as follows:

Bernard Glover, Fire Chief  
 Raymond Richardson, Street Commissioner  
 Dr. H. D. Shell, Secretary to Board of Health  
 J. D. Ellis, Sanitation Superintendent  
 Lester Thornton, Water Superintendent  
 Roy E. Doub, Plumbing Inspector

Mayor Lemon reported to the Council the State Highway Department is proceeding with the change to one-way traffic on Walnut and College Avenue and has asked the City to allow a trial period of six months.

On motion of Councilman Cook, seconded by Councilman Chitwood, the claims presented for payment February 8, 1956, were approved by the Council.

On motion of Councilman Miller, seconded by Councilman Cook, the Council adopted a Resolution sending condolences to Mrs. Emmett Kelly because of the death of her husband who completed his term as Mayor of the City of Bloomington, December 31, 1955, as follows:

"RESOLUTION

WHEREAS, the late EMMETT KELLY was born near Bloomington in 1892; was a staunch supporter of the Christian principles of life; an exemplary husband and father; a loyal friend to many; a cooperative and successful business man in Bloomington; and Mayor of our City from 1952 to 1955; and

WHEREAS, at this time of loss to not only his family, but also to the entire community, the Mayor and Common Council of Bloomington wish to express their recognition of the services and achievements of this outstanding citizen; now, therefore,

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, that they extend their sincere condolences to the family and the many associates whom he has served so well, and that this Resolution be made a matter of record and that an official copy be forwarded to his family.

Adopted this seventh day of February, 1956.

S/Thos. L. Lemon, Mayor

ATTEST:

S/Esther F. Leavitt, Clerk-Treasurer"

On motion duly made and seconded, the meeting adjourned.

ATTEST:

Esther F. Leavitt  
 Clerk-Treasurer

Thos. L. Lemon  
 Presiding Officer