

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, APRIL 6, 1992**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:08 p.m. on Monday, April 6, 1992, with Councillor SerVaas presiding.

Councillor Borst led the opening prayer and invited all present to join him in the Pledge of Allegiance to the Flag.

ROLL CALL

The President instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

29 PRESENT: Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Giffin, Gilmer, Golc, Hinkle, Howard, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, Schneider, SerVaas, Shambaugh, Short, Smith, West, Williams

A quorum of twenty-nine members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

Councillor Moriarty introduced Jackie Martin and Lula Duerson from the Family Community Leadership Training Institute.

Councillor Ruhmkorff recognized a group of Korean War veterans who fought in the Chosin Reservoir Battle.

Councillor Beadling recognized the groups who were present in support of the ordinance concerning open alcoholic beverage containers in motor vehicles.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA.

Ladies and Gentlemen:

You are hereby notified that REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, April 6, 1992, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Beurt SerVaas
Beurt SerVaas, President
City-County Council

March 23, 1992

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA.

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in The Indianapolis NEWS and The Indianapolis COMMERCIAL on Thursday, March 26, 1992, a copy of NOTICE TO TAXPAYERS of a Public Hearing on Proposal No. 157, 1992, to be held on Monday, April 6, 1992, at 7:00 p.m., in the City-County Building.

Respectfully,
s/Beverly S. Rippy
Beverly S. Rippy, City Clerk

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have this day approved with my signature and delivered to the Clerk of the City-County Council, Beverly S. Rippy, the following ordinances and resolutions:

FISCAL ORDINANCE NO. 13, 1992, amending the City-County Annual Budget for 1992 (City-County Fiscal Ordinance No. 61, 1991) appropriating an additional \$425,328 in the Metropolitan Emergency Communication Fund (Enhanced 9-1-1) for purposes of the Metropolitan Emergency Communications Agency and reducing the unappropriated and unencumbered balance in the Metropolitan Emergency Communication Fund (Enhanced 9-1-1) Fund.

SPECIAL RESOLUTION NO. 16, 1992, honoring the Indianapolis Fire Department.

SPECIAL RESOLUTION NO. 17, 1992, approving a change in ownership of the cable television franchise now owned by American Cablevision of Indianapolis.

SPECIAL RESOLUTION NO. 18, 1992, approving a public purpose grant to Indiana University-Purdue University in the amount of \$75,000 for the purpose of financing educational access cable television programming.

SPECIAL RESOLUTION NO. 19, 1992, approving the leasing of certain real estate of the Department of Parks and Recreation.

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GENERAL RESOLUTION NO. 1, 1992, approving the issuance of City of Indianapolis Sanitary District Refunding Bonds of 1992 in an amount not to exceed Twenty-Five Million Dollars (\$25,000,000).

GENERAL ORDINANCE NO. 19, 1992, amending the Code by updating the county corrections fund.

Respectfully,
s/Stephen Goldsmith
Stephen Goldsmith

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF JOURNALS

President SerVaas called for additions or corrections to the Journal of March 16, 1992. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS AND COUNCIL RESOLUTIONS

Councillor Dowden asked for a moment of silence in memory of Major Joe Ernst, Marion County Sheriff's Department.

The President said that Proposal No. 170, 1992 will be heard as soon as the whole group to be honored arrives.

PROPOSAL NO. 171, 1992. This proposal, sponsored by Councillor Mullin, recognizes the University of Notre Dame and the Notre Dame Club of Indianapolis. Councillor Mullin read the resolution and presented a framed document to Tom Spencer, who expressed appreciation for the recognition. Councillor Mullin moved, seconded by Councillor Moriarty, for adoption. Proposal No. 171, 1992 was adopted by unanimous voice vote.

Proposal No. 171, 1992 was retitled SPECIAL RESOLUTION NO. 21, 1992 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 21, 1992

A SPECIAL RESOLUTION recognizing the University of Notre Dame and the Notre Dame Club of Indianapolis.

WHEREAS, the University of Notre Dame du Lac, a world class university in Notre Dame, Indiana, was founded 150 years ago in 1842 by Father Edward Sorin; and

WHEREAS, the University of Notre Dame Club of Indianapolis began in 1927 to put forward the virtues of leadership, commitment and community spirit; and

WHEREAS, since that time the Club has created community service opportunities for students through its Summer Student Project; has offered hundreds of thousands of dollars in scholarship monies to Notre Dame students from the Indianapolis area; and, through the Club's new First Saturday of Service Program, has helped the Urban Parish Cooperative in its commitment to the downtown, local neighborhoods and to urban church activities; and

WHEREAS, for a century and a half, the University of Notre Dame has offered to Indianapolis some of this community's finest sons and daughters; and

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WHEREAS, the University of Notre Dame Club of Indianapolis earned the prestigious Notre Dame Alumni Association's "National Club of the Year Award" in 1991; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council congratulates the University of Notre Dame during its Sesquicentennial Year.

SECTION 2. The City of Indianapolis appreciates the efforts, hard work and accomplishments of the University of Notre Dame Club of Indianapolis.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 172, 1992. This proposal, sponsored by Councillors Beadling, Giffin, Gilmer and Schneider, recognizes the Indianapolis International Airport. Councillor Giffin read the resolution and presented copies of the document to the members of the Indianapolis Airport Authority Board. Michael Wells, Chairman of the Board, expressed appreciation for the recognition. Councillor Giffin moved, seconded by Councillor Beadling, for adoption. Proposal No. 172, 1992 was adopted by unanimous voice vote.

Proposal No. 172, 1992 was retitled SPECIAL RESOLUTION NO. 22, 1992 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 22, 1992

A SPECIAL RESOLUTION recognizing the Indianapolis International Airport.

WHEREAS, in 1927, city officials and local businessmen studied airports throughout the United States and Europe to design a new state-of-the-art airport for Indianapolis; and

WHEREAS, 900 acres was purchased west of town on the Pennsylvania Railroad and U.S. Highway 40, and in 1931 what is now named Indianapolis International Airport was dedicated; and

WHEREAS, the airport was modernized and expanded during the decades to where now it is over 5,000 acres, has four reliever airports and a downtown heliport, is a hub for Federal Express and the U.S. Postal Service Express Mail, and hosts the Greater Indianapolis Foreign Trade Zone and the new United Airlines maintenance facility; and

WHEREAS, during those sixty years, Indianapolis International Airport has grown from service by one airline to seventeen airlines, from five thousand passengers to over five million passengers a year; and

WHEREAS, the airport is governed by an independent municipal corporation named the Indianapolis Airport Authority, and it uses no local property tax dollars; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council commends the foresight, professional skill and dedication of all those who have guided the Indianapolis International Airport during the past sixty years.

SECTION 2. The Council challenges Indianapolis Airport Authority Board Members Michael W. Wells, Gordon St. Angelo, Lawrence A. O'Connor, Jr., Murvin S. Enders and Betty J. Johnson, the Advisory Board members, Executive Director Daniel C. Orcutt, and each of the three hundred airport employees to keep alive the sixty year old vision that a great city deserves a great airport.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

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PROPOSAL NO. 173, 1992. This proposal, sponsored by Councillor Coughenour, recognizes William G. Shassere. Councillor Coughenour read the resolution and presented a framed document to Mr. Shassere, who expressed appreciation for the recognition. Councillor Coughenour moved, seconded by Councillor West, for adoption. Proposal No. 173, 1992 was adopted by unanimous voice vote.

Proposal No. 173, 1992 was retitled SPECIAL RESOLUTION NO. 23, 1992 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 23, 1992

A SPECIAL RESOLUTION recognizing William G. Shassere.

WHEREAS, William G. Shassere, a native of Terre Haute, Indiana, honorably served the citizens of Indianapolis from October, 1981, through March, 1992, as Department of Public Works Training Center Manager, Deputy Director and as Director; and

WHEREAS, Mr. Shassere developed an extensive amount of training curriculum on supervisory, technical and computer skills, and taught hundreds of Department of Public Works employees in these subjects; and

WHEREAS, as Director of the department, Mr. Shassere spearheaded the effort of instilling Total Quality Service customer responsiveness by all workers, had a high degree of personal compassion for all of his employees, and demonstrated exceptional leadership in providing basic environmental services to the residents of Indianapolis; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council recognizes and thanks William G. Shassere for providing cost effective basic environmental services to this community while serving in leadership positions of the Indianapolis Department of Public Works.

SECTION 2. The Council commends Mr. Shassere for his positive influence upon the professional lives of his employees during his many years as an effective teacher and as a wise mentor.

SECTION 3. The Council wishes Bill Shassere and his wife June many future years of good health and much happiness, a strong wind to their backs during their travels, and many fish to fill Bill's fishing net.

SECTION 4. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 5. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 107, 1992. Councillor Schneider reported that the Municipal Corporations Committee heard Proposal No. 107, 1992 on April 2, 1992. The proposal reappoints Henry C. Bock, M.D. to the Health & Hospital Corporation. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Schneider moved, seconded by Councillor Hinkle, for adoption. Proposal No. 107, 1992 was adopted by a unanimous voice vote.

Proposal No. 107, 1992 was retitled COUNCIL RESOLUTION NO. 36, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 36, 1992

A COUNCIL RESOLUTION reappointing Henry C. Bock, M.D. to the Health & Hospital Corporation.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Health & Hospital Corporation, the Council appoints:

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Henry C. Bock, M.D.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1995. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

PROPOSAL NO. 108, 1992. Councillor Schneider reported that the Municipal Corporations Committee heard Proposal No. 108, 1992 on April 2, 1992. The proposal appoints Philip D. Pecar to the Health & Hospital Corporation. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Schneider moved, seconded by Councillor O'Dell, for adoption. Proposal No. 108, 1992 was adopted by a unanimous voice vote.

Proposal No. 108, 1992 was retitled COUNCIL RESOLUTION NO. 37, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 37, 1992

A COUNCIL RESOLUTION appointing Philip D. Pecar to the Health & Hospital Corporation.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Health & Hospital Corporation, the Council appoints:

Philip D. Pecar

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1994. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

PROPOSAL NO. 170, 1992. This proposal, sponsored by Councillor Black, recognizes the Crispus Attucks Athletic Association. Councillor Black introduced Shirl Gilbert, Superintendent of Indianapolis Public Schools, who read the resolution. Councillor Black presented framed documents to Alongo Watford, Ellis Diggs, Danny Saunders, Glenn Howard, Earl Donaldson, Auston Smith, Harry Petry, Larry Dunvall, and Ray Crowe. Mr. Westford, President of the Crispus Attucks Athletic Association, expressed appreciation for the recognition. Councillor Black moved, seconded by Councillor Howard, for adoption. Proposal No. 170, 1992 was adopted by unanimous voice vote.

Councillors Giffin and Boyd voiced their admiration for the Crispus Attucks Athletic Association and their support for this resolution.

Proposal No. 170, 1992 was retitled SPECIAL RESOLUTION NO. 20, 1992 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 20, 1992

A SPECIAL RESOLUTION recognizing the Crispus Attucks Athletic Association.

WHEREAS, Crispus Attucks was an all-colored Indianapolis high school established in 1927 and named after a Black Revolutionary War Hero; and

WHEREAS, the school was only admitted to compete in Indiana High School Athletic Association games in 1942, but since that time has produced several outstanding athletes; and

WHEREAS, Attucks' 1955 basketball team was the first-ever state championship team from Indianapolis Public Schools; and

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WHEREAS, for the past twenty years some of the schools former athletes and friends in the Crispus Attucks Athletic Association have quietly and generously donated untold man hours and money to the school, bought books, college scholarships, Little League Baseball, underwrote NAACP memberships, bought football uniforms, gave \$20,000 and historic items to the Indiana High School Basketball Hall of Fame and have been active in countless other constructive activities; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council recognizes the Crispus Attucks Athletic Association for their dedication to their alma mater and to the community.

SECTION 2. The Council encourages the Crispus Attucks High School Athletic Association to continue their work in enhancing the quality of life for future generations of scholars and athletes.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NOS. 128, 129, 130, 131, 132, 133 and 135, 1992. Councillor Borst asked for consent to vote on these seven appointments together. Consent was given. PROPOSAL NO. 128, 1992. The proposal reappoints Michael Rodman to the Metropolitan Development Commission. PROPOSAL NO. 129, 1992. The proposal reappoints Randolph L. Snyder to the Metropolitan Development Commission. PROPOSAL NO. 130, 1992. The proposal reappoints Alan Retherford to the Metropolitan Board of Zoning Appeals Division I. PROPOSAL NO. 131, 1992. The proposal reappoints Joanna Walker to the Metropolitan Board of Zoning Appeals Division I. PROPOSAL NO. 132, 1992. The proposal reappoints Mark A. Gibson to the Metropolitan Board of Zoning Appeals Division II. PROPOSAL NO. 133, 1992. The proposal reappoints Walter Stephen Johnes to the Metropolitan Board of Zoning Appeals Division II. PROPOSAL NO. 135, 1992. The proposal reappoints Mary Jane Klepek to the Metropolitan Board of Zoning Appeals Division III. Councillor Borst reported that the Metropolitan Development Committee heard these proposals on March 17, 1992. By a 5-0 vote, the Committee reported Proposal Nos. 128, 129, 130 and 131, 1992 to the Council with the recommendation that they do pass. By a 6-0 vote, the Committee reported Proposal Nos. 132, 133 and 135, 1992 to the Council with the recommendation that they do pass. Councillor Borst moved, seconded by Councillor McClamroch, for adoption. Proposal Nos. 128, 129, 130, 131, 132, 133 and 135, 1992 were adopted by unanimous voice vote.

Proposal No. 128, 1992 was retitled COUNCIL RESOLUTION NO. 38, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 38, 1992

A COUNCIL RESOLUTION reappointing Michael Rodman to the Metropolitan Development Commission.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Development Commission, the Council appoints:

Michael Rodman

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1992. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

Proposal No. 129, 1992 was retitled COUNCIL RESOLUTION NO. 39, 1992 and reads as follows:

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CITY-COUNTY COUNCIL RESOLUTION NO. 39, 1992

A COUNCIL RESOLUTION reappointing Randolph L. Snyder to the Metropolitan Development Commission.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Development Commission, the Council appoints:

Randolph L. Snyder

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1992. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

Proposal No. 130, 1992 was retitled COUNCIL RESOLUTION NO. 40, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 40, 1992

A COUNCIL RESOLUTION reappointing Alan Retherford to the Metropolitan Board of Zoning Appeals Division I.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals Division I, the Council appoints:

Alan Retherford

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1992. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

Proposal No. 131, 1992 was retitled COUNCIL RESOLUTION NO. 41, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 41, 1992

A COUNCIL RESOLUTION reappointing Joanna Walker to the Metropolitan Board of Zoning Appeals Division I.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals Division I, the Council appoints:

Joanna Walker

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1992. The person appointed by this resolution shall serve at the pleasure of the Council and until her respective successor is appointed and has qualified.

Proposal No. 132, 1992 was retitled COUNCIL RESOLUTION NO. 42, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 42, 1992

A COUNCIL RESOLUTION reappointing Mark A. Gibson to the Metropolitan Board of Zoning Appeals Division II.

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BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals Division II, the Council appoints:

Mark A. Gibson

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1992. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

Proposal No. 133, 1992 was retitled COUNCIL RESOLUTION NO. 43, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 43, 1992

A COUNCIL RESOLUTION reappointing Walter Stephen Johnes to the Metropolitan Board of Zoning Appeals Division II.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals Division II, the Council appoints:

Walter Stephen Johnes

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1992. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

Proposal No. 135, 1992 was retitled COUNCIL RESOLUTION NO. 44, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 44, 1992

A COUNCIL RESOLUTION reappointing Mary Jane Klepek to the Metropolitan Board of Zoning Appeals Division III.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals Division III, the Council appoints:

Mary Jane Klepek

SECTION 2. The appointment made by this resolution is for a term ending December 31, 1992. The person appointed by this resolution shall serve at the pleasure of the Council and until her respective successor is appointed and has qualified.

PROPOSAL NO. 147, 1992. Councillor O'Dell reported that the Parks and Recreation Committee heard Proposal No. 147, 1992 on April 2, 1992. The proposal approves the Mayor's appointment of Leon Edward Younger as Director of the Department of Parks and Recreation for a term ending December 31, 1992. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor O'Dell moved, seconded by Councillor Shambaugh, for adoption. Proposal No. 147, 1992 was adopted by a unanimous voice vote. Councillor O'Dell introduced Mr. Younger.

Proposal No. 147, 1992 was retitled COUNCIL RESOLUTION NO. 45, 1992 and reads as follows:

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CITY-COUNTY COUNCIL RESOLUTION NO. 45, 1992

A COUNCIL RESOLUTION approving the Mayor's appointment of Leon Edward Younger as Director of the Department of Parks and Recreation for a term ending December 31, 1992.

WHEREAS, pursuant to IC 36-3-3-8 and Section 2-142 of the "Code of Indianapolis and Marion County, Indiana", a mayoral appointment of the Director of the Department of Parks and Recreation is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Leon Edward Younger to serve as Director of the Department of Parks and Recreation at his pleasure for a term ending December 31, 1992; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Leon Edward Younger is approved and confirmed by the City-County Council to serve as Director of the Department of Parks and Recreation at the pleasure of the Mayor for a term ending December 31, 1992.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 152, 1992. Councillor Schneider reported that the Municipal Corporations Committee heard Proposal No. 152, 1992 on April 2, 1992. The proposal reappoints David F. McNamar to the Indianapolis-Marion County Public Library Board. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Schneider moved, seconded by Councillor Beadling, for adoption. Proposal No. 152, 1992 was adopted by a unanimous voice vote.

Proposal No. 152, 1992 was retitled COUNCIL RESOLUTION NO. 46, 1992 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 46, 1992

A COUNCIL RESOLUTION reappointing David F. McNamar to the Indianapolis-Marion County Public Library Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Indianapolis-Marion County Public Library Board, the Council appoints:

David F. McNamar

SECTION 2. The appointment made by this resolution is for a term ending April 16, 1996. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

The President stated that Proposal No. 33, 1992 would be next on the agenda.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 33, 1992. Councillor Curry reported that the Rules and Public Policy Committee heard Proposal No. 33, 1992 on February 4 and March 24, 1992. The proposal, sponsored by Councillor Beadling, amends Chapter 29 of the Code by adding a new Article IX concerning open alcoholic beverage containers in motor vehicles. Councillor Curry stated that the proposal declares that an officer would have probable cause to stop a vehicle if someone was seen taking a drink from a container and to determine whether or not it was an alcoholic container as defined in state law. A first penalty could result in a \$50 fine for

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the operator of the car and/or passengers. By a 6-0-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Curry moved, seconded by Councillor Beadling, for adoption.

Councillor West voiced his support for Proposal 33, 1992 and stated that at times police need probable cause to stop people they suspect are drinking. This is an effort to keep people from drinking while driving.

Councillor Short moved, seconded by Councillor Howard, to amend Proposal No. 33, 1992 as follows:

- I. Strike Sec. 29-441 in its entirety.
- II. Strike the words "or passengers" in lines 3 and 4 of Sec. 29-442.
- III. Strike the lines in Section 2 referring to the penalty for violation of Sec. 29-441.
- IV. Renumber the remaining sections consecutively and conform any cross-references.

Councillor Short said that he does not think it is the City's job to punish 100 percent of the citizens for the 10 percent offenders.

Councillor Beadling spoke against this amendment because alcohol can easily be passed to the driver by a passenger. She wants no alcohol to be allowed in cars. She urged the Council to support the proposal as it came out of committee.

Councillor Golc asked Councillor Beadling if she has any statistics that show the effect of drinking on passengers while in a car and if there has been any data collected on the impact on the cities that have passed this ordinance.

Councillor Beadling said that she has no statistics. She asked Marion County Prosecutor, Jeffrey Modisett, to speak on this issue.

Mr. Modisett replied that it is difficult to get precise statistics on passengers because ordinarily, under the given law, those people are not stopped. There has not been enough time to collect data as to effect the passing of similar ordinances has had on communities. Mr. Modisett further said that he believes that passing the ordinance would also put pressure on the General Assembly to pass a similar law.

Councillor Coughenour said that she feels that the amendment would weaken the chance of any good coming out of this ordinance. The Council has to weigh two issues--the life and death issue and the right to drink issue; she believes the life and death issue is more important than the right to drink.

Councillor Jimison said that she believes it is the deterrent effect that this proposal addresses. If Councillor Short's amendment passes, a person can circumvent the law by passing an alcoholic beverage to a passenger. The Council has a choice, in her opinion, a temporary restriction of liberty versus an absolute taking of a life. She urged the Councillors to defeat this amendment and pass the proposal.

Councillor Gilmer stated that he questions the enforceability of this ordinance. Two weekends in May, Indianapolis has 250,000 people here for qualification weekends and many are not from Indiana. He wanted to know how this will be publicized.

Mr. Modisett replied that 26 other states have this law and many of those states have events that attract a similar number of people and it is just a matter of adjustment. People can be notified ahead of time and the public needs to be educated.

Councillor Ruhmkorff asked if everyone in a car would be arrested even a passenger who is not drinking.

Mr. Modisett replied that his understanding of the ordinance is that it applies to anyone who is observed with a container in his/her hands. Officers have to exercise discretion.

Councillor Hinkle called for the question on the amendment.

Councillor Short's motion passed by the following roll call vote; viz:

17 YEAS: Borst, Brents, Franklin, Gilmer, Golc, Howard, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, Shambaugh, Short, Smith, Williams
12 NAYS: Beadling, Black, Boyd, Coughenour, Curry, Dowden, Giffin, Hinkle, Jimison, Schneider, SerVaas, West

Councillor Hinkle stated that he could not agree more with the principal behind this legislation because, in his opinion, society for too long has tolerated and in many cases has encouraged drunk driving. However, he finds it difficult to support a law that has questionable enforceability and has been acknowledged from the outset as only "sending a message to the legislature". He believes in order to get drunk drivers off the road legislation has to be passed with mandatory fines and mandatory sentences that lenient judges cannot ignore and that make potential offenders think twice before they drive while drunk.

Councillor Franklin said that his constituents have called him and said that the ordinance goes too far. He said another issue that the Council might want to take a look at is the concurrent sale of gas and alcohol in service stations.

Councillor West moved to send Proposal No. 33, 1992, as amended, back to committee in order that the additional testimony on the effectiveness of this change can be evaluated by that committee. This motion was seconded by Councillor Golc. The motion failed by the following roll call vote; viz:

11 YEAS: Beadling, Black, Boyd, Coughenour, Dowden, Giffin, Golc, Jimison, O'Dell, Schneider, West
17 NAYS: Borst, Brents, Curry, Franklin, Gilmer, Hinkle, Howard, Jones, McClamroch, Moriarty, Mullin, Rhodes, SerVaas, Shambaugh, Short, Smith, Williams
1 NOT VOTING: Ruhmkorff

Councillor Howard moved the question, which was seconded by Councillor Rhodes. This motion passed by unanimous voice vote.

Proposal No. 33, 1992, as amended, was adopted on the following roll call vote; viz:

23 YEAS: Beadling, Black, Borst, Boyd, Brents, Curry, Dowden, Franklin, Giffin, Gilmer, Howard, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, SerVaas, Short, Smith, Williams

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6 NAYS: Coughenour, Golc, Hinkle, Schneider, Shambaugh, West

Proposal No. 33, 1992, as amended, was retitled GENERAL ORDINANCE NO. 22, 1992 and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 22, 1992

A GENERAL ORDINANCE amending Chapter 29 of the Code by adding a new Article IX, dealing with open alcoholic beverage containers in motor vehicles.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 29 of the Code of Indianapolis and Marion County, Indiana is hereby amended by adding a new Article IX as follows:

ARTICLE IX
OPEN ALCOHOLIC CONTAINERS IN MOTOR VEHICLES

Sec. 29-438. Legislative intent.

The past several sessions of the Indiana General Assembly have failed to enact state legislation that would prohibit open alcoholic beverage containers in motor vehicles. The Indianapolis-Marion County City-County Council, for the health and safety of the citizens of this community, do therefore adopt this article.

Sec. 29-439. Definitions.

For the purpose of this article, the following definitions shall apply:

- (1) "alcoholic beverage" means alcoholic beverage as defined in IC 7.1-1-3-5.
- (2) "container" means an alcoholic beverage container as defined in IC 7.1-1-3-13 and includes such containers from which the contents have been removed.
- (3) "motor vehicle" means a motor vehicle as defined in IC 9-13-2-105(a).
- (4) "recreational vehicle" means a recreation vehicle as defined in IC 9-13-2-150 that is registered and licensed as a recreational vehicle.

Sec. 29-440. Consumption by operator prohibited.

It is unlawful for the operator of a motor vehicle to consume an alcoholic beverage or have within his reach a container that has been opened, that has a broken seal, or from which some of the contents have been removed, at any time that the motor vehicle is being operated upon a public highway, street or alley within Marion County.

Sec. 29-441. Operation prohibited.

It is unlawful for any person operating a motor vehicle upon a public highway, street or alley in Marion County to knowingly keep or allow to be kept in any area of the motor vehicle that is accessible to the driver a container that has been opened, that has a broken seal, or from which some of the contents have been removed, except

- (1) Open alcoholic containers that are left over from any type of outing may be placed in the motor vehicle trunk, or if there is no trunk, the container must be placed farthest to the back of the motor vehicle and put into a closed box, bag or container, out of the reach of the driver or passengers, so that they are not able to consume the alcoholic beverage,
- (2) Licensed caterers may transport open containers as long as no human consumption occurs during transporting to and from the destination, and
- (3) Recreational vehicles and commercial vehicles such as limousines and charter buses are exempt from this section.

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Sec. 29-442. Enforcement and penalty.

(a) The first violation in any calendar year shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of the Revised Code of the Consolidated City and County.

(b) Any person who is convicted of violating the provisions of this article shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

Sec. 29-443. Container recycling defense.

It is a defense to any violation of this article that the container is in the motor vehicle for the purpose of recycling and not for consumption while in the vehicle. The person charged with violating this article shall bear the burden of establishing the fact that the open container was in the vehicle for the purpose of recycling.

SECTION 2. The Revised Code of the Consolidated City and County, specifically Section 103-302, be and is hereby amended by inserting the underlined text to read as follows:

Sec. 103-302. Schedule of Code Provisions and Penalties. The following code (or ordinance) provisions and respective civil penalties are designated for enforcement through the ordinance violations bureau:

<u>Code</u> <u>Section</u>	<u>Subject Matter</u>	<u>Civil</u> <u>Penalty</u>
4-149	Open burning	50.00
17-151	Sale of tobacco products without license - first offense	45.00
17-154	Prohibited distributions of tobacco products - first offense	45.00
17½-8	Littering on premises of another	45.00
21½-14	3rd False Alarm in calendar year	20.00
21½-14	4th False Alarm in calendar year	30.00
21½-14	5th through 7th False Alarm in calendar year	40.00
28-16	Parking prohibited for street repairs and cleaning	7.50
29-8	Pedestrian violations	7.50
29-27	Parking when temporarily prohibited	7.50
29-97	Display of unauthorized traffic controls	7.50
29-98	Interference with traffic control devices	7.50
29-123	Unlawful use of horn or sounding device	15.00
29-223	Unlawfully parked trailer	7.50
29-251	Unlawful parking near fire hydrant	7.50
29-252	Unlawful parking on sidewalk, in crosswalk, or adjacent yard	25.00
29-253	Unlawful parking in certain school areas	7.50
29-254	Unlawful manner of parking	7.50
29-255	No required lights on certain parked vehicles	7.50
29-256.1	Violation of handicapped parking restrictions	7.50
29-256.2	Unlawful parking in handicapped parking meter zone	7.50
29-257	Unloading perpendicular to curb without permit	7.50
29-258	Unlawful use of bus stops and taxicab stand	7.50
29-259	Unlawful use of passenger and loading zones	7.50
29-260	Unlawful parking adjacent to certain buildings	7.50
29-262	Unlawful parking for display for sale or advertising	7.50
29-263	Unlawful parking for more than 6 hours	7.50
29-264	Unlawful parking of commercial vehicles at night	7.50
29-265	Unlawful parking in alleys or on certain narrow streets	7.50
29-266	Unlawful parking in designated special parking areas	7.50
29-267	Parking on certain streets where prohibited at all times	7.50
29-268	Stopping, standing or parking on streets where prohibited at all times	7.50
29-269	Parking on certain streets where prohibited at all times on certain days	7.50
29-270	Parking on certain streets when prohibited at certain times on certain days	7.50
29-271	Stopping, standing or parking during prohibited hours on certain days on certain streets. If between hours of 6:00 a.m. - 9:00 a.m., 7:00 a.m. - 9:00 a.m., 3:00 p.m. - 6:00 p.m., 4:00 p.m. - 6:00 p.m.	25.00
29-272	Parking longer than permitted on certain streets at certain times on certain days	7.50
29-284	Parking in excess of time permitted in parking meter zone	7.50
29-291	Parking in meter zone when temporarily prohibited	7.50
29-297	Overtime parking in metered parking space	7.50
29-321	Unlawful parking during snow emergency	25.00

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29-335	Leaving taxicab unattended	7.50
29-336	Unlawful parking of bus or taxicab	7.50
29-337	Unlawful parking in certain mailbox zones	7.50
29-341	Unlawful stopping, standing or parking near fire hydrant	7.50
29-342	Unlawful obstruction of fire lane	7.50
29-398	Unlawful loading or unloading of private bus	7.50
29-400	Unlawfully stopping of food vendor vehicle	7.50
29-401	Violation of noise restriction on food vendors	7.50
29-403	Failure of food vending vehicle to display required warnings	7.50
29-403.2	Unlawful vending for other than curb side of vending vehicle	7.50
29-406	Operation of bicycle without required equipment	7.50
29-407	Unlawful operation of bicycle	7.50
29-424	Operation of unregistered bicycle	7.50
<u>29-440</u>	<u>Consumption or possession by operator of motor vehicle</u>	<u>50.00</u>
<u>29-441</u>	<u>Operating motor vehicle containing open alcoholic beverages</u>	<u>50.00</u>

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Coughenour asked for consent to explain her vote. Consent was given. She said that she feels the same way Councillor Hinkle does in that this ordinance is a gesture that makes some people feel good because they think they did something. She could not vote for this proposal because she believes it does not mean anything.

Councillor Golc said that he feels the same as Councillors Coughenour and Hinkle. He said this proposal is a bandage solution to the problem.

Councillor Beadling stated that she voted for the proposal because it is at least a start.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 158, 1992. Introduced by Councillor Giffin. The Clerk read the proposal entitled: "A Proposal for a SPECIAL RESOLUTION establishing a \$500 petty cash fund to be placed in the Controller's custody for the use of the Mayor's Office, Finance Division (Controller), Legal Division, Human Resources Division, and Central Purchasing Division"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 159, 1992. Introduced by Councillor Rhodes. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code concerning taxi fares for the 500-Mile Race"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 160, 1992. Introduced by Councillor Borst. The Clerk read the proposal entitled: "A Proposal for a SPECIAL RESOLUTION approving the amounts, locations and programmatic operation of certain projects to be funded from Community Development Grant Funds"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 161, 1992. Introduced by Councillors Ruhmkorff, Dowden and O'Dell. The Clerk read the proposal entitled: "A Proposal for a SPECIAL RESOLUTION designating Vermont Street from Capitol Avenue to Alabama Street as the 'Korean War Memorial Way'"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 162, 1992. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a FISCAL ORDINANCE technically amending F.O. No. 3, 1992 (Proposal No. 9, 1992) by changing the fund from the County General Fund

to the County Grant Fund"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 163, 1992. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a FISCAL ORDINANCE appropriating \$669,808 for the Department of Public Works, Advanced Wastewater Treatment Division, to reconstruct and replace equipment and building facilities damaged by the fire at the Belmont plant"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 164, 1992. Introduced by Councillors SerVaas, Coughenour, Borst and Gilmer. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE establishing the White River Greenway Development Board"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 165, 1992. Introduced by Councillors SerVaas, Coughenour, Borst and Gilmer. The Clerk read the proposal entitled: "A Proposal for a COUNCIL RESOLUTION appointing members to the White River Greenway Development Board"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 166, 1992. Introduced by Councillor SerVaas. The Clerk read the proposal entitled: "A Proposal for a COUNCIL RESOLUTION approving the Mayor's appointment of Caterina Cregor as Deputy Mayor and Director of the Department of Administration for a term ending December 31, 1992"; and the President referred it to the Rules and Public Policy Committee and the Administration and Finance Committee.

PROPOSAL NO. 167, 1992. Introduced by Councillor Williams. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code concerning political contributions"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 168, 1992. Introduced by Councillors Borst, Jimison and West. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code concerning the board of public safety"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 169, 1992. Introduced by Councillor Short. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code by deleting a one-way traffic flow on McCrea Street between Georgia Street and Jackson Place, North Drive; and by authorizing intersection controls at Georgia Street and McCrea Street and at Jackson Place and McCrea Street (District 21)"; and the President referred it to the Transportation Committee.

PROPOSAL NO. 174, 1992. Introduced by Councillors Golc and Jimison. The Clerk read the proposal entitled: "A Proposal for a COUNCIL RESOLUTION commissioning a study of the Court Services Agency"; and the President referred it to the Public Safety and Criminal Justice Committee.

[Councillor Golc said that it was his intention to have this heard before the Whole Committee tonight. The President ruled that it would be referred to the Public Safety and Criminal Justice Committee. Councillor Golc acknowledged the people he had asked to

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come to testify on this proposal: Judge Goodman, Judge Kirsch, Judge Darden, Judge Lopossa and Prosecutor Modisett.]

PROPOSAL NO. 175, 1992. Introduced by Councillor West. The Clerk read the proposal entitled: "A Proposal for a COUNCIL RESOLUTION appointing W. Tobin McClamroch to the Urban Enterprise Association"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 176, 1992. Introduced by Councillor West. The Clerk read the proposal entitled: "A Proposal for a COUNCIL RESOLUTION appointing Ray R. Irvin to the Board of Parks and Recreation"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 177, 1992. Introduced by Councillor West. The Clerk read the proposal entitled: "A Proposal for a COUNCIL RESOLUTION appointing Jesse Moore to the Board of Parks and Recreation"; and the President referred it to the Parks and Recreation Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 178, 1992. Introduced by Councillor Borst. The Clerk read the proposal entitled: "REZONING ORDINANCE certified by the Metropolitan Development Commission on April 3, 1992". The Council did not schedule Proposal No. 178, 1992 for hearing pursuant to IC 36-7-46-608. Proposal No. 178, 1992 was retitled REZONING ORDINANCE NO. 31, 1992 and is identified as follows:

REZONING ORDINANCE NO. 31, 1992. 91-Z-124 PIKE TOWNSHIP
COUNCILMANIC DISTRICT #03.
6497 GUION ROAD (APPROXIMATE ADDRESS), INDIANAPOLIS.
MELVIN L. CUNNINGHAM, INC. requests the rezoning of 9.821 acres, being in the D-A District, to the I-2-S classification to provide for I-2-S industrial uses.

PROPOSAL NOS. 179-180, 1992. Introduced by Councillor Borst. The Clerk read the proposals entitled: "REZONING ORDINANCES certified by the Metropolitan Development Commission on April 3, 1992". Councillor Dowden moved that Proposal No. 179, 1992 be scheduled for a public hearing:

Mr. President:

I move that Proposal No. 179, 1992 (Rezoning Case 92-Z-5) be scheduled for a hearing before this Council at its next regular meeting on April 27, 1992 at 7:00 p.m. and that the Clerk read the announcement of such hearing and enter same in the minutes of this meeting.

/s/ William Dowden

By consent the motion was adopted. Proposal No. 179, 1992 is identified as follows:

92-Z-5 LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT #05.
9602 EAST 86TH STREET, INDIANAPOLIS.
DONALD and PATRICIA DAUGHERTY request the rezoning of 1.549 acres, being in the D-S District, to the D-1 classification to provide for the construction of a single-family residence.

The Council did not schedule Proposal No. 180, 1992 for hearing pursuant to IC 36-7-4-608. Proposal No. 180, 1992 was retitled REZONING ORDINANCE NO. 32, 1992 and is identified as follows:

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REZONING ORDINANCE NO. 32, 1992. 92-Z-13 WAYNE TOWNSHIP
COUNCILMANIC DISTRICT #18.
7445 ROCKVILLE ROAD (approximate address), INDIANAPOLIS.
YOSEMITE INVESTMENT, INC., by Duane O'Neal, requests the rezoning of 3.26 acres, being in the I-3-S
District, to the C-1 classification to provide for commercial development.

PROPOSAL NOS. 181-185, 1992. Introduced by Councillor Borst. The Clerk read the proposals entitled: "REZONING ORDINANCES certified by the Metropolitan Development Commission on April 3, 1992". The Council did not schedule Proposal Nos. 181-185, 1992 for hearing pursuant to IC 36-7-4-608. Proposal Nos. 181-185, 1992 were retitled REZONING ORDINANCE NOS. 33-37, 1992 and are identified as follows:

REZONING ORDINANCE NO. 33, 1992. 92-Z-17 LAWRENCE TOWNSHIP COUNCILMANIC
DISTRICT # 04.
7215 EAST 75TH STREET (approximate address), INDIANAPOLIS.
JUDITH E. OVERTURF requests the rezoning of 4.5353 acres, being in the SU-1 and DP Districts, to the SU-
1 classification to provide for a church and church school.

REZONING ORDINANCE NO. 34, 1992. 92-Z-18 WARREN TOWNSHIP
COUNCILMANIC DISTRICT #13.
719 SOUTH GERMAN CHURCH ROAD (approximate address), INDIANAPOLIS.
WAYNE A. SMITH requests the REZONING of 2 acres, being in the D-A District, to the SU-9 classification
to provide for the development of a fire station.

REZONING ORDINANCE NO. 35, 1992. 92-Z-20 CENTER TOWNSHIP
COUNCILMANIC DISTRICT # 16.
230 WEST MERRILL STREET (approximate address), INDIANAPOLIS.
CAPITAL IMPROVEMENT BOARD OF MANAGERS OF MARION COUNTY, INDIANA, by Mary E.
Solada, requests the rezoning of 0.85 acre, being in the I-3-U/RC District, to the CBD-2/RC classification
to provide for the development of a commercial parking lot.

REZONING ORDINANCE NO. 36, 1992. 92-Z-21 CENTER TOWNSHIP
COUNCILMANIC DISTRICT # 16.
320 WEST SOUTH STREET (approximate address), INDIANAPOLIS.
CAPITAL IMPROVEMENT BOARD OF MANAGERS OF MARION COUNTY, INDIANA, by Mary D.
Solada, requests the rezoning of 0.16 acre, being in the I-3-U/RC and CBD-2/RC Districts, to the CBD-2/RC
classification to provide for the development of a commercial parking lot.

REZONING ORDINANCE NO. 37, 1992. 92-Z-22 CENTER TOWNSHIP
COUNCILMANIC DISTRICT # 16.
309 SOUTH MISSOURI STREET (approximate address), INDIANAPOLIS.
CAPITAL IMPROVEMENT BOARD OF MANAGERS OF MARION COUNTY, INDIANA, by Mary D.
Solada, requests the rezoning of 0.35 acre, being in the I-3-U/RC District, to the CBD-2/RC classification
to provide for a commercial parking lot.

SPECIAL ORDERS - PUBLIC HEARING

Councillor Boyd recognized the group from the Witherspoon Performing Arts Center which is here in support of Proposal No. 157, 1992. Councillor Rhodes asked for consent to hear Proposal No. 157, 1992 at this time. Consent was given.

PROPOSAL NO. 157, 1992. Councillor O'Dell reported that the Parks and Recreation Committee heard Proposal No. 157, 1992 on March 26, 1992. The proposal approves certain public purpose grants for support of the arts. The proposal was amended in Committee to assure accountability by the groups receiving this funding, and that there will be a memorandum of understanding signed between the Council and the Arts Council. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

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Councillor Williams stated that she supports the arts, but she believes that this money should not come out of the Parks budget. She would rather see the funding in another organization's budget such as the Capital Improvement Board's.

The President said that this money was not originally taken from the Parks Department, it was put in the Parks Department budget for allocation, but over the years it has in effect become an integral part of the Parks Department budget.

Councillor Hinkle voiced his support of the arts, but he would like to see the organizations who receive the grant funding work with local high school students.

The President called for public testimony at 8:56 p.m. There being no one present to testify, Councillor O'Dell moved, seconded by Councillor Giffin, for adoption. Proposal No. 157, 1992, as amended, was adopted on the following roll call vote; viz:

27 YEAS: *Beadling, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Giffin, Gilmer, Golc, Hinkle, Howard, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Schneider, SerVaas, Shambaugh, Short, Smith, West, Williams*
2 NAYS: *Black, Ruhmkorff*

Proposal No. 157, 1992, as amended, was retitled GENERAL RESOLUTION NO. 2, 1992 and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 2, 1992

A GENERAL RESOLUTION approving certain public purpose grants for support of the arts.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The following grants totaling \$871,900 approved by Special Resolution No. 3, 1992 of the Board of Parks and Recreation, for support of the arts are approved for the following organizations in the amounts set opposite their respective names:

Indianapolis Symphony Orchestra	\$197,923
Indianapolis Museum of Art	148,671
The Children's Museum	137,807
WFYI TV/FM 90 (Channel 20)	81,942
Indiana Repertory Theatre	65,400
Indianapolis Opera	32,480
Indianapolis Ballet Theatre	32,408
Cathedral Arts	12,576
Indianapolis Civic Theatre	11,320
Indianapolis Art League	11,047
Total - Direct Support	\$731,574
Arts Indiana, Inc.	\$ 8,000
Dance Kaleidoscope	7,500
Eiteljorg Museum of American Indian and Western Art	7,500
Freetown Village, Inc.	6,713
Hoosier Salon Patrons Association	6,450
Indianapolis Arts Chorale	2,080
Indianapolis Chamber Orchestra	7,500
Indianapolis Children's Choir	7,000
Madame Walker Urban Life Center	7,000
Phoenix Theatre, Inc.	8,000
Starlight Musicals	6,500
Theatre on the Square	7,500
Very Special Arts Indiana	8,500

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Writer's Center of Indianapolis	7,000	
Young Audiences of Indiana, Inc.	8,500	
Total - General Operating Support		105,743
American Pianists Association	1,102	
Clowes Memorial Hall	3,750	
Edyvean Repertory Theatre	3,241	
Ensemble Music Society Indianapolis	3,250	
Indianapolis Dance Company	3,000	
New World Chamber Orchestra	1,950	
Stories, Inc.	3,500	
Witherspoon Performing Arts Center	1,000	
Total - Special Project Support		20,793
Arts Council of Indianapolis		<u>13,790</u>
Grand Total		\$871,900

SECTION 2. The Indianapolis City-County Council directs that the Arts Council of Indianapolis shall be the designated coordinating agency for city arts grants; and shall work closely and cooperatively with the Arts Services Section of the Recreation Division of the Indianapolis Department of Parks and Recreation and its Board, and with each arts organization. The Arts Council of Indianapolis shall prepare a City-County Council advisory list of all arts organizations to be funded in 1993 and each year thereafter, with emphasis upon identified competitive arts services to be rendered for arts grant monies received. Said Arts Services will be determined by and accountable under the terms and conditions of a memorandum of understanding agreement between the City of Indianapolis and the Arts Council of Indianapolis, as approved by the City-County Council.

SECTION 3. This resolution is adopted in satisfaction of the requirements of Sec 3.01(b) of the Annual Budget for 1992, Fiscal Ordinance No. 61, 1991.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 83, 1992. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 83, 1992 on March 25, 1992. The proposal appropriates \$44,100 for the Superior Court, Criminal Division, Probation Department, to lease additional office space. By a 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

The President called for public testimony at 8:59 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Schneider, for adoption. Proposal No. 83, 1992, as amended, was adopted on the following roll call vote; viz:

25 YEAS: *Beadling, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Giffin, Gilmer, Golc, Jimison, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, Schneider, SerVaas, Shambaugh, Short, Smith, West, Williams*

0 NAYS:

4 NOT VOTING: *Black, Hinkle, Howard, Jones*

Proposal No. 83, 1992, as amended, was retitled FISCAL ORDINANCE NO. 14, 1992 and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 14, 1992

A FISCAL ORDINANCE amending the City-County Annual Budget for 1992 (City-County Fiscal Ordinance No. 61, 1991) appropriating an additional Forty-four Thousand One Hundred Dollars (\$44,100) in the Supplemental Adult Probation Services Fund for purposes of the Superior Court, Criminal Division, Probation Department, and reducing the unappropriated and unencumbered balance in the Supplemental Adult Probation Services Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

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SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (11) of the City-County Annual Budget for 1992, be and is hereby amended by the increases and reductions hereinafter stated for purposes of the Superior Court, Criminal Division, Probation Department, to lease additional office space.

SECTION 2. The sum of Forty-four Thousand One Hundred Dollars (\$44,100) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

<u>SUPERIOR COURT, CRIMINAL DIVISION, PROBATION DEPARTMENT</u>	<u>SUPPLEMENTAL ADULT PROBATION SERVICES FUND</u>
3. Other Services and Charges .	<u>\$44,100</u>
TOTAL INCREASE	\$44,100

SECTION 4. The said additional appropriations are funded by the following reductions:

	<u>SUPPLEMENTAL ADULT PROBATION SERVICES FUND</u>
Unappropriated and Unencumbered Supplemental Adult Probation Services Fund	<u>\$44,100</u>
TOTAL REDUCTION	\$44,100

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The President stated that Proposal Nos. 3 and 5, 1992 will be discussed together since they both concern the public defender matter.

PROPOSAL NOS. 5 and 3, 1992. PROPOSAL NO. 5, 1992. The proposal appropriates \$200,000 for the Public Defenders Services Agency to pay the costs of adding two public defenders for each Criminal Court and two public defenders for the Juvenile Court. PROPOSAL NO. 3, 1992. The proposal creates a public defender board and agency. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal Nos. 5 and 3, 1992 on March 25, 1992.

Councillor Dowden stated that the public defender issue has been the subject of much discussion and debate over the years. The Council has tried in good faith to address this problem on behalf of the taxpayers. The Council is aware that the caseload is increasing in the criminal courts. As a result, there is an increase in the number of persons who claim to be unable to pay for an attorney after they have been charged with a crime and therefore under our constitution must be provided with legal defense. One of the solutions to this problem is the creation of an agency to provide public defender services. The Indianapolis Bar Association has conducted a study on public defenders and the Councillors have received a copy of the detailed study and the recommendations by the Bar Association. The consensus is that the public defenders should be independent of the judges. At present in Marion County, the Municipal Courts have their own public defender agency, the Superior Criminal Courts have a their own public defenders and the Juvenile Division has a different set of public defenders.

Councillor Dowden further said that earlier in the year when the issue was brought before the Public Safety and Criminal Justice Committee, it was recommended by the liaison from Superior Courts that a fact-finding task force be established that would delve into this more deeply and come back to the Committee with a report. A task force was established with the following members: Councillor Curry; Honorable Les Duvall, former state senator and also chairman of the Indianapolis Bar Association's public defender commission; Honorable John Barney, Superior Criminal Court; and Eric Koselke, an experienced public defender

and a former chief public defender in the Municipal Courts. They came back with a report of their findings and a recommendation on March 25, 1992. There appeared to be a great diversity in the use of public defenders in the court system and no uniformity in the collection of fees and various other costs within the court system. Hundreds of thousands of dollars, according to the task force's report, could be flowing into the General Fund if all those fees and costs were legally assessed.

Councillor Dowden said that Proposal No. 5, 1992 appropriates \$297,000 to hire more public defenders for 1992 for the Superior Courts, Criminal Division, and the Juvenile Division. The Committee has been told repeatedly that ultimately the judges can raise sufficient moneys to cover the costs of all public defenders. If the Council appropriates any more money to any agency, it will either be new moneys coming in or it will be money transferred out of other departments' budgets. The courts can generate well over \$300,000 this year by assessing the proper fees and costs in the court room. The report and recommendation of the task force is that the Council appropriate the \$297,000 that the judges have requested for all twelve months of 1992. The Committee amended Proposal No. 5, 1992 by reducing the amount to \$200,000, which should be sufficient on a prorated basis for the balance of 1992. The \$200,000 will be derived as follows: \$50,000 from the Auditor's budget and \$150,000 out of the funds that the judges can raise during the remainder of this year. By a 9-0 vote, the Committee reported the proposal to the Council with recommendation that it do pass as amended.

Councillor Dowden stated that Proposal No. 3, 1992 establishes a board and an agency for public defenders. The Indianapolis Bar Association recommends a board to oversee the public defenders for all of Marion County courts. Last year at budget time the Council agreed to create a Combined Public Defender Agency Fund, where all of the funds that are appropriated for public defenders are identified and isolated. The major area of disagreement with this proposal is whether it will be a board controlled by the judges. The Bar Association strongly recommended that it should not be controlled by the judges. Upon the recommendation of the task force a public defender board would be established composed of eight members--seven appointed and one member, the county auditor, serving ex officio. The seven members would be appointed as follows: one member nominated by the Superior Court, one member nominated by the Municipal Court, one member would be an attorney practicing law in Marion County, and four members would be appointed by the Council. By a 5-4 vote, the Committee reported the proposal to the Council with recommendation that it do pass as amended.

Councillor Curry stated that he would like to discuss two points: the first of which is the availability of funds. For example, the Supplemental Public Defender Fee--in Lake County, which has about one-fourth the number of cases that Marion County has, assesses Supplemental Fees totalling about \$50,000; in 1991 Marion County raised a total of \$1,967. Another area where money might be generated is cash bond retention. If someone is able to post a cash bond and still applies for and is assigned a public defender some portion of that cash bond could be used on a flat rate schedule to offset some of the costs. The biggest single point in terms of fund generation is that a public defender agency would have the ability to apply to sources such as the Criminal Justice Institute for grant funds. He believes there are six-figure amounts that would be available to a county the size of Marion County.

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Councillor Curry said that the second point that he would like to touch on deals with some statistics. The Committee learned that the number of people assigned to a public defender was 67% in some courts while in others it was as high as 87%. A twenty point spread, one-third spread in terms of percentage, would suggest that that would be outside the range of normal statistical distribution. This suggests that there needs to be a better definition of indigency for the entire court system.

The President asked if anyone from the public wished to testify on Proposal No. 5, 1992 at this time.

Judge Kirsch, Presiding Judge of the General Term of the Superior Court, testified that he thinks the judges have spoken in a clear fashion regarding their position on the need for additional public defenders. He said it is a shame that that need has gotten bogged down in consideration of an independent public defender agency. Those have always been separate issues. From the beginning of the year, it has been the unanimous view of the Superior Court judges that they would not negotiate and they would not compromise on the need for additional public defenders. A mandate order has been filed. That mandate order was specific in terms of its amount, which is not the amount that is in Proposal No. 5, 1992 and he did not want there to be any misunderstanding. The proposal for \$200,000 does not comply with the mandate order for \$267,000 for the remainder of 1992.

Councillor Borst asked what does \$267,000 provide for and how was it figured.

Judge Kirsch responded that it provides two additional public defenders for each of the six criminal superior courts, two for the drug court and two for the juvenile court. From April 1 through December 31-- $16 \times$ approximately \$20,000 per public defender.

Councillor Borst stated that the Council's fiscal staff has said that \$200,000 would comply with the judges' request since there are only nine months left in 1992.

Judge Kirsch said that the specific accounting was set forth in the mandate order and in the judge's letter to President SerVaas. $16 \times \$20,000 = \$320,000$ divided by 12 = $\$26,666 \times 9 = \$239,994$.

Councillor West stated that part of the difference is that the Council's calculations on the \$200,000 was based on eight months and the judges have calculated it on a nine-month basis.

Councillor Jimison moved, seconded by Councillor Short, to amend Proposal No. 5, 1992 to reflect the \$267,000 figure.

Councillor Rhodes said that if he used the exact same calculations that Judge Kirsch used-- $16 \times \$20,000 = \$320,000 \times .75 = \$240,000$, that is the figure for nine months and the figure for eight months would be \$215,000. He thinks the disagreement is if it is going to be based on nine months or eight months.

Councillor West commented that the Juvenile Court pays \$25,000 instead of \$20,440, which is a difference. In addition each of the Superior Courts in the Criminal Division pay \$60 a month in expenses to each of their attorneys. So the calculation has to take these increments into effect.

Councillor Dowden stated that he would speak against any amendment to the appropriation at this time. The Council fiscal staff started with the judges original request of \$297,206. He said he was surprised that the judges did not ask for the original amount in the mandate; they came up with a new figure of \$267,000. The \$200,000 that is in this proposal is sufficient on a prorated basis from May 1 through the end of the year. In this ordinance they are not held to 14, 16 or 60 public defenders; if the judges wish to hire 60 attorneys for 10 days to get the caseload cleaned up, they can do it.

Councillor Golc stated that he has a transcript of the committee meeting dealing specifically with the issue of proration and read it verbatim for the record as follows:

- Councillor Golc: You've probably explained this to me before, but would you explain to me the rationale of moving \$297 to \$200?
- Councillor Curry: Yes, my understanding the \$297 was essential for a 12 month period. Part of the year is done, it seems to me.
- Councillor Golc: So you pro-rated it.
- Councillor Curry: A little bit more than a pro-ration, a pro-ration would have been a little bit less than \$200,000 but we're looking for more money to bring up more Public Defenders, and it seems to me that an appropriate number that we've identified is \$200,000 okay? That's how I arrived at it.

Councillor Golc said he supports Councillor Jimison's motion.

The President called for a vote on the Councillor Jimison's motion to amend. The motion failed by the following roll call vote; viz:

- 12 YEAS: Black, Borst, Boyd, Brents, Golc, Howard, Jimison, Jones, Moriarty, Mullin, Short, Williams*
- 16 NAYS: Beadling, Coughenour, Curry, Dowden, Franklin, Gilmer, Hinkle, McClamroch, O'Dell, Rhodes, Ruhmkorff, Schneider, SerVaas, Shambaugh, Smith, West*
- 1 NOT VOTING: Giffin*

Proposal No. 5, 1992, as amended, was adopted on the following roll call vote; viz:

- 24 YEAS: Beadling, Borst, Boyd, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Hinkle, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Ruhmkorff, Schneider, SerVaas, Shambaugh, Short, Smith, West, Williams*
- 4 NAYS: Black, Brents, Howard, Rhodes*
- 1 NOT VOTING: Giffin*

Proposal No. 5, 1992 was retitled FISCAL ORDINANCE NO. 15, 1992 and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 15, 1992

A FISCAL ORDINANCE amending the City-County Annual Budget for 1992 (City-County Fiscal Ordinance No. 61, 1991) appropriating an additional Two Hundred Thousand Dollars (\$200,000) in the County Public Defender Fund for purposes of the Marion County Superior Courts and transferring funds from the County General Fund and reducing the unappropriated and unencumbered balance in the County Public Defender Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

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SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (ccc) and (aa) of the City-County Annual Budget for 1992, be and is hereby amended by the increases and reductions hereinafter stated for purposes of providing for expenses of the Public Defenders Agency.

SECTION 2. The sum of Two Hundred Thousand Dollars (\$200,000) be, and the same is hereby appropriated for the purposes as shown in Section 3 by transferring certain appropriations and reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

<u>PUBLIC DEFENDERS SERVICES AGENCY</u> <u>OFFICE OF CHIEF PUBLIC DEFENDER</u>	<u>COUNTY PUBLIC DEFENDER FUND</u>
3. Other Services and Charges	<u>\$200,000</u>
TOTAL INCREASE	\$200,000

SECTION 4. The said additional appropriations are funded by the following reductions:

<u>COUNTY AUDITOR</u>	<u>COUNTY GENERAL FUND</u>
3. Other Services and Charges	\$ 50,000
	<u>COUNTY PUBLIC DEFENDER FUND</u>
Unappropriated and Unencumbered County Public Defender Fund	<u>150,000</u>
TOTAL REDUCTION	\$200,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The President said that Proposal No. 3, 1992 would be discussed at this time.

Councillor Dowden moved to amend Proposal No. 3, 1992, Sec. 286-3 (a)(1) by deleting the stricken-through text and inserting the underlined text to read as follows:

Sec. 286-3. Public Defender Board membership and appointment.

(a) The Public Defender Agency Board shall consist of eight (8) members, plus the agency administrator who shall serve as chairman of the board ex officio. Seven (7) members shall be appointed by the City-County Council as follows:

- (1) Four (4) members ~~of the City-County Council~~ selected by the President of the City-County Council (confirmed by the committee on rules and public policy) who ~~shall~~ may be members ~~Public Safety and Criminal Justice Committee~~ of the City-County Council;

Councillor Dowden's motion to amend Proposal No. 3, 1992 passed by a unanimous voice vote.

Councillor Moriarty announced that the Minority Members of the Council prepared the following statement as to why they are opposed to Proposal No. 3, 1992:

1. We believe there is no need for the creation of any Agency to determine indigency. Such an action would be wholly unconstitutional as it usurps the authority of judges regarding their duty to make a case-by-case determination of indigency.
2. The creation of a Board and a Public Defender Agency promotes fiscal inefficiency through the creation of unnecessary layers of government.
3. The proposed structure of the Board violates the constitutional requirement of separation of powers and will result in gross incompatibility of offices on the part of those members of the City-County Council who would be appointed to serve on the Board.
4. It leaves the Council exposed to charges of predisposition.

5. According to John von Arx, the Marion County Auditor, the money to fund 16 public defenders does not exist. If this is true, how can we afford to fund an agency of this magnitude with a support staff and attorneys.
6. The enumerated powers and duties of the Board and the Chief Public Defender, as proposed, are unconstitutional.

Judges are elected officials whose duties cannot be determined or undermined by the City-County Council.

Councillor West stated in reply to the Minority Members' statement that state law requires a separate public defender agency which would contract with independent attorneys. The financing of the agency should be done in the same manner as if contracting with the courts or contracting with a separate agency.

Councillor Jimison stated that in her opinion few are happy with the present status of the public defender situation. Out of frustration as much as out of need, the Superior Court judges have mandated the Council. She offered a minority version of Proposal No. 3, 1992, which would establish a three-member board to determine a means to provide legal representation for indigent defendants in Marion County. This version closely mirrors some other boards that have been put in place in cities and counties throughout the state in accordance with state law. She believes the present Proposal No. 3, 1992, as amended, is constitutionally flawed. In order for the Committee to have an opportunity to review the minority version, she moved to table Proposal No. 3, 1992. This motion was seconded by Councillor Short.

Councillor Dowden asked for consent to call upon the Honorable Les Duvall to address the issue as to whether or not the Committee's recommended version violates the state or federal constitution or whether it violates the judges' powers.

The President gave his consent.

Councillor Black stated that under Roberts Rules of Order a motion to table is non-debateable and should be voted up or down.

The President agreed and called for a voice vote on Councillor Jimison's motion. The motion failed by a majority voice vote.

Mr. Duvall stated that it is the court's prerogative to determine indigency and there is a subsequent provision in the proposal that states that nothing shall be deemed to contravene the power of the courts to furnish counsel.

Councillor Jimison said that it is the Minority Members' opinion that in Proposal No. 3, 1992 the powers that are given to the board, as well as to the public defenders, usurp the power of the court.

Mr. Duvall answered that the proposal cannot and does not usurp the power of the court. The court has that power and would overrule an ordinance even if it stated the contrary, which he does not believe it does because of the escape clause which is found later in the provision.

Mr. Duvall further stated that his biggest disappointment is to see this issue politicized. He started fighting this battle to upgrade public defender services in this state in 1975. The

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Indianapolis Bar Commission, composed of nineteen voting members and about five honorary members, did this study in good faith and it was a unanimous report.

Councillor Williams said that she has followed the Bar Commission's work very carefully and has read the report, and it bothers her that this issue has become politicized. She further stated that the report recommends a nonpartisan and independent board to deal with this issue. She believes that the membership of this board should be composed of people who are members of both the Indianapolis and Marion County Bar Associations, not members appointed by the Council.

Mr. Duvall said that this is not the board that he would prefer nor that the commission would prefer, but he said that having been in a legislative body for many years, he recognizes the importance of getting a concept in place--even if it is not funded. In order to move this county forward and get out of the public defender dark ages and to assure that this county is not the laughing stock of the rest of the country, this concept has to be established and on the ordinance books.

Councillor Rhodes said that in reading the report he saw little reference as to how to pay for this system. He has been consistent in voting against this program and until the Bar Association recommends on how to pay for it or unless they pay for it themselves, he will continue to vote against it.

Councillor Black asked Judge Goodman to come forward to voice his views on this issue.

Judge Goodman stated that no one has addressed the cost of this additional layer of bureaucracy to the taxpayers. The courts do not even have the \$200,000 or the \$267,000 or \$297,000 to pay for public defenders for people who cannot afford attorneys. He thinks that this board is a waste of taxpayers dollars when there is a critical shortage of public defenders. The Indiana Legislature specifically excludes Marion County from creating a public defender board and he does not believe this Council has the legal authority to create this board.

Judge Goodman added that the Indiana Criminal Justice Institute has recently granted the Municipal Court of Marion County \$49,000 for computer hardware. The judges were told that the receipt of such funds from the Criminal Justice Institute is dependent upon the creation of a board. The Municipal Court has already received such grants without the creation of this additional layer of bureaucracy. The judges have agreed to work with the Council. This is taxpayers money. He urged the Council not to pass this ordinance and to work this out without any additional expense to the taxpayers.

Councillor Coughenour said that after listening to this discussion she feels that something could be worked out if the proposal was sent back to committee.

Councillor Golc stated that he recalled from reading the Committee minutes that of the \$200,000 appropriation, only \$50,000 was guaranteed; the other \$150,000 would be appropriated if certain funds were collected and if certain other funds were grants. There is no certainty and there is no guarantee. The Minority Members prepared a Comparative Analysis on Proposal No. 3, 1992 and it goes point by point through the whole ordinance. He questioned where the idea of having eight members originated and why are they appointed by the Council. He does not believe that this board will generate any more service, any more public defenders, nor any more indigent help than currently exists.

Councillor West reminded the Council that it appropriated \$200,000 to a public defender agency in Proposal No. 5, 1992, and not to the courts.

Councillor Borst asked who is going to look into what Judge Goodman said about the fact that Marion County is exempt from establishing a public defender board. He said that Proposal No. 3, 1992 establishes a board and an agency, but the agency has no power until the board comes back to the Council by July 1, 1992 with a comprehensive plan. He asked if the public defender system will run like it has been running until that time. He suggested that the judges appoint the public defenders and put them in a pool and let them take a number and draw--similar to how cases are assigned.

Robert Elrod, General Counsel, stated that the question as to whether the Council has the authority to establish a public defender agency, in his opinion, is clearly within the Home Rule powers of this County. The legislation that Judge Goodman referred to that excludes Marion County (and some other counties) from having to establish an agency does not prohibit them from establishing an agency. The Home Rule principle is that unless the County is prohibited from doing it, it has the power to do it and there is nothing in this statute that prohibits the establishment of an agency. The Home Rule powers are clear. In Indiana where the legislature has not prohibited the County from exercising a specific power, it can exercise that power as it chooses. It is clear that this Council has a duty to finance the provision of public defenders.

Councillor Borst said that this proposal only creates the board which by July 1 has to come back to the Council with a plan.

Mr. Elrod said that the compromise that was reached in this negotiation is part of the confusion. It seems everyone has an idea about who ought to control the different parts of this agency.

Councillor Jimison asked who the compromise was between.

Mr. Elrod responded that there were a number of people that met at different times trying to create the proposal that was eventually recommended to the Public Safety Committee. They could not agree on how this agency was to be constructed nor how the actual services were going to be provided. The compromise that this ordinance now incorporates is to establish a board with the direction to write a plan and to bring it back to the Council by July 1.

Councillor Jimison asked if this is the same proposal that was in front of the Committee before the task force met, with the exception that the mayor is no longer appointing a member to the board.

Mr. Elrod responded that in addition to the plan, the public defenders were given specific powers and the nature of the board was changed. He said, in answer to Councillor Borst's question, an interim administrator would be appointed from the moneys appropriated by Proposal No. 5, 1992 and that the rest of the system would remain as it exists until something is done with the report from this board.

Councillor Borst stated that the public defenders will operate just as they have been operating, and the judges will get their two public defenders per court.

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Mr. Elrod said that the money is appropriated for this agency and the agency will decide how that money gets spent.

Councillor Jimison asked if the \$200,000 that was appropriated is for this agency and not for additional public defenders.

Mr. Elrod replied that it is appropriated to the public defender agency and was not appropriated to the courts.

Councillor Williams stated that the whole issue of this board and the way it is put together does not assure that it will be composed of the best legal scholars. But she said that she thinks that the Council is on the right track. It obviously needs a lot more work and she would like to move that it be sent back to committee so that a compromise can be reached, a true compromise, that includes the feelings of the judges and everybody else who is involved. Councillor Williams moved to send Proposal No. 3, 1992 back to committee. Councillor Moriarty seconded the motion.

Councillor West said if the proposal is sent back to committee, the money that was appropriated is to an agency that has not been created.

Councillor Williams said that she had it figured out and she had another motion for that if the motion to send it back to committee passes.

Councillor Williams' motion to return Proposal No. 3, 1992, as amended, back to committee passed by the following roll call vote; viz:

14 YEAS: Black, Borst, Boyd, Brents, Coughenour, Golc, Howard, Jimison, Jones, Moriarty, Mullin, Rhodes, Short, Williams
13 NAYS: Beadling, Curry, Dowden, Franklin, Hinkle, McClamroch, O'Dell, Ruhmkorff, Schneider, SerVaas, Shambaugh, Smith, West
2 NOT VOTING: Giffin, Gilmer

The President said that he was given a letter which contained a mandate by the judges and that he was to comply with the mandate by the 1st of April. He could not respond to the mandate except by the acts of this Council. By an earlier action of this Council most of the money that the judges required was appropriated. The second part of this is that this money was appropriated for an agency which was to be created by Proposal No. 3, 1992. Now, if this proposal is sent back to committee, then the money is not available to the judges. Since there is no agency, there is no alternative but for the mandate to be acted upon.

Councillor Williams said that she has an alternative to suggest and that is to reconsider Proposal No. 5, 1992 and propose an amendment to put the \$200,000 in the same part of the Council's budget where the rest of the public defender money is; therefore, she moved to reconsider Proposal No. 5, 1992. This motion was seconded by Councillor Jimison.

Councillor West stated that if Proposal No. 5, 1992 was reconsidered and amended to allow the funds to be put in the Council budget where the Council could transfer them later, is reasonable. The funds could be utilized for the employment of new public defenders.

Councillor Curry stated that with respect to the \$200,000 appropriation, \$150,000 is presently not in the budget. He said that a letter was sent to the President from another judge indicating that the day after the criminal courts issued a mandate, that his courts might issue

a mandate. Councillor Curry said that he does not know from where the moneys would come other than through a major reduction in other county-funded programs.

The President said that the letter was from Judge Goodman, and the judge put him on notice that if a mandate were to be issued by the Superior Courts, his mandate would follow immediately.

Councillor Williams motion to reconsider Proposal No. 5, 1992 passed by the following roll call vote; viz:

15 YEAS: Black, Borst, Boyd, Brents, Coughenour, Franklin, Golc, Howard, Jimison, Jones, Mullin, Rhodes, Short, West, Williams

11 NAYS: Beadling, Curry, Dowden, Hinkle, McClamroch, O'Dell, Ruhmkorff, Schneider, SerVaas, Shambaugh, Smith

3 NOT VOTING: Giffin, Gilmer, Moriarty

Councillor Williams moved to amend Proposal No. 5, 1992 so the language referring to the appropriation to the agency is amended to refer to the Council budget. Councillor Jimison seconded the motion.

The President asked Mr. Elrod to read the proposal with the amendment. Mr. Elrod read as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 15, 1992

A FISCAL ORDINANCE amending the City-County Annual Budget for 1992 (City-County Fiscal Ordinance No. 61, 1991) appropriating an additional Two Hundred Thousand Dollars (\$200,000) in the County Public Defender Fund for purposes of of the City-County Council and Marion County Superior Courts and transferring funds from the County General Fund and reducing the unappropriated and unencumbered balance in the County Public Defender Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (ccc) and (aa) of the City-County Annual Budget for 1992, be and is hereby amended by the increases and reductions hereinafter stated for purposes of providing for ~~expenses of the Public Defenders Agency~~ public defenders.

SECTION 2. The sum of Two Hundred Thousand Dollars (\$200,000) be, and the same is hereby appropriated for the purposes as shown in Section 3 by transferring certain appropriations and reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

~~PUBLIC DEFENDERS SERVICES AGENCY~~
~~OFFICE OF CHIEF PUBLIC DEFENDER~~
COMBINED - PUBLIC DEFENDER SERVICES
(CITY-COUNTY COUNCIL)

COUNTY PUBLIC DEFENDER FUND

3. Other Services and Charges
TOTAL INCREASE

\$200,000
\$200,000

SECTION 4. The said additional appropriations are funded by the following reductions:

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COUNTY AUDITOR
3. Other Services and Charges

COUNTY GENERAL FUND
\$ 50,000

Unappropriated and Unencumbered
County Public Defender Fund
TOTAL REDUCTION

COUNTY PUBLIC DEFENDER FUND
150,000
\$200,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Borst asked if this is the exact fund where the public defender money is now.

Mr. Elrod replied that the money is in specific courts' budgets, within the public defender agency, and the entire agency is an agency of the City-County Council.

Councillor McClamroch said he thought that he heard Judge Kirsch threaten the Council with a continuation of the mandate unless he received \$267,000. He asked Judge Kirsch, if the Council appropriates \$200,000, will the Council still be subject to a mandate.

Judge Kirsch replied that he could not speculate on the position that the judges of the Superior Court would take if the appropriation was \$200,000 rather than the \$267,000.

Councillor Dowden asked Judge Darden, Superior Court, for his opinion.

Judge Darden said that he understands that the Council has allocated \$200,000 for sixteen public defenders, which means that the courts will be \$28,000 short considering the figures. The judges are willing to work in good faith effort with the Council to try and resolve any issue regarding establishing an agency or whatever has to be done.

Councillor Williams asked Judge Darden for the record, if this mandate was a unanimous position taken by judges from both parties.

Judge Darden said that the mandate was a position of all of the judges.

Councillor Williams' motion to amend Proposal No. 5, 1992 passed by following roll call vote; viz:

27 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Golc, Hinkle, Howard, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, Schneider, SerVaas, Shambaugh, Short, Smith, West, Williams*
0 NAYS:
2 NOT VOTING: *Giffin, Gilmer*

Proposal No. 5, 1992, as amended, passed by the following roll call vote; viz:

27 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Golc, Hinkle, Howard, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, Schneider, SerVaas, Shambaugh, Short, Smith, West, Williams*
0 NAYS:
2 NOT VOTING: *Giffin, Gilmer*

Proposal No. 5, 1992, as amended, was retitled FISCAL ORDINANCE NO. 15, 1992 and reads as follows:

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CITY-COUNTY FISCAL ORDINANCE NO. 15, 1992

A FISCAL ORDINANCE amending the City-County Annual Budget for 1992 (City-County Fiscal Ordinance No. 61, 1991) appropriating an additional Two Hundred Thousand Dollars (\$200,000) in the County Public Defender Fund for purposes of the City-County Council and Marion County Superior Courts and transferring funds from the County General Fund and reducing the unappropriated and unencumbered balance in the County Public Defender Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (ccc) and (aa) of the City-County Annual Budget for 1992, be and is hereby amended by the increases and reductions hereinafter stated for purposes of providing for public defenders.

SECTION 2. The sum of Two Hundred Thousand Dollars (\$200,000) be, and the same is hereby appropriated for the purposes as shown in Section 3 by transferring certain appropriations and reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriations are hereby approved:

COMBINED - PUBLIC DEFENDER SERVICES (CITY-COUNTY COUNCIL)	<u>COUNTY PUBLIC DEFENDER FUND</u>
3. Other Services and Charges	<u>\$200,000</u>
TOTAL INCREASE	\$200,000

SECTION 4. The said additional appropriations are funded by the following reductions:

<u>COUNTY AUDITOR</u>	<u>COUNTY GENERAL FUND</u>
3. Other Services and Charges	\$ 50,000
	<u>COUNTY PUBLIC DEFENDER FUND</u>
Unappropriated and Unencumbered County Public Defender Fund	<u>150,000</u>
TOTAL REDUCTION	\$200,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 138, 1992. Councillor Rhodes reported that the Administration and Finance Committee heard Proposal No. 138, 1992 on March 23, 1992. The proposal transfers and appropriates \$325,000 for the Department of Administration, Microfilm Archives Division, to pay an outside vendor for record services. By a 6-0-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Rhodes moved, seconded by Councillor Curry, for adoption.

Councillor Golc asked if the cost per image is ten cents. Matt Ridenour, Director of Management Services, said the old operating cost was approximately 10½ cents an image. The vendor that was selected bid a price of 3.3 cents an image.

Proposal No. 138, 1992 was adopted on the following roll call vote; viz:

23 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Franklin, Golc, Hinkle, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, SerVaas, Shambaugh, Short, Smith, West*

1 NAY: *Howard*

5 NOT VOTING: *Dowden, Giffin, Gilmer, Schneider, Williams*

Proposal No. 138, 1992 was retitled FISCAL ORDINANCE NO. 16, 1992 and reads as follows:

April 6, 1992

CITY-COUNTY FISCAL ORDINANCE NO. 16, 1992

A FISCAL ORDINANCE amending the City-County Annual Budget for 1992 (City-County Fiscal Ordinance No. 61, 1991) transferring and appropriating an additional Three Hundred Twenty-five Thousand Dollars (\$325,000) in the Consolidated Fund for purposes of the Department of Administration, Microfilm Archives Division, and reducing certain other appropriations for that Department.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.01 of the City-County Annual Budget for 1992, be and is hereby amended by the increases and reductions hereinafter stated for purposes of the Department of Administration, Microfilm Archives Division, to negotiate a contract with a service bureau to provide Records services for the remainder of 1992.

SECTION 2. The sum of Three Hundred Twenty-five Thousand Dollars (\$325,000) be, and the same is hereby transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

DEPARTMENT OF ADMINISTRATION	
<u>MICROFILM ARCHIVES DIVISION</u>	<u>CONSOLIDATED COUNTY FUND</u>
3. Other Services and Charges	\$325,000
TOTAL INCREASE	\$325,000

SECTION 4. The said increased appropriation is funded by the following reductions:

DEPARTMENT OF ADMINISTRATION	
<u>MICROFILM ARCHIVES DIVISION</u>	<u>CONSOLIDATED COUNTY FUND</u>
1. Personal Services	\$325,000
TOTAL REDUCTION	\$325,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 143, 1992. Councillor Rhodes reported that the Administration and Finance Committee heard Proposal No. 143, 1992 on March 23, 1992. The proposal amends the Code by expanding the 500 Festival from 48 hours to 30 days and giving the Controller authority instead of the Board of Public Works concerning concessionaires. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Rhodes moved, seconded by Councillor Ruhmkorff, for adoption.

The President passed the gavel to Councillor West.

President SerVaas voiced his concern over the expanded length of the 500 Festival. Councillor Rhodes said this ordinance gives the Controller authority to license the vendors which have received approval from the 500 Festival Board.

Councillor West passed the gavel back to the President.

Proposal No. 143, 1992 was adopted on the following roll call vote; viz:

24 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Franklin, Golc, Hinkle, Howard, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, Shambaugh, Short, Smith, West, Williams*
2 NAYS: *Dowden, SerVaas*
3 NOT VOTING: *Giffin, Gilmer, Schneider*

Proposal No. 143, 1992 was retitled GENERAL ORDINANCE NO. 23, 1992 and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 23, 1992

A GENERAL ORDINANCE amending and recodifying Article II of Chapter 22 of the Code of Indianapolis and Marion County, concerning the 500 Festival.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Code of Indianapolis and Marion County, Indiana, specifically Article II of Chapter 22, be and is hereby amended and recodified as Article IV of Chapter 17 by deleting the stricken-through text and inserting the underlined text to read as follows:

ARTICLE IV. 500 FESTIVAL

Sec. ~~22-37~~ 17-111. Legislative policy.

The Indianapolis 500-Mile Race has long been an institution in the city, and the city and all civic leaders and merchants desire to create a carnival and festive atmosphere in the city immediately prior to the 500-Mile Race.

Sec. ~~22-38~~ 17-112. Concession boundaries.

Notwithstanding any other provisions of this Code there shall be authorized and permitted the erection of booths, stands and concessions for a period not exceeding ~~forty eight (48) hours~~ thirty (30) days prior to the day of the 500-Mile Race in an area of the city bounded as follows: On the north by Sixteenth Street; on the east by Delaware Street; on the west by ~~Illinois Street~~ White River; and on the south by ~~Maryland~~ South Street.

Sec. ~~22-39~~ 17-113. When festival held.

The festival held under this article shall be effective only within the ~~forty eight hour~~ thirty (30) day period immediately preceding the running of the Indianapolis 500 Mile Race.

Sec. ~~22-40~~ 17-114. Designation of concessionaires; nature of franchise.

Concessionaires in the concession area established in this article shall be designated by the ~~board of public works controller~~ with the assistance and recommendations of the 500 Festival Associates, Inc. Persons so ~~nominated~~ designated by the ~~board of public works controller~~ shall have the ~~exclusive~~ right to sell any merchandise authorized on a list approved by the ~~board of public works controller~~.

Sec. ~~22-41~~ 17-115. Identification of Special Event Permits for
concessionaires.

~~Streamer badges~~ Special event permits as prescribed by the controller shall be provided by the ~~board of public works controller~~ to concessionaires authorized pursuant to this article which special event permits shall be ~~worn~~ as a means of identification displayed in public view at the concessionaire's place of operation by the concessionaire.

Sec. ~~22-42~~ 17-116. Prices to be posted.

Each concessionaire authorized to do business at the 500-Mile Race Festival pursuant to this article shall post a list of his prices, ~~which prices shall be in accordance with a schedule approved by the board of public works.~~

Sec. ~~22-43~~ 17-117. Violations.

It shall be unlawful for any person conducting concessions under this article to ~~violate this article by charging~~ charge prices in excess of the approved posted prices ~~selling unauthorized merchandise~~ or to conducting concessionaire business ~~without wearing the streamer badges provided for in this article~~ at any location where the special event permit required by this Article is not displayed.

SECTION 2. This ordinance shall be in force and effect upon adoption and compliance with IC 36-3-4-14.

April 6, 1992

PROPOSAL NO. 144, 1992. Councillor Rhodes reported that the Administration and Finance Committee heard Proposal No. 144, 1992 on March 23, 1992. The proposal amends the Code concerning outdoor retail sales from carts. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Rhodes moved, seconded by Councillor Howard, for adoption. Proposal No. 144, 1992 was adopted on the following roll call vote; viz:

24 YEAS: Beadling, Borst, Boyd, Coughenour, Curry, Dowden, Franklin, Golc, Hinkle, Howard, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, SerVaas, Shambaugh, Short, Smith, West, Williams

0 NAYS:

5 NOT VOTING: Black, Brents, Giffin, Gilmer, Schneider

Proposal No. 144, 1992 was retitled GENERAL ORDINANCE NO. 24, 1992 and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 24, 1992

A GENERAL ORDINANCE amending Article XXIII of Chapter 17 of the Code concerning outdoor retail sales from carts.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Section 17-813 of Article XXIII of Chapter 17 of the Code of Indianapolis and Marion County, Indiana, is amended by deleting the following language so that the section reads as follows:

Sec. 17-813. License period.

A license issued pursuant to this division shall be for a term ending December 31 of the calendar year issued; ~~provided, however for 1989, applicants may be licensed effective January 1, 1990, for purposes of qualifying for the 1989 allocation of franchise areas under section 17-827.~~

SECTION 2. Section 17-819 of Article XXIII of Chapter 17 of the Code of Indianapolis and Marion County, Indiana, is amended by adding the following language so that the section reads as follows:

Sec. 17-819. Restrictions on operation.

Each licensee, his agents and employees, shall comply with the following restrictions on cart operation:

(a) Limitations on selling:

- (1) Only beverages and food may be carried on or sold from a licensed food cart, only flowers from a licensed flower cart, and only frozen food from a licensed frozen food cart.
- (2) Such retail sales shall not be accomplished by crying out or hawking.
- (3) A device may not be used which would amplify or direct sound and attention may not be drawn to such retail sales by any aural means or a light-producing device.
- (4) Such retail sales may not be made to any person in or on any motorized vehicle.
- (5) Beverages, dispensed in disposable cans, shall have any separable opening tabs removed at the time the cans are sold, unless otherwise requested by the purchaser.

(b) Prohibited locations:

- (1) No cart may be located in any public park or plaza, without written authorization from the governmental agency with general jurisdiction or control over said park or plaza.
- (2) The operator of a cart may not dispense beverages or food on the same side of the street within fifty (50) feet of a primary entry way into a ground level retail food establishment.

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- (3) No cart may be located or make such retail sales in that part of a right-of-way utilized for motor vehicle traffic (commonly referred to as a street), a street median strip or an alleyway.
 - (4) No cart may be placed nor may such retail sales be made within twenty (20) feet of any posted bus stop, taxi stand, crosswalk, driveway or alleyway, within twenty (20) feet of the point at which the right-of-way lines of two (2) or more streets intersect or within six (6) feet of any building entrance, display window or walk-up window.
 - (5) No cart may be parked or located nor may beverages, flowers or food be dispensed in a manner which would significantly impede or prevent the use of any sidewalk or public area, or which would endanger the safety or property of the public.
 - (6) After December 31, 1989, carts shall be operated within the central city only within the franchise area for which if a franchise permit has been issued for the cart pursuant to Division 3 of this article and only within the franchise area for which such permit is issued. This provision does not prohibit a cart with such a franchise permit from also operating within Marion County outside of the central city.
- (c) Operational requirements:
- (1) The licensee, his agents and employees shall be required to obey the commands of law enforcement officers or firemen with respect to activity carried out on the sidewalks or public area, including the removal of the cart and cessation of such retail sales.
 - (2) The cart must be taken from the sidewalk or public area when such retail sales are not being conducted.
 - (3) No cart may be permanently or temporarily affixed to any fixed object, including but not limited to buildings, trees, signs, telephone poles, streetlight poles, traffic signal poles or fire hydrants.
 - (4) Carts may be placed and such retail sales may be made only on sidewalks which provide at least fourteen (14) feet of width from the curb line to the property line; provided that, a person licensed under this article may petition the city controller to allow operation of a cart of a specified sidewalk having a width of less than fourteen (14) feet. Such petition may be approved by the city controller only after the department of transportation and the department of metropolitan development have approved the petition.
 - (5) Each cart must prominently display the license allowing such retail sales for public inspection at all times.
 - (6) Each cart is to be operated by one (1) and only one (1) person and shall not be left unattended.
 - (7) No cart may be used to advertise the product or service of another.
 - (8) No cart shall display advertising decals or decorative embellishments not included in the original design approval.
 - (9) Carts may not make use of any public or private electrical outlet while in operation or while located on a street or sidewalk.
- (d) General requirements:
- (1) Efforts shall be made by the licensee to protect the sidewalk or public area against littering. Each cart must have an adequate trash receptacle which is emptied sufficiently often to allow disposal of litter and waste by the public at any time. The trash receptacle on the cart shall not be emptied into trash receptacles owned by the city.
 - (2) Pedestrians shall not be exposed to any undue safety or health hazard nor shall a public nuisance be created.
 - (3) Each cart shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred.
 - (4) Foods which present a substantial likelihood that liquid matter, particles or part of the food will drop to the street or sidewalk during the process of carrying or eating the food, shall be sold in proper containers.

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- (5) All carts licensed to sell food or beverages must place a nonporous material on the sidewalk beneath their carts in order to prevent spillage from the cart, staining or otherwise damaging the area around the carts. Acceptable materials include artificial turf, grass mats, or indoor/outdoor carpeting.

SECTION 3. Section 17-834 of Article XXIII of the Code of Indianapolis and Marion County, Indiana, is amended by deleting that section as follows:

~~Sec. 17-834. Transitional rules.~~

~~(a) Persons, who upon the effective date of General Ordinance No. 23, 1989, hold valid cart vendor's licenses under the provisions of Article XXIII superseded by this ordinance, shall be entitled to renewal of those licenses for the balance of the calendar year 1989, upon payment of the renewal fee of one hundred dollars (\$100.00). Provided that in no event shall the number of licensed carts exceed fifty-one (51), no more than thirty-five (35) of which shall be for the sale of food and beverages, and no person shall be the owner of more than three (3) food cart vendor's licenses.~~

~~(b) Persons whose licenses are renewed pursuant to subsection (a) shall be entitled to continue operation within the cart zones to which they are currently assigned until December 31, 1989.~~

~~(c) Any person holding one (1) or more cart zone assignments pursuant to subsection (b) may protect one (1) or two (2) franchise areas designated pursuant to section 17-826 in which such person is operating by filing an election with the controller as provided in section 17-827. All franchise areas not so protected shall be available for assignment as provided in section 17-827.~~

~~(d) Until December 31, 1989, licenses renewed pursuant to subsection (a) shall comply with all the provisions of this article except that the operation of food cart vendors in the central city shall not be subject to section 17-827 but shall be subject to the following section 17-835, 1989.~~

SECTION 4. Section 17-835 of Article XXIII of the Code of Indianapolis and Marion County, Indiana, is amended by deleting that section as follows:

~~Sec. 17-835. Area and times of operation during 1989.~~

~~(a) Location restricted. Carts licensed pursuant to this article may be operated only in the geographic area bounded as follows: north 16th Street; east East Street/Central Street; south South Street; west (going from south to north) West Street, West Washington Street, White River, Fall Creek.~~

~~(b) Zones. Until December 31, 1989, the seventeen (17) zones previously established by the controller shall continue for beverages, food, and flowers sold from carts. Up to three (3) licenses may be assigned to any one (1) zone. Except where more existed on November 1, 1987, in any one (1) zone two (2) will be for food, beverage, or both; and one (1) for flowers. Assignment of each license to a particular zone shall be made by the controller, when a new license is issued.~~

~~(c) Hours of operation. Operators of carts selling food, beverages, or flowers shall place their carts for operation only as allowed by the following schedule:~~

~~Monday through Friday:~~

~~6:00 a.m. to 11:00 a.m.~~

~~1:30 p.m. to 6:00 p.m.~~

~~Anywhere in the licensee's assigned zone except as restricted below.~~

~~11:00 a.m. to 1:30 p.m.~~

~~Carts from which food or beverages are sold may be placed for operation only within two (2) locations specified by the controller in each zone. One (1) zone shall be on or directly abutting a public park or plaza within such zone as directed by the controller. The boundaries of these locations shall be defined by the controller. In each zone, the controller, shall schedule the two (2) carts for the locations in such a manner so that each licensee has approximately equal access to business opportunities (e.g., each cart at one (1) location on alternate days).~~

~~6:00 p.m. to 6:00 a.m.~~

~~Any zone designated except as restricted by this article or other applicable law or regulation or order of the controller.~~

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Saturday and Sunday

~~Any zone designated except as restricted by this article or other applicable law or regulation or order of the controller.~~

~~The date of holiday observance of Memorial Day, Independence Day and Labor Day shall be the date established by the city county council; or, if no date is established by the council, by state law.~~

~~(d) Separation of carts. A cart may not be placed for operation at a location within forty (40) feet of a place where another cart is placed for operation. Where two (2) or more carts are so located, the cart which has been most recently located in violation of this provision shall be required to move so as not to be in violation.~~

~~(e) Prohibited locations. A cart may not be placed for operation at a location directly in front of the primary entrance to a retail business, office building or church. The area in which a cart may not be placed is defined by the doorway line, lines running on either side of the door to the nearest curb, and the curb lines.~~

~~(f) City Market Square. During the hours from 6:00 a.m. to 6:00 p.m., Monday through Saturday, except holidays when the City of Indianapolis offices or Marion County offices are closed, carts may not be located or operated within an area bounded as follows: north The north right of way line of Ohio Street; south The south right of way line of Market Street; west The west right of way line of Delaware Street; and east The east right of way line of Alabama Street.~~

~~(g) Public festivals. Carts may not be operated or located in the area used for an outdoor public festival, or within four hundred (400) feet of such area unless the controller gives written permission. This written permission may set forth requirements and conditions which must be met by licensees.~~

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 145, 1992. Councillor Ruhmkorff reported that the Community Affairs Committee heard Proposal No. 145, 1992 on March 18, 1992. The proposal transfers and appropriates \$6,454 for the Cooperative Extension Service to purchase a postage machine. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Ruhmkorff moved, seconded by Councillor Coughenour, for adoption. Proposal No. 145, 1992 was adopted on the following roll call vote; viz:

25 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Golc, Hinkle, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, SerVaas, Shambaugh, Short, Smith, West, Williams*

0 NAYS:

4 NOT VOTING: *Giffin, Gilmer, Howard, Schneider*

Proposal No. 145, 1992 was retitled GENERAL ORDINANCE NO. 17, 1992 and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 17, 1992

A FISCAL ORDINANCE amending the City-County Annual Budget for 1992 (City-County Fiscal Ordinance No. 61, 1991) transferring and appropriating an additional Six Thousand Four Hundred Fifty-four Dollars (\$6,454) in the County General Fund for purposes of the Cooperative Extension Service and reducing certain other appropriations for that Service.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 2.01 (aaa) of the City-County Annual Budget for 1992, be and is hereby amended by the increases and reductions hereinafter stated for purposes of the Cooperative Extension Service to replace a vintage model postage machine.

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SECTION 2. The sum of Six Thousand Four Hundred Fifty-four Dollars (\$6,454) be, and the same is hereby transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

<u>COOPERATIVE EXTENSION SERVICE</u>	<u>COUNTY GENERAL FUND</u>
4. Capital Outlay	\$6,454
TOTAL INCREASE	\$6,454

SECTION 4. The said increased appropriation is funded by the following reductions:

<u>COOPERATIVE EXTENSION SERVICE</u>	<u>COUNTY GENERAL FUND</u>
3. Other Services & Charges	\$6,454
TOTAL REDUCTION	\$6,454

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 146, 1992. Councillor Borst reported that the Metropolitan Development Committee heard Proposal No. 146, 1992 on March 17, 1992. The proposal approves the Fort Harrison Transition Task Force Charter. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Borst moved, seconded by Councillor Smith, for adoption. Proposal No. 146, 1992 was adopted on the following roll call vote; viz:

25 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Golc, Hinkle, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, SerVaas, Shambaugh, Short, Smith, West, Williams*

0 NAYS:

4 NOT VOTING: *Giffin, Gilmer, Howard, Schneider*

Proposal No. 146, 1992 was retitled SPECIAL RESOLUTION NO. 24, 1992 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 24, 1992

A SPECIAL RESOLUTION approving the Fort Harrison Transition Task Force Charter.

WHEREAS, the City-County Council of the City of Indianapolis and Marion County, Indiana in City-County Special Resolution No. 87, 1991 recognized the Fort Harrison Transition Task Force as the officially recognized entity through which studies be conducted and policies for base facility and land re-use be recommended.

WHEREAS, the City-County Council of the City of Indianapolis and Marion County, Indiana in City-County Special Resolution No. 87, 1991 directed the Fort Harrison Transition Task Force to prepare and submit for approval to the City-County Council of the City of Indianapolis and Marion County, Indiana and the Common Council of the City of Lawrence a governing document or charter under which the Task Force will be appointed and operate.

WHEREAS, the Fort Harrison Transition Task Force has submitted the Fort Harrison Transition Task Force Charter to the City-County Council of the City of Indianapolis and Marion County, Indiana and the Common Council of the City of Lawrence for approval.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council of the City of Indianapolis and Marion County, Indiana hereby approves the Fort Harrison Transition Task Force Charter as the governing document under which the Task Force members will be appointed and the Task Force will operate.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 148, 1992. Councillor Rhodes reported that the Administration and Finance Committee heard Proposal No. 148, 1992 on March 23, 1992. The proposal approves the amendment of the Trust Indenture between the City and INB National Bank relating to 1985 City of Indianapolis Adjustable/Fixed Rate Resource Recovery Revenue Bonds. By a 6-0-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Rhodes moved, seconded by Councillor Shambaugh, for adoption. Proposal No. 148, 1992 was adopted on the following roll call vote; viz:

23 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Franklin, Golc, Hinkle, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, SerVaas, Shambaugh, Smith, West, Williams*

0 NAYS:

6 NOT VOTING: *Dowden, Giffin, Gilmer, Howard, Schneider, Short*

Proposal No. 148, 1992 was retitled SPECIAL ORDINANCE NO. 2, 1992 and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 2, 1992

A SPECIAL ORDINANCE approving the amendment of the Trust Indenture between the City of Indianapolis and INB National Bank regarding City of Indianapolis Adjustable/Fixed Rate Resource Recovery Revenue Bonds.

WHEREAS, the City-County Council adopted its Ordinances Nos. 83, 1985, 84, 1985, 89, 1985 and 17, 1986, and issued its City of Indianapolis, Indiana Adjustable/Fixed Rate Resource Recovery Revenue Bonds ("Bonds") on December 17, 1985, pursuant thereto and to a Trust Indenture, dated as of December 1, 1985, and amended and restated as of March 31, 1986 ("Restated Indenture"), between the City of Indianapolis and the Indiana National Bank, now INB National Bank as Trustee ("Trustee"); and

WHEREAS, the Restated Indenture requires amendment of certain technical provisions ("Amendments") and such technical provisions are incorporated in the First Supplemental Indenture attached hereto and incorporated by reference; and

WHEREAS, the Board of Public Works approved the Amendments incorporated in the First Supplemental Indenture by adoption of Resolution No. 2992-1992; and

WHEREAS, the City-County Council finds that the Amendments will further the public purpose to be served by issuance of the Bonds; now, therefore

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. That the City-County Council approves the form of the Amendments and the First Supplemental Indenture attached hereto and authorizes the Mayor and the Controller to take all actions necessary to effectuate the Amendments to the Restated Trust Indenture by execution and delivery of the First Supplemental Indenture.

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

CITY OF INDIANAPOLIS, INDIANA

AND

INB NATIONAL BANK
(formerly The Indiana National Bank)

As Trustee

April 6, 1992

FIRST SUPPLEMENTAL TRUST INDENTURE

SUPPLEMENTING THE
TRUST INDENTURE
SECURING
CITY OF INDIANAPOLIS, INDIANA
RESOURCE RECOVERY REVENUE BONDS
(OGDEN MARTIN SYSTEMS OF INDIANAPOLIS, INC. PROJECT)

—————
DATED AS OF MARCH 1, 1992
—————

FIRST SUPPLEMENTAL TRUST INDENTURE

WHEREAS, the CITY OF INDIANAPOLIS, INDIANA, a municipal corporation and political subdivision of the State of Indiana (the "Issuer"), and INB NATIONAL BANK (formerly The Indiana National Bank), a national banking association, organized and existing under the laws of the United States of America and having the power and authority to accept and execute trusts and having its principal corporate trust office in the City of Indianapolis, Indiana (the "Trustee"), have heretofore each executed and delivered that certain Restated and Supplemented Trust Indenture Securing City of Indianapolis, Indiana Resource Recovery Revenue Bonds (Ogden Martin Systems of Indianapolis, Inc. Project), dated as of December 1, 1985 (but amended and supplemented on March 24, 1986) (the "Original Indenture").

WHEREAS, pursuant to the Original Indenture, the Issuer executed and the Trustee authenticated and delivered the Issuer's Resource Recovery Revenue Bonds, Series 1985 (Ogden Martin Systems of Indianapolis, Inc. Project);

WHEREAS, the Original Indenture provides that the Original Indenture may be amended, modified or supplemented upon the execution and delivery of a Supplemental Indenture (as such term is defined in the Original Indenture) by the Issuer and the Trustee;

WHEREAS, the Issuer desires to amend the Original Indenture in the manner hereinafter described; and

WHEREAS, the execution and delivery of this First Supplemental Trust Indenture (the "First Supplemental Indenture") has been duly authorized and all things necessary to make this First Supplemental Indenture a valid and binding agreement have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

ARTICLE I.

AUTHORITY AND DEFINITIONS

Section 1.01. Authority for this First Supplemental Indenture. This First Supplemental Indenture is supplemental to and is adopted in accordance with Section 11.01(i) of Article XI of the Original Indenture.

Section 1.02. Definitions. Except as may be set forth in the recitals hereto and except for the amendments effected hereby, all terms which are defined in Article I of the Original Trust Indenture shall have the same meanings in this First Supplemental Indenture as such terms are given in Article I of the Original Indenture.

ARTICLE II.

AMENDMENTS TO ORIGINAL INDENTURE

Section 2.01. The second paragraph of Article IV, Section 407 of the Original Indenture is hereby amended to read in full as follows:

The Trustee covenants that within one hundred and twenty (120) days after the close of each Fiscal Year it will cause an audit to be made of its books and accounts related to the Project for the preceding Fiscal Year by an Accountant. The financial statement with respect to such audit shall be prepared on the basis of cash receipts and disbursements which is a comprehensive basis of accounting other than generally accepted accounting principles. The opinion of the Accountant accompanying such audit shall state that the examinations were made in accordance with generally accepted auditing standards and that the financial statements have been presented on the basis of cash receipts and disbursements. If for any reason beyond the control of the Trustee, it is unable to obtain the foregoing opinion as to compliance with generally accepted auditing standards, and

is taking all reasonable and feasible actions to obtain such opinion as to subsequent Fiscal Years, the Trustee shall be deemed to be in compliance with the provisions of this Section 407 if, in lieu of the opinion required above, such opinion states the reasons for such noncompliance for nonconformity.

Section 2.02. The last sentence of Article VI, Section 612(b) of the Original Indenture is hereby amended to read in full as follows:

Payments from the Issuer Surplus Fund shall be made by the Trustee to the Issuer on the last Business Day of each month in accordance with the Service Agreement and the Facility Site Lease.

ARTICLE III.

MISCELLANEOUS

Section 3.01. Execution of Counterparts. This First Supplemental Indenture may be executed, simultaneously in several counterparts, each of which shall be deemed an original and all of which together shall constitute but one instrument.

Section 3.02. Effective Date. This First Supplemental Indenture shall take effect as of July 1, 1990, upon the execution and delivery hereof by the Issuer and the Trustee regardless of the date of such execution and delivery.

IN WITNESS WHEREOF, the Issuer has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and to evidence its acceptance hereof, the Trustee has caused these presents to be executed in its corporate name and with its corporate seal hereunto affixed and attested by its duly authorized officers, as of the date set forth below.

CITY OF INDIANAPOLIS, INDIANA

Attest: _____
James H. Steele, Jr.

By: _____
Stephen Goldsmith, Mayor

[SEAL]

INB NATIONAL BANK, as Trustee

Attest: _____
Mark Hudson

By: _____
Robert Kocher

[SEAL]

Dated this ____ day of _____, 1992.

ANNOUNCEMENTS AND ADJOURNMENT

Mr. Elrod read the following announcement:

Mr. President:

This Council will hold a public hearing on Rezoning Petition No. 92-Z-5, Council Proposal No. 179, 1992, at its next regular meeting on April 27, 1992, such meeting to convene at 7:00 p.m. in these Council Chambers in the City-County Building in Indianapolis. This petition proposes to rezone 1.549 acres at 9602 East 86th Street from D-S to D-1 to provide for the construction of a single-family residence.

Written objections that are filed with the Clerk of the Council shall be heard at such time, or the hearing may be continued from time to time as found necessary by the Council.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 11:50 p.m.

April 6, 1992

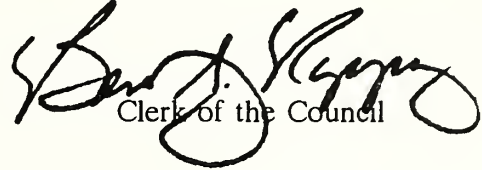
We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-County Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 6th day of April, 1992.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.



President

ATTEST:



Clerk of the Council

(SEAL)