

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

**REGULAR MEETINGS
MONDAY, JANUARY 10, 1994**

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 7:09 p.m. on Monday, January 10, 1994, with Councillor SerVaas presiding.

Councillor Rhodes introduced Rev. Tom Stoll, rector at St. Paul's Episcopal Church, who led the opening prayer. Councillor Rhodes 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, Gray, Hinkle, 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.

ORGANIZATION OF COUNCIL

Selection of Temporary Presiding Officer

The President asked for consent for Robert G. Elrod, Parliamentarian, to act as the temporary chairman of the meeting. Consent was given. The President passed the gavel to Mr. Elrod.

Election of Officers

Mr. Elrod opened the floor for nominations for President of the Council. Councillor Giffin nominated Councillor SerVaas for President. Councillor Gilmer seconded the nomination.

Councillor Short moved, seconded by Councillor Giffin, to close nominations. Nominations were closed by unanimous voice vote, thereby electing Councillor SerVaas as President.

Mr. Elrod opened the floor for nominations for Vice President. Councillor Giffin nominated Councillor McClamroch for Vice President. Councillor Short moved, seconded by Councillor Beadling, to close nominations. Nominations were closed by unanimous voice vote, thereby electing Councillor McClamroch as Vice President.

Certification of Caucus Leaders

Mr. Elrod stated that he has certifications that Councillor McClamroch has been selected as leader of the Republican Caucus and Councillor Boyd has been selected as leader of the Democrat Caucus.

Mr. Elrod returned the gavel to President SerVaas.

INTRODUCTION OF GUESTS AND VISITORS

Councillor Beadling wished Beverly Rippey, Clerk of the City-County Council, a happy birthday. Councillor Curry introduced Holley Holmes, Dwight Cottingham, and Alan Kimbell, former councillors; and John Ryan and James Morris, former deputy mayors.

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, January 10, 1994, 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

December 27, 1993

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 Wednesday, December 29, 1994, a copy of NOTICE TO TAXPAYERS of a

January 10, 1994

Public Hearing on Proposal No. 686, 1993, to be held on Monday, January 10, 1994, at 7:00 p.m., in the City-County Building.

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

December 27, 1993

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 Wednesday, December 29, 1993, a copy of LEGAL NOTICE on General Ordinance No. 157, 1993.

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

December 27, 1993

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 Wednesday, December 29, 1993, a copy of LEGAL NOTICE on General Ordinance Nos. 164 and 165, 1993.

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

December 14, 1993

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. 110, 1993 - transferring and appropriating \$24,900 for the Marion County Public Defender Agency to pay public defender salaries for the Marion County Drug Court

FISCAL ORDINANCE NO. 111, 1993 - authorizing tax anticipation borrowing for the City during the period from January 1, 1994 through December 31, 1994

FISCAL ORDINANCE NO. 112, 1993 - authorizing tax anticipation borrowing for the County General Fund and the Welfare General Fund during the period from January 1, 1994 through December 31, 1994

GENERAL ORDINANCE NO. 163, 1993 - amending the Revised Code dealing with the organization of the Departments of Public Works and Transportation

GENERAL ORDINANCE NO. 164, 1993 - creating a Court Violations Bureau administrative fee and fund

GENERAL ORDINANCE NO. 165, 1993 - revising the enforcement procedures for civil zoning violations in order to comply with state statute, by making certain violations subject to admission and payment through the Ordinance Violations Bureau, in lieu of citations with increasing fine amounts

GENERAL ORDINANCE NO. 166, 1993 - amending the Code by authorizing the county to contract with the sheriff for salary compensation in lieu of collection fees and by repealing Sec. 2-21 of the Code

SPECIAL ORDINANCE NO. 15, 1993 - approving the issuance of City of Indianapolis, Indiana Adjustable Rate Economic Development Revenue Refunding Bonds, Series 1993 (Calderon Development Company Project) in an aggregate principal amount not to exceed \$1,250,000

SPECIAL ORDINANCE NO. 16, 1993 - approving the issuance of City of Indianapolis, Indiana Economic Development Revenue Bonds, Series 1993A (The Meadows Section 8 Assisted Project) in the aggregate principal amount not to exceed \$3,900,000 and City of Indianapolis, Indiana Taxable Economic Development Revenue Bonds, Series 1993B (The Meadows Section 8 Assisted Project), in the aggregate principal amount not to exceed \$100,000

SPECIAL ORDINANCE NO. 17, 1993 - authorizing the amendment of documents relating to the previously issued \$8,100,000 City of Indianapolis, Indiana Economic Development Revenue Bond (Webb/Henne Indianapolis Venture I Project) dated as of December 1, 1985

SPECIAL ORDINANCE NO. 18, 1993 - authorizing the amendment of documents relating to the previously issued \$4,350,000 City of Indianapolis, Indiana Economic Development Revenue Bonds, Series A (Monument Circle Associates Project) dated as of April 1, 1985

SPECIAL ORDINANCE NO. 19, 1993 authorizing the issuance and sale to the Indianapolis Local Public Improvement Bond Bank of the Park District Note, for the purpose of procuring funds to refund a certain obligation of the Park District in an amount not to exceed \$3,500,000 (Brookville/Senour Economic Development Area)

SPECIAL RESOLUTION NO. 87, 1993 - recognizing the 1993 state football champion Roncalli High School Rebels

SPECIAL RESOLUTION NO. 88, 1993 - recognizing the service of Robert A. O'Neal

SPECIAL RESOLUTION NO. 89, 1993 - recognizing Rupert Daily's 48 years of service to the City of Indianapolis

SPECIAL RESOLUTION NO. 90, 1993 - extending condolences to the family and friends of LaShunda Davis and seeking to create meaning to an otherwise senseless act of shooting violence

SPECIAL RESOLUTION NO. 91, 1993 - commending the Indianapolis Police Department for their quick action in the LaShunda Davis killing, commending citizens for their role, and encouraging all citizens to "tell" when their communities are being threatened or damaged

SPECIAL RESOLUTION NO. 92, 1993 - authorizing the lease of space for the Family Advocacy Center located at 233 McCrea Street

SPECIAL RESOLUTION NO. 93, 1993 - amending S.R. 72, 1990, as amended, by extending the expiration date on the Inducement Resolution for Homeward Partners, Inc. through February 28, 1994

SPECIAL RESOLUTION NO. 94, 1993 - amending S.R. 84, 1990, as amended, by extending the expiration date on the Inducement Resolution for Meadows Revival, Inc. through June 30, 1994

SPECIAL RESOLUTION NO. 95, 1993 - amending S.R. 39, 1992, as amended, by extending the expiration date on the Inducement Resolution for Herff Jones, Inc. through June 30, 1994

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.

January 10, 1994

APPROVAL OF JOURNALS

President SerVaas called for additions or corrections to the Journal of December 13, 1993. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS AND COUNCIL RESOLUTIONS

PROPOSAL NO. 6, 1994. This proposal, sponsored by Councillor Giffin, recognizes Steven Rink, Decatur Township Trustee. Councillor Giffin read the resolution and presented a copy of the document to Mr. Rink, who expressed appreciation for the recognition. Also present were Mr. Rink's wife and Warren Township Fire Chief Dale Henson. Councillor Giffin moved, seconded by Councillor Hinkle, for adoption. Proposal No. 6, 1994 was adopted by unanimous voice vote.

Proposal No. 6, 1994 was retitled SPECIAL RESOLUTION NO. 1, 1994 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 1, 1994

A SPECIAL RESOLUTION recognizing Decatur Township Trustee Steven C. Rink.

WHEREAS, the morning of December 8, 1993, began about the same as other mornings in the Decatur Township Trustee's Office; and

WHEREAS, about 9:30 Trustee Steven C. Rink looked outside the township government center window and saw that across the street a house was on fire and a man without his shirt and shoes was shouting for help; and

WHEREAS, Rink, a former Decatur Township volunteer fireman, hurried across the street, entered the burning house crawling low on the floor like he was trained, and at risk to his own life rescued a four-year-old child and then returned back into the dense smoke to pull out an unconscious adult; and

WHEREAS, even though not everyone in the house was saved from the tragic fire, two people are alive thanks solely to the training and courage of Steven C. Rink; 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 applauds Decatur Township Trustee Steven C. Rink for his courage and skill in rescuing two people from a burning house.

SECTION 2. Mr. Rink does not consider himself a "hero" for his rescue -- but his courageous action that December morning reflects the highest credit upon the training he received while he was with the Decatur Township Volunteer Fire Department, and the highest credit upon himself.

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. 7, 1994. This proposal, sponsored by Councillors Williams and Boyd, concerns the privatization of the Advanced Wastewater Treatment (AWT) plant. Councillor Williams said that there has been much discussion since the Board of Public Works entered into a contract with the White River Environmental Partnership (WREP) to be the private management company to operate the AWT plant. In her opinion, the Board of Public Works

moved forward on this matter too quickly. This is the biggest deal of this administration and probably one of the biggest privatization deals in the country.

Councillor Williams stated that she was unaware until this meeting that Councillor Curry introduced a proposal concerning the privatization of AWT as well. Both resolutions propose setting a date for a public hearing. Proposal No. 7, 1994 has the Committee of the Whole conducting the public hearing and Proposal No. 21, 1994 has the Public Works Committee conducting the hearing. Her concern is that whichever the forum that there be full disclosure and that it be televised at a time when the average person can sit down and watch it.

Councillor Boyd said that Proposal No. 7, 1994 is a very honest and sincere effort to obtain all the information so that there are no misconceptions in the community about this privatization effort.

Councillor Moriarty said that she is not opposed to a public hearing either before the Public Works Committee or before the Committee of the Whole. She asked what activity in Section 1 of this resolution should be suspended since the Board of Public Works has already approved the contract with WREP.

Councillor Boyd answered that when Proposal No. 7, 1994 was drafted the activity had not occurred. There has been significant activity and consummation of agreements since the time this proposal was drafted.

Councillor Moriarty moved to amend Proposal No. 7, 1994 by deleting Section 1. This motion was seconded by Councillor Short.

Councillor Coughenour said she is concerned with Sections 3 and 4. She believes it would be superfluous to have the Council's fiscal analyst prepare an economic analysis since the Public Works Department and the Public Works Committee have already gone through all this work. She said that the Public Works Committee is planning to hold a televised public hearing on January 27, 1994 at 5:30 p.m concerning the privatization of the AWT plants. Her real objection to Proposal No. 7, 1994 is that it would delay the process too long.

Councillor Giffin asked for consent to abstain from voting on Proposal Nos. 7 and 21, 1994 due to a conflict of interest. Consent was given.

Councillor Williams said before any vote is taken she would consider a friendly amendment to delete everything in Proposal No. 7, 1994 except Section 2.

Councillor Coughenour said she would like to hear Councillor Curry's proposal before any vote is taken.

The President said that since Councillor Williams' proposal is before the Council at this time he would ask if she would like to bring it to a vote assuming that Sections 1, 3 and 4 will be deleted, leaving Section 2.

Councillor Williams said that she would yield to Councillor Curry for his comments.

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PROPOSAL NO. 21, 1994. The proposal, sponsored by Councillor Curry, provides procedures for hearings on transition of operation of AWT plant.

Councillor Curry stated that since the contract has already been executed between the City and WREP there is a need to (1) clear up questions that have been raised in public forums, and (2) provide a mechanism whereby the Council will be periodically updated on the progress on the privatization of the operation of AWT. He believes that it is important to point out that certain members of the Council were on a review committee concerning this matter, that confidentiality agreements were executed which limited some information that could be passed, and that a hearing at this point is right and proper.

Councillor Williams stated that if Councillor Curry would be willing to delete everything except Section 2 in Proposal No. 21, 1994, she would be willing to withdraw her proposal in support of his. Councillor Boyd said that he agrees with Councillor Williams' decision to withdraw Proposal No. 7, 1994.

Councillor Curry said that Councillor Williams' request is reasonable.

Councillor Williams said that with that commitment and with Councillor Boyd's consent, she moved to withdraw Proposal No. 7, 1994. Councillor Boyd seconded that motion. Proposal No. 7, 1994 was withdrawn by unanimous voice vote.

Councillor Curry moved to delete all the "Whereas" paragraphs and Section 1 and to renumber Section 2 as Section 1 in Proposal No. 21, 1994. Councillor Moriarty seconded the motion.

Councillor Short suggested that since this is such an important issue, he would like to see the President in conjunction with the chairperson of the Public Works Committee set up the public hearing with the same rules as set forth for a rezoning hearing. The President said that could be done.

Councillor Rhodes said that Channel 16 has phone-in capabilities. He said that he would check to see if a portion of the public hearing could be set aside for phone-in questions.

Councillor Jimison moved the question.

Councillor Curry's motion passed by unanimous voice vote.

Councillor Curry moved, seconded by Councillor Moriarty, for adoption. Proposal No. 21, 1994, as amended, was adopted by unanimous voice vote.

Councillor Gray said that he would like for this to set a precedent for the privatization of government entities. The taxpayer should be more involved from the beginning. He believes the privatization of the AWT plants was handled very poorly.

Proposal No. 21, 1994 was retitled SPECIAL RESOLUTION NO. 2, 1994 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 2, 1994

A SPECIAL RESOLUTION providing procedures for hearings on transition of operation of AWT plant.

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

SECTION 1. The Council directs the Administration to periodically update the Council. The Public Works Committee on January 27, 1994 at 5:30 p.m. in the Public Assembly Room shall hold a full public hearing to provide the Council with all relevant information concerning the implementation of the contract and answer any question which may arise as to the implementation of the transition of the operation of the Advanced Wastewater Treatment facilities from the City to WREP.

PROPOSAL NOS. 702, 703, 712 and 713, 1993. The President ruled that these four Council appointments would be voted on together. PROPOSAL NO. 702, 1993. The proposal reappoints Ray Battey to the City-County Administrative Board. PROPOSAL NO. 703, 1993. The proposal reappoints Ruby Miller to the City-County Administrative Board. PROPOSAL NO. 712, 1993. The proposal reappoints Tony A. Buford to the Board of Public Works. PROPOSAL NO. 713, 1993. The proposal appoints Holley Holmes to the Board of Public Works. Proposal Nos. 702, 703, 712 and 713, 1993 were adopted by a unanimous voice vote.

Proposal No. 702, 1993 was retitled COUNCIL RESOLUTION NO. 1, 1994 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 1, 1994

A COUNCIL RESOLUTION reappointing Ray Battey to the City-County Administrative 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 City-County Administrative Board, the Council appoints:

Ray Battey

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. 703, 1993 was retitled COUNCIL RESOLUTION NO. 2, 1994 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 2, 1994

A COUNCIL RESOLUTION reappointing Ruby Miller to the City-County Administrative 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 City-County Administrative Board, the Council appoints:

Ruby Miller

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 her respective successor is appointed and has qualified.

Proposal No. 712, 1993 was retitled COUNCIL RESOLUTION NO. 3, 1994 and reads as follows:

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CITY-COUNTY COUNCIL RESOLUTION NO. 3, 1994

A COUNCIL RESOLUTION reappointing Tony A. Buford to the Board of Public Works.

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 Board of Public Works, the Council appoints:

Tony A. Buford

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. 713, 1993 was retitled COUNCIL RESOLUTION NO. 4, 1994 and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 4, 1994

A COUNCIL RESOLUTION appointing Holley Holmes to the Board of Public Works.

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 Board of Public Works, the Council appoints:

Holley Holmes

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.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 1, 1994. Introduced by Councillor Rhodes. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Revised Code by delegating to the Indianapolis Fleet Services division the authority to establish administrative fees charged to non-City entities that use the services of the division"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 2, 1994. Introduced by Councillor Rhodes. The Clerk read the proposal entitled: "A Proposal for a SPECIAL RESOLUTION approving a public purpose grant in the amount of \$25,000 to Central Indiana Radio Reading, Inc."; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 3, 1994. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Revised Code concerning the continuation of sewer user fees"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 4, 1994. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE amending the Code concerning sick time conversion for Advanced Wastewater Treatment plant employees"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 5, 1994. Introduced by Councillor Short. The Clerk read the proposal entitled: "A Proposal for a GENERAL ORDINANCE limiting the number of special resolutions that may be introduced"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 20, 1994. Introduced by Councillor West. The Clerk read the proposal entitled: "A Proposal for a COUNCIL RESOLUTION amending Council Resolution No. 19, 1991 to correct the expiration date of the term of William B. Powers as a member of the Citizens Police Complaint Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 8, 1994. Introduced by Councillor Borst. The Clerk read the proposal entitled: "REZONING ORDINANCE certified by the Metropolitan Development Commission on January 6, 1994." The Council did not schedule Proposal No. 8, 1994 for hearing pursuant to IC 36-7-4-608. Proposal No. 8, 1994 was retitled REZONING ORDINANCE NO. 1, 1994 and is identified as follows:

REZONING ORDINANCE NO. 1, 1994. 93-Z-21 LAWRENCE TOWNSHIP.
COUNCILMANIC DISTRICT # 04.
6706 EAST 82ND STREET (approximate address), INDIANAPOLIS.
RALLY'S INC., by Philip A. Nicely, requests the rezoning of 0.44 acre, being in the C-3 and C-4 District, to the C-4 classification to provide for a restaurant with outdoor seating.

PROPOSAL NO. 9, 1994. Introduced by Councillor Borst. The Clerk read the proposal entitled: "REZONING ORDINANCE certified by the Metropolitan Development Commission on January 6, 1994." The Council did not schedule Proposal No. 9, 1994 for hearing pursuant to IC 36-7-4-608. Proposal No. 9, 1994 was retitled REZONING ORDINANCE NO. 2, 1994 and is identified as follows:

REZONING ORDINANCE NO. 2, 1994. 93-Z-161 (Amended) WARREN TOWNSHIP.
COUNCILMANIC DISTRICT # 13.
701 SOUTH MITTHOEFER ROAD (approximate address), INDIANAPOLIS.
ROY PROCK, by Philip A. Nicely, requests the rezoning of 53.9 acres, being in the D-A District, to the D-2 classification to provide for a residential subdivision.

PROPOSAL NOS. 10-14, 1994. Introduced by Councillor Borst. The Clerk read the proposals entitled: "REZONING ORDINANCES certified by the Metropolitan Development Commission on January 6, 1994."

Councillor Golc made the following motion:

Mr. President:

I move that Proposal No. 10, 1994 (Rezoning Petition No. 93-Z-95 (Amended)) be scheduled for a hearing before this Council at its next regular meeting on January 31, 1994 at 7:00 p.m. and that the Clerk read the announcement of such hearing and enter same in the minutes of this meeting.

Councillor Jones seconded the motion and it passed by unanimous voice vote. Proposal No. 10, 1994 is identified as follows:

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93-Z-95 (Amended) WAYNE TOWNSHIP. COUNCILMANIC DISTRICT # 17.
2221-2249 WEST MINNESOTA STREET (approximate address), INDIANAPOLIS.
WILSON WATER AND SEWER SERVICE, INC. and DOUGHERTY INDUSTRIES, INC., by Jeff Scripture,
request the rezoning of 1.2 acres, being in the D-5 District, to the I-3-U classification to provide for the
continued operation of a contractor's business and machine tool shop.

The Council did not schedule Proposal Nos. 11-14, 1994 for hearing pursuant to IC 36-7-4-608. Proposal Nos. 11-14, 1994 were retitled REZONING ORDINANCE NOS. 3-6, 1994 and are identified as follows:

REZONING ORDINANCE NO. 3, 1994. 93-Z-165 WARREN TOWNSHIP.
COUNCILMANIC DISTRICT # 13.
1702 SOUTH FRANKLIN ROAD (approximate address), INDIANAPOLIS.
SOUTHEASTERN PROPERTIES, INC, by Thomas Michael Quinn, requests the rezoning of 6 acres, being in
the SU-1 District, to the D-4 classification to provide for single-family residential development.

REZONING ORDINANCE NO. 4, 1994. 93-Z-177 (Amended) WASHINGTON TOWNSHIP.
COUNCILMANIC DISTRICT # 7.
2502 EAST 46TH STREET (approximate address), INDIANAPOLIS.
WESTEL-INDIANAPOLIS COMPANY, d/b/a CELLULAR ONE OF INDIANAPOLIS, by James
Buddenbaum, requests the rezoning of 1.38 acres, being in the D-5 District, to the C-3 classification to provide
for commercial uses.

REZONING ORDINANCE NO. 5, 1994. 93-Z-180 PERRY TOWNSHIP.
COUNCILMANIC DISTRICT # 25.
8015 BLUFF ROAD (approximate address), INDIANAPOLIS.
INDIANAPOLIS DEPARTMENT OF PARKS AND RECREATION requests the rezoning of 30.28 acres,
being in the D-A District, to the PK-1 classification to provide for development of a public park.

REZONING ORDINANCE NO. 6, 1994. 93-Z-181 PERRY TOWNSHIP.
COUNCILMANIC DISTRICT # 24.
1201 BYLAND DRIVE (approximate address), BEECH GROVE.
JOHN R. and CAPPIE DRUBIN HAMMOND, by Mitch Sever, request the rezoning of 19.26 acres, being in
the D-A District, to the D-3 classification to provide for single-family residential development.

PROPOSAL NOS. 15-19, 1994. Introduced by Councillor Borst. The Clerk read the proposals entitled: "REZONING ORDINANCES certified by the Metropolitan Development Commission on January 6, 1994." The Council did not schedule Proposal Nos. 15-19, 1994 for hearing pursuant to IC 36-7-4-608. Proposal Nos. 15-19, 1994 were retitled REZONING ORDINANCE NOS. 7-11, 1994 and are identified as follows:

REZONING ORDINANCE NO. 7, 1994. 93-Z-98 WASHINGTON TOWNSHIP.
COUNCILMANIC DISTRICT # 3.
1101 EAST 96TH STREET (approximate address), INDIANAPOLIS.
GLENN and JUDITH GUNNELL, by James W. Beatty, requests the rezoning of 3.685 acres, being in the D-A
District, to the D-7 classification to provide for multi-family residential development.

REZONING ORDINANCE NO. 8, 1994. 93-Z-113 WASHINGTON TOWNSHIP.
COUNCILMANIC DISTRICT # 3.
4625 EAST 82ND STREET (approximate address), INDIANAPOLIS.
C & N RECREATION requests the rezoning of 5.84 acres, being in the D-A District, to the C-1 classification
to provide for commercial office development.

REZONING ORDINANCE NO. 9, 1994. 93-Z-167 PERRY TOWNSHIP.
COUNCILMANIC DISTRICT # 25.
8221 MORGANTOWN ROAD (approximate address), INDIANAPOLIS.
DALE HUBBARD, by William F. LeMond, requests the rezoning of 0.95 acre, being in the D-A District, to the
C-S classification to provide for a hardware store and electrical contracting use.

REZONING ORDINANCE NO. 10, 1994. 93-Z-183 WARREN TOWNSHIP.
COUNCILMANIC DISTRICT # 12.

9515 SHORELAND LANE (approximate address), INDIANAPOLIS.

MARINA APARTMENTS, L.P., by James B. Burroughs, requests the rezoning of 1.10 acres, being in the D-A District, to the D-6 classification to conform zoning to its use as a multi-family residential development.

REZONING ORDINANCE NO. 11, 1994. 93-Z-184 FRANKLIN TOWNSHIP.
COUNCILMANIC DISTRICT # 23.

7633 SOUTHEASTERN AVENUE (approximate address), INDIANAPOLIS.

RONNIE R. and KATHERYN L. ANDERSON request the rezoning of 11.48 acres, being in the C-3 District, to the C-7 classification to provide for outside display and sale of mini-barns, statuary, and similar items and to provide for a swimming pool service operation.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 686, 1993. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 686, 1993 on January 5, 1994. The proposal appropriates \$67,375 for the Prosecuting Attorney to cover the salary of the Executive Director of the Family Advocacy Center funded by a state grant. By a 6-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

The President called for public testimony at 8:01 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Moriarty, for adoption. Proposal No. 686, 1993 was adopted on the following roll call vote; viz:

18 YEAS: Beadling, Black, Boyd, Dowden, Giffin, Golc, Hinkle, Jimison, Jones, McClamroch, Moriarty, Mullin, O'Dell, Rhodes, Ruhmkorff, SerVaas, Smith, West

4 NAYS: Curry, Gray, Schneider, Shambaugh

7 NOT VOTING: Borst, Brents, Coughenour, Franklin, Gilmer, Short, Williams

Proposal No. 686, 1993 was retitled FISCAL ORDINANCE NO. 1, 1994 and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 1, 1994

A FISCAL ORDINANCE amending the City-County Annual Budget for 1994 (City-County Fiscal Ordinance No. 70, 1993) appropriating an additional Sixty-seven Thousand Three Hundred Seventy-five Dollars (\$67,375) in the State and Federal Grants Fund for purposes of the Prosecuting Attorney and reducing the unappropriated and unencumbered balance in the State and Federal Grants 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 1.02 (x) and (b) of the City-County Annual Budget for 1994, be and is hereby amended by the increases and reductions hereinafter stated for purposes of the Prosecuting Attorney to pay salary and fringe benefits for the Executive Director of the Family Advocacy Center.

SECTION 2. The sum of Sixty-seven Thousand Three Hundred Seventy-five Dollars (\$67,375) 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:

PROSECUTING ATTORNEY
1. Personal Services

STATE AND FEDERAL GRANTS FUND
\$55,000

January 10, 1994

COUNTY AUDITOR

1. Personal Services (fringes)	<u>12,375</u>
TOTAL INCREASE	\$67,375

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

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>\$67,375</u>
TOTAL REDUCTION	\$67,375

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

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 644, 1993. Councillor Rhodes reported that the Administration and Finance Committee heard Proposal No. 644, 1993 on December 13, 1993 and January 5, 1994. The proposal amends Chapter 8½ of the Code concerning the franchising of private cable television systems. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Rhodes moved, seconded by Councillor Short, for adoption. Proposal No. 644, 1993, as amended, was adopted on the following roll call vote; viz:

23 YEAS: Beadling, Black, Boyd, Brents, Curry, Dowden, Giffin, Gilmer, Gray, Hinkle, Jimison, Jones, McClamroch, Mullin, O'Dell, Rhodes, Ruhmkorff, Schneider, SerVaas, Shambaugh, Short, Smith, West

0 NAYS:

6 NOT VOTING: Borst, Coughenour, Franklin, Golc, Moriarty, Williams

Proposal No. 644, 1993, as amended, was retitled GENERAL ORDINANCE NO. 1, 1994 and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 1, 1994

A GENERAL ORDINANCE amending Chapter 8½ of the Code of Indianapolis and of Marion County, Indiana, and adding a new Division 3 in Article II providing for the franchising of private cable television systems.

WHEREAS, Chapter 8½ of the Code of Indianapolis and Marion County ("Code") provides for the franchising and regulation of cable television systems within the City of Indianapolis; and

WHEREAS, under Section 8½-2(g)(B) of the Code, the term "cable television system" or "cable system" is defined to exclude a facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way; and

WHEREAS, based upon the foregoing definition, a limited cable television system, consisting of a facility serving subscribers in one or more multiple-unit dwellings under common ownership, control, or management which uses any public rights-of-way or a facility serving subscribers in one or more multiple-unit dwellings not under common ownership, control or management, qualifies as a "cable television system" or "cable system"; and

WHEREAS, under the provisions of the Cable Communications Policy Act of 1984, and the Cable Television Consumer Protection and Competition Act of 1992 (collectively, "the Act"), a cable operator may not operate a cable television system without a franchise; and

WHEREAS, the Act makes provision for the granting of additional competitive franchises within a community; and

WHEREAS, limited cable television systems as described above are subject to the franchising requirements of the Act, but, because of the limited size and the nature of such systems, including but not limited to, the

particular market segment served by such systems, the Council deems that such systems need not be subject to the full breadth of the franchising process contained in Chapter 8½ of the Code, which is applicable to other cable television systems that are designed and intended to provide service to a broad range of subscribers within the entire city or a substantial portion of the city; and

WHEREAS, the franchising of limited cable television systems (as defined in this ordinance) will serve the public interest by providing competition in the cable television marketplace within the City and subjecting limited cable systems to local regulation; and

WHEREAS, the City-County Council finds that such limited cable television systems (as defined in this ordinance) should be subject to a franchising procedure which permits the construction, operation and maintenance of such systems upon the submission of an application therefor and payment of an application fee, and that such systems be subject to certain other regulations contained in Chapter 8½ and as set forth in this ordinance; now, therefore,

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

SECTION 1. Secs. 8½-1 and 8½-2 be and are hereby amended by deleting the stricken-through text and adding the underlined text to read as follows:

Sec. 8½-1. Statutory authority; findings.

(a) ~~Because the operation of a cable television system requires the permission of the city to use the public ways,~~ The council determines that it is proper and expedient to franchise such cable television systems.

(b) The council hereby finds that it is in the interest of the city that the public ways be used to make cable television available to the people of the city. It is intended that the provisions of this chapter should facilitate and encourage orderly and responsible development of a system which will provide the people of the city with cable television services which is are versatile, reliable and efficient, which is are responsive to the needs and interests of the community; and which provides the widest possible diversity of information sources and services to the public. The provisions of this chapter shall be construed liberally to further these purposes.

(c) The council hereby finds that under applicable law the franchising of cable television systems within the city may include general franchises to serve the general population of the city and special franchises to provide limited cable service within multiple-unit dwellings; that the market segments served by operators under general or special franchises differ and that the nature of a cable system under a limited franchise and the services provided thereunder are determined in part by the terms of contractual arrangements between the limited cable operator and the owner or manager of such multiple-unit dwellings. The council recognizes that the differences between general cable systems and limited cable systems are such that the procedures for granting franchises, the regulations imposed on such systems, and the required levels of services applied to a limited cable system may differ appropriately from those applied to other cable systems.

Sec. 8½-2. Definitions.

As used in this chapter:

- (a) The term "the Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, an amendment to the Communications Act of 1934 (47 U.S.C. Section 521 et seq.) as the same may be amended or supplemented from time to time;
- (b) The term "affiliate," when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person;
- (c) The term "board" means the cable franchise board of the city, created by section ~~8½-138~~ 285-111 of the Revised Code of the Consolidated City and County;
- (d) The term "cable channel" or "channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Federal Communications Commission by regulation);

- (fe) The term "cable service" means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service;
- (gf) The term "cable television system," "cable system" or "system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the city, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communication Act of 1934, as amended except that such facility shall be considered a cable system (other than for purposes of Section 621(c) of the Act (47 U.S.C. Section 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems;
- (gg) The term "city" means the Consolidated City of Indianapolis, Marion County, Indiana, a municipal corporation of the State of Indiana;
- (ph) The term "clerk of the council" ~~of~~ or "clerk" means clerk of the city-county council;
- (hi) The term "franchise" means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to Section 626 of the Act (427 U.S.C. Section 546)), issued by the city whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction and operation of a cable system;
- (ej) The term "gross accrued revenues" means any and all revenues derived from the cable television operations of grantee under the franchise granted by the city as those terms are defined therein and as reflected in the financial statements of grantee, but specifically excluding (1) any and all taxes or fees on services furnished by the grantee imposed directly on any subscriber or user by any city, county, state or other governmental unit, and collected by the grantee for such entity, (2) any and all interest income from any source attributed to such cable television operations, (3) any and all income derived by grantee from the sale and transfer of cable television assets, and (4) any and all amounts of bad debts from such cable television operations that are written off by grantee;
- (k) The term "landlord restricted cable services" means cable television services provided to multiple dwelling units pursuant to a private cable service contract with the owner or manager.
- (sl) The term "limited cable television system" or "limited cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, serviced from a principal headend including any other headends or microwave receive sites that are technically integrated to the system's principal headend, that is designed to provide cable service which includes, but is not limited to, video programming and which is provided to multiple subscribers within the city but only to subscribers (A) in one or more multiple-unit dwellings under common ownership, control, or management, where such facility or facilities use any public right-of-way or (B) in one or more multiple-unit dwellings not under common ownership, control, or management;
- (m) The term "manager" means the owner or any other person authorized by the owner of a multiple-unit dwelling to contract for private cable services to such multiple-unit dwelling;
- (en) The term "operator" or "cable operator" means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system and who has been granted a franchise by the city or by any predecessor, governmental officer or organization authorized to grant a franchise.
- (io) The term "other programming service" means information that a cable operator makes available to all subscribers generally;
- (jp) The term "person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity;

- (~~eq~~) The term "private cable service contract" means a contract or agreement between the operator of a limited cable system, including an applicant, for landlord restricted cable services, and the owner or manager of a multiple-unit dwelling complex, which authorizes such operator to provide a limited cable television service to occupants of such multiple-unit dwelling complex.
- (~~kr~~) The term "public, educational, or governmental access facilities" means (A) channel capacity designated for public, educational, or governmental use; and (B) facilities and equipment for the use of such channel capacity;
- (~~ls~~) The term "public way" means the surface and the area above and below the surface of any public street, highway, lane, alley, sidewalk path, right-of-way or easement, and any public utility easement or right-of-way dedicated generally for public utility uses;
- (~~t~~) The term "separate limited cable service area" means the area containing one or more multiple-unit dwellings under the same common ownership which is included in the geographic area of a special cable franchise granted under this Chapter;
- (~~u~~) The term "special cable franchise" means a franchise to operate a limited cable television system.
- (~~tv~~) The term "special cable operator" has the same meaning as "operator" under this section, except that the term applies solely to a limited private cable system.
- (~~ww~~) The term "subscriber" means any person who contracts or agrees to purchase the regular subscriber service, pay television, or any other service provided by ~~the~~ a cable system, and includes anyone actually using such service;
- (~~x~~) The term "video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station;

SECTION 2. Chapter 8½ of the Code of Indianapolis and Marion County be and is hereby amended by adding new Secs. 8½-5 and 8½-6 to read as follows:

Sec. 8½-5. Franchise required.

No person shall operate a cable television system within the city without having first obtained a franchise from the city. Provided that any limited cable television system which is in operation on the effective date of this ordinance and for which application for a special cable franchise is made within ninety (90) days following such effective date may continue to operate such limited cable system, subject to the regulatory authority of the board, until a final decision has been rendered upon the application.

Sec. 8½-6. Franchise's not exclusive.

(a) The granting of a cable franchise shall not grant the operator any rights to exclude any other franchised operator from providing services within the geographic areas included in the cable franchise.

(b) Any agreement between the operator and the owner which restricts other franchised operators from providing services to the occupants of those units may be enforced only to the extent valid from time to time under applicable law. To the extent that such agreements may, at any time, become unenforceable under applicable law which applies to all franchise holders, the operator under a franchise shall take no action to enforce such exclusive rights.

(c) To the extent that payments are made to the owner or manager of a multiple dwelling unit for exclusive rights to provide cable services within a multiple dwelling unit, such payments shall not be deemed a cost of providing service for purposes of establishing rates to be charged to consumers of the cable television services.

SECTION 3. Chapter 8½ of the Code of Indianapolis and Marion County be and is hereby amended by adding a new Division 3 to Article II to read as follows:

DIVISION 3 - SPECIAL CABLE FRANCHISES

Section 8½-41. Procedure for granting special cable franchises.

(a) Any person interested in operating only a limited cable system providing landlord restricted cable services, may in lieu of the procedures in Sec. 8½-21, apply for a special cable franchise by complying with this section.

(b) Any person interested in obtaining one or more special cable television franchises may apply to the board. The board shall prescribe the form of such application which shall require:

- (1) a diagram map showing the geographic area or areas for which the franchise is requested, and describing such areas with sufficient particularity as to enable a reasonable determination of the boundaries of such area and the proposed location of the facilities of the limited cable system;
- (2) evidence that the applicant is either currently operating a limited cable system or has the financial, legal and technical qualifications to construct, operate and maintain a limited cable television system;
- (3) evidence that the owner or manager of each multiple-unit dwelling to be served by the limited cable system has agreed to receive such service, which evidence may consist of a certification from such owner or manager certifying to the existence of a private cable service contract between such owner or manager and the applicant, a description of the property and stating the expiration date of the term of such private cable service contract;
- (4) descriptions of the cable services to be provided subscribers, of any other services or uses of the system, and of the rate structure to be charged for such services upon the grant of the franchise;
- (5) a designation of channel capacity for public, educational and governmental access, proposing either (i) interconnection with an operator currently franchised by the city or (ii) the facilities and capacity (which may consist of playback equipment) for providing subscribers with public, educational and governmental access programming substantially equivalent to that provided by other franchises; and
- (6) an application fee of either three thousand dollars (\$3,000) if the applicant is not a current franchisee or one thousand five hundred dollars (\$1,500) if the applicant is a current holder of a special cable franchise.

(c) An applicant for a special cable franchise may include in the application and a single franchise may be granted for more than one limited cable system in more than one geographic area within the city.

(d) Upon the submission of the application and the application fee, the board shall publish notice of and hold a public hearing on the application within sixty (60) days of the receipt thereof. At the conclusion of the public hearing (which may be continued beyond the sixty (60) days with consent of the applicant), the board shall recommend to the city-county council to grant the special cable franchise if the following is established:

- (1) the applicant has the financial, legal and technical qualifications to operate the special cable system, provided that if at the time of its application, applicant is providing limited cable television service in all or part of the geographic area or areas to which its application applies such facts shall be evidence of such qualification;
- (2) the grant of the special cable franchise will not have a material adverse effect on the economic ability of any other operator to fulfill any franchise obligation to assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides;
- (3) the proposed facilities to be constructed under the franchise will not substantially and unreasonably interfere with current or planned uses of the public ways; and
- (4) the application complies with the requirements of subsection (b).

(e) In the event one or more of the requirements set forth in subsection (d) is not established, the board shall advise the city-county council that the application is denied. The applicant may within ten (10) days of such decision request the council committee to review such decision.

(f) The board shall include in its recommendation written findings of fact on the requirements specified in subsection (d), and if its recommendation is to grant a franchise, a proposed franchise agreement which is consistent with the terms of the application and the requirements of this chapter. Such findings and proposed franchise agreement shall be approved by the board no later than the next monthly meeting of the board

following the public hearing. The time for taking such action may be extended by the board with the consent of the applicant.

(g) The board's recommendation to grant a special cable franchise shall be filed with the clerk and referred to the council committee responsible for cable franchising. At its first regularly scheduled meeting held more than ten (10) days following the receipt of such recommendation the committee shall determine whether it would be in the public interest to recommend the issuance of the special cable franchise, and cause to be introduced to the council an ordinance or resolution which would confirm such determination and approve a franchise agreement.

(h) A final decision denying an application is subject to appeal in the same manner as the denial of a franchise under the Act.

Sec. 8½-42. Form and nature of franchise.

Upon council approval of the granting of a special cable franchise, the board shall execute a special cable franchise agreement in a form authorized by ordinance of the council. A special cable franchise shall constitute a non-exclusive authority to operate a limited cable television system within a designated area or areas, the same as any franchise as defined in Section 8½-2, for the period of time specified in the franchise, but not to exceed ten (10) years.

Sec. 8½-43. Applicability of other provisions.

A franchised special cable operator that provides only landlord restricted services shall be subject to the regulations and requirements of Sec. 8½-44 but only the following provisions of Articles III through VII of this Chapter 8½, provided that any reference therein to a franchise contract shall be deemed to include a special cable franchise:

- (a) Secs. 8½-51 through 8½-54 of Article III;
- (b) Secs. 8½-61, 8½-63, 8½-65 and 8½-66 of Article IV;
- (c) Secs. 8½-83 through 8½-87 and 8½-89 of Article V;
- (d) Secs. 8½-101 through 8½-104 of Article VI; and
- (e) Secs. 8½-111 and 8½-112 of Article VII.

Sec. 8½-44. Additional provisions.

(a) The franchisee shall pay to the city a franchise fee equal to five percent (5%) of the special cable operator's gross revenues derived from the operation of the limited cable system, computed at the end of each calendar year and paid quarterly. Gross revenues shall include the gross revenues of any affiliate or contract manager who receives revenues derived from the operation of the system.

(b) A special cable operator shall be required to observe all customer service standards required under the Act.

(c) All rates for limited cable service shall, to the extent permitted by applicable regulations pertaining to rates, be uniform among subscribers who receive the same service. Notwithstanding the foregoing, a special cable operator may provide different levels of service at different areas included in a franchise, if permitted by the franchise agreement.

(d) A special cable operator shall comply with all applicable provisions of the Act.

(e) All limited cable television systems shall provide public, educational and governmental access channels, in a manner that achieves substantially uniform access to such programming by all cable subscribers in the city. Unless otherwise agreed in the franchise agreement, a limited cable system shall interconnect with existing cable systems having a franchise which includes each separate limited service area if such franchisee is required to provide such programming by interconnection to other franchised cable systems. The special cable operator shall be responsible for all costs of interconnection, shall pay the operator of the connected system the per subscriber charges, if any, charged its subscribers for public, educational and governmental

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access programming, and to the extent that the city requires financial contributions from the cable operator, under agreements made or renewed after January 1, 1994, to provide facilities, support or programming of public, educational or governmental access, special cable operators shall contribute proportionally based on the average contribution per subscriber of all other operators in accordance with rules and regulations adopted by the board.

(f) To the extent applicable, a special cable operator shall provide institutional network availability within the areas included in the franchise.

Sec. 8½-45. Further expansion of franchise area.

If the operator of a limited cable system,

- (i) enters into a private cable service agreement with the owner or manager to provide landlord restricted cable services to multiple dwelling units that are not in its special cable franchise area, and
- (ii) the operator proposes to serve those units by interconnection with the operator's franchised system, and
- (iii) the number of dwelling units in the franchise area after the expansion will not exceed fifteen thousand dwelling units,

the area included within the special cable system franchise may be expanded to include additional areas as follows:

(a) The special cable operator shall file with the executive secretary of the cable franchise board (director of telecommunications) an application requesting such expansion, which shall include the description of the geographic area to be added and a certification of the owner or manager as to the existence of a private cable service contract or a letter of intent to enter into a private cable service contract, subject to the approval of the expansion.

(b) The application shall, at the time of its filing, be served by certified mail on the department of the city where rights of way would be affected and on any operator holding a cable television franchise for an area which includes the area to be added to the limited cable system ("incumbent operator"). The application shall be accompanied by a certificate of service certifying that such service has been made.

(c) The application shall be deemed approved and the area included in the special cable franchise shall be expanded to include the additional area if no written objection thereto is delivered to the cable franchise board by either a department of the city or the incumbent operator within fifteen (15) days of the service of such application.

(d) In the event an objection is made to the application, the board shall automatically schedule the application for hearing at its next regular meeting, or may, in its discretion, schedule a special meeting to hear the same.

(e) At the conclusion of the hearing the board shall approve the application and the special cable franchise shall be deemed thereafter to apply to the additional area unless:

- (1) the city establishes that the grant of the expansion of the territory will substantially and unreasonably interfere with existing uses of the public ways; or
- (2) the incumbent operator establishes by clear and convincing evidence that the grant of the expansion of the territory will serve to lessen competition for the provision of cable services within the county or will materially adversely affect the economic ability of the incumbent operator to fulfill its franchise obligation to assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

Neither of the foregoing conditions will be deemed to exist solely because the territory which is sought to be added to the special cable franchise is currently served by the incumbent operator.

(f) The denial of application shall be subject to appeal to the same extent permitted by the Act for denials of a franchise.

Sec. 8½-46. Term of special cable franchise.

(a) A special cable franchise granted under this Chapter shall expire upon the date stated in the franchise agreement, subject to the renewal provisions of the Act and this Chapter.

(b) The geographic area of a special cable franchise shall be the separate limited cable service areas described in the franchise agreement including expansions approved under Sec. 8 1/2 - 45; provided, that ninety (90) days after a private cable service contract to serve a separate limited cable service area expires by its terms or is terminated, such area shall no longer be included in the geographic area of such franchise. Provided, however, if the termination of such private cable service contract is the result of foreclosure, bankruptcy or insolvency of the owner or manager of the multiple-unit dwellings served under such private cable service contract and such dwellings are being managed under judicial supervision, said ninety (90) day period shall be tolled until such dwellings are transferred to a new owner or manager. At any time prior to the end of such ninety (90) day period, if the operator files with the board a certification by the owner or manager that the private cable service contract has been renewed or extended, specifying the new termination date, the separate limited service area shall remain within the franchise area.

Sec. 8½-47. Revocation of special cable franchise.

A special cable franchise may be revoked by the board only in the event of default under the franchise agreement or the special cable operator is not in compliance with applicable federal, state or local laws with respect to the operation of the limited cable television system, and only following notice and a hearing thereon.

SECTION 4. This ordinance shall take effect upon compliance with IC 36-3-4-14.

PROPOSAL NO. 682, 1993. Councillor Rhodes reported that the Administration and Finance Committee heard Proposal No. 682, 1993 on January 5, 1994. The proposal creates the Revenue Enhancement Division of the Office of the City Controller. By a 6-1 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. Proposal No. 682, 1993 was adopted on the following roll call vote; viz:

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

1 NAY: Black

3 NOT VOTING: Borst, Jones, Williams

Proposal No. 682, 1993 was retitled GENERAL ORDINANCE NO. 2, 1994 and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 2, 1994

A GENERAL ORDINANCE amending Article III of Chapter 202 of the Revised Code by adding a new section 202-205, creating the Revenue Enhancement Division of the Office of the City Controller.

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

SECTION 1. Article III of Chapter 202 of the "Revised Code of the Consolidated City and County" be, and is hereby amended to add a new Section 202-205 as follows:

Sec. 202-205. Revenue Enhancement Division.

The Office of the City Controller shall include a revenue enhancement division, the powers and duties of which shall include:

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- (1) Act as the agent in collecting receivables of any nature for city departments or divisions or county offices. Any such department, division or office may, at its option, request the assistance of the revenue enhancement division in establishing collection procedures and in pursuing any outstanding receivables;
- (2) Establish such collection procedures as may be in the best interest of the city and the county;
- (3) Collect from debtors owing receivables to any department, division or office of the city or county, the cost of such collection activities, on behalf of the revenue enhancement division and such department, division or office, as allowed by law;
- (4) Contract with collection agencies and such other service providers as the controller deems appropriate to pursue the purposes of the division; and
- (5) Exercise any other powers which may be granted by statute or ordinance or delegated by the mayor.

SECTION 2. The express or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with IC 36-3-4-14.

PROPOSAL NO. 685, 1993. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 685, 1993 on January 5, 1994. The proposal authorizes the lease of office space by the Auditor's Office on behalf of Marion County for incarceration of prisoners. By a 6-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Dowden moved that Proposal No. 685, 1993 be amended by renumbering Sections 3 and 4 as Sections 4 and 5 respectively and inserting a new Section 3 to read as follows:

SECTION 3. The City-County Council directs the Marion County Auditor to accept other proposals until February 1, 1994 and not to execute any letter of intent with any developer until any additional proposals submitted prior to that date have been considered.

This motion was seconded by Councillor Schneider and passed by unanimous voice vote.

Councillor Dowden moved, seconded by Councillor Schneider, for adoption. Proposal No. 685, 1993, as amended, was adopted on the following roll call vote; viz:

24 YEAS: *Beadling, Black, Borst, Boyd, Brents, Coughenour, Curry, Dowden, Franklin, Giffin, Golc, Gray, Jimison, Jones, Moriarty, Mullin, Ruhmkorff, Schneider, SerVaas, Shambaugh, Short, Smith, West, Williams*

2 NAYS: *Gilmer, Hinkle*

3 NOT VOTING: *McClamroch, O'Dell, Rhodes*

Councillors McClamroch, Rhodes and O'Dell asked for consent to abstain from voting due to a conflict of interest. Consent was given.

Proposal No. 685, 1993 was retitled SPECIAL RESOLUTION NO. 3, 1994 and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 3, 1994

A SPECIAL RESOLUTION authorizing lease of office space by the Marion County Auditor's Office on behalf of Marion County for incarceration of prisoners.

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

SECTION 1. The Office of the Marion County Auditor has submitted to the City-County Council a letter of proposal proposing the lease of space to be used for the incarceration of prisoners and related administration purposes, and identifying the owner(s) of the space which it proposes to lease as D & S Investments, 5212 Madison Avenue, Indianapolis, Indiana 46227.

SECTION 2. The City-County Council, pursuant to IC 36-1-10-7, has investigated the conditions requiring the need for space to house and administer the incarceration of prisoners, and hereby determines that the lease of space by the Office of the Marion County Auditor for Marion County is necessary.

SECTION 3. The City-County Council directs the Marion County Auditor to accept other proposals until February 1, 1994 and not to execute any letter of intent with any developer until any additional proposals submitted prior to that date have been considered.

SECTION 4. The Auditor is directed to submit the lease to the Council for approval prior to execution of the lease.

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

PROPOSAL NO. 696, 1993. Councillor Curry reported that the Rules and Public Policy Committee heard Proposal No. 696, 1993 on January 4, 1994. The proposal amends the Revised Code, approving uniform fees established by the IMAGIS Board on behalf of the Department of Public Works for inspection or copies of any portion of the IMAGIS Land Base Map and establishing a dedicated Electronic Map Generation Fund. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Curry moved, seconded by Councillor Dowden, for adoption. Proposal No. 696, 1993, as amended, was adopted on the following roll call vote; viz:

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

0 NAYS:

1 NOT VOTING: Borst

The President asked that Councillor Curry distribute a report concerning the ultimate objectives of IMAGIS, when those objectives will be achieved, and how the City will benefit from the application of the IMAGIS procedures in the future.

Proposal No. 696, 1993 was retitled GENERAL ORDINANCE NO. 3, 1994 and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 3, 1994

A GENERAL ORDINANCE amending the Revised Code, approving uniform fees established by the Indianapolis Mapping and Geographic Infrastructure System ("IMAGIS") Board on behalf of the Department

January 10, 1994

of Public Works for inspection or copies of any portion of the IMAGIS Land Base Map, and establishing a dedicated Electronic Map Generation Fund.

WHEREAS, the City of Indianapolis, by and through several of its departments, other governmental entities, the local university and four utilities serving the public in the Indianapolis area have implemented a computerized Automated Mapping/Facilities Management program to provide a geographic based information system for planning, engineering, utility and related public service activities, which project is called Indianapolis Mapping and Geographic Infrastructure System ("IMAGIS"); and

WHEREAS, IMAGIS is controlled by a consortium of entities acting pursuant to the IMAGIS Service Agreement, dated as of January 1, 1991, entered into by and between the Trustees of Indiana University, the Department of Metropolitan Development of the City of Indianapolis, Indiana, the Department of Capital Asset Management of the City of Indianapolis, Indiana, the Department of Public Works of the City of Indianapolis, Indiana, the County of Marion, Indiana, Indiana Bell Telephone Company, Incorporated, Indianapolis Power & Light Company, Indianapolis Water Company, the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis as Successor Trustee of a Public Charitable Trust, doing business as Citizens Gas & Coke Utility, and the Assessors for Pike, Washington, Lawrence, Wayne, Center, Warren, Franklin, Perry and Decatur Townships, as amended by Amendment Number One to the IMAGIS Service Agreement, dated December 11, 1991, entered into by and between the parties to the IMAGIS Service Agreement and Health and Hospital Corporation of Marion County, Indiana (the foregoing parties to the IMAGIS Service Agreement, as amended, shall be hereafter referred to as the "IMAGIS Participants"); and

WHEREAS, all activities related to the implementation of the IMAGIS Service Agreement, as amended, are under the management and control of the IMAGIS Board established by the IMAGIS Service Agreement, as amended; and

WHEREAS, pursuant to Articles 2.7.3.1 and 2.7.3.2 of the IMAGIS Services Agreement, as amended, the IMAGIS Board is authorized to adopt policies with respect to the use and sale of the "IMAGIS Land Base Map" and "Deliverables," as such terms are defined in the IMAGIS Services Agreement, by and to "Participants" in the IMAGIS Project, as well as members of the public; and

WHEREAS, the Department of Public Works of the City of Indianapolis ("DPW"), one of the Participants under the IMAGIS Service Agreement, is a "public agency" as defined in IC 5-14-3-2, and the owner of, and holder of the copyrights on, the IMAGIS Land Base Map; and

WHEREAS, the IMAGIS Board, pursuant to the IMAGIS Service Agreement, as amended, and IC 5-14-3-8(j), adopted IMAGIS Board Resolution No. 5-1993 establishing, on behalf of DPW, uniform fees for providing for the inspection or copying of all or a portion of the IMAGIS Land Base Map, which fees are based upon a reasonable percentage of IMAGIS' direct cost of maintaining, upgrading and enhancing the IMAGIS Land Base Map, in addition to the direct cost of IMAGIS of supplying all or a portion of the IMAGIS Land Base Map in the form requested by the purchaser ("Electronic Map Inspection or Copying Fees"); and

WHEREAS, IC 5-14-3-8(j) provides that the Electronic Map Inspection or Copying Fees set by the IMAGIS Board, on behalf of DPW, are subject to the approval of this Council; and

WHEREAS, pursuant to IC 5-14-3-8.5, this Council is required to establish a dedicated fund, with the purposes specified in IC 5-14-3-8.5(b), to be administered by DPW, and consisting of the Electronic Map Inspection and Copying Fees collected by the IMAGIS Board on behalf of DPW; now therefore:

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

SECTION 1. The Revised Code of the Consolidated City and County, be and is hereby amended by adding a new Sec. 131-601 in Article VI of Chapter 131 to read as follows:

CHAPTER 131

ARTICLE VI - MISCELLANEOUS FEES

Sec. 131-601. The Electronic Map Inspection and Copying Fees, as established by IMAGIS Board Resolution No. 5-1993, a copy of which is attached hereto as Exhibit 1, are hereby approved. The fees for the inspection or copying of all or any portion of the IMAGIS Land Base Map by non-IMAGIS "Participants," as that term

is defined in the IMAGIS Services Agreement, shall consist of (a) an Electronic Map Maintenance Fee and (b) a Processing Fee as hereafter set forth.

- (a) Electronic Map Maintenance Fee. This portion of the Electronic Map Inspection or Copying Fees shall consist of a charge of \$0.04 per acre per layer of data inspected or copied. If the Electronic Map Maintenance Fee for any individual request would exceed the price of a single layer of data county-wide (327,000 acres), the person or entity making such request may request to become an "Associate Participant" pursuant to Article 2.7.4.2 of the Service Agreement and any applicable Resolutions adopted by the IMAGIS Board and in effect at the time. Pursuant to IC 5-14-3-8(k), the Electronic Map Maintenance Fee shall be waived if inspection or copying of the IMAGIS Land Base Map is for Noncommercial Purposes.
- (b) Processing Fee. This portion of the Electronic Map Inspection or Copying Fees shall include all direct costs of IMAGIS incurred in supplying the IMAGIS Land Base Map in the form requested by the purchaser, including, but not limited to, a fee of \$50.00 per plot where the information is provided in a hard-copy format, and a fee of \$50.00 per hour or any portion thereof devoted to processing the particular request where the information is provided in digital format.

Future changes in such Fees made by the IMAGIS Board in an amendment to IMAGIS Board Resolution No. 5-1993 shall be deemed approved by this Council so long as such Fees (a) are changed no more than one time annually, (b) are based on no greater than 100 percent of IMAGIS' estimated annual direct costs of maintaining, upgrading and enhancing the IMAGIS Land Base Map (in addition to the direct cost of supplying all or a portion of the IMAGIS Land Base Map in the form requested), (c) the Electronic Map Maintenance Fee does not increase by more than \$0.005 per acre per layer annually, and (d) the fee per plot when the information is provided in a hard-copy format and the fee per hour or any portion thereof devoted to processing the particular request when the information is provided in digital format do not increase by more than 10% annually.

SECTION 2. The Revised Code of the Consolidated City and County be and is hereby amended by adding a new Sec. 604 and 605 in Chapter 135 to read as follows:

Sec. 135-604. The IMAGIS Electronic Map Generation Fund is hereby established, which Fund shall consist of Electronic Map Inspection and Copying Fees collected by the IMAGIS Director on behalf of DPW. The Electronic Map Generation Fund shall be a dedicated fund administered by DPW with the following purposes:

- (a) The maintenance, upgrading and enhancement of the IMAGIS Land Base Map.
- (b) The reimbursement of expenses incurred by IMAGIS in supplying the IMAGIS Land Base Map or any portion thereof in the form requested.

Sec. 135-605. The expenses of administering the IMAGIS Electronic Map Generation Fund shall be paid from money in the Fund. DPW shall invest any money in the Fund not currently needed to meet the obligations of the Fund in the same manner as other public funds may be invested. Interest accruing from such investments shall be deposited in the Fund.

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

EXHIBIT 1

IMAGIS BOARD RESOLUTION NO. 5-1993

A RESOLUTION ADOPTING UNIFORM FEES
FOR PROVIDING FOR INSPECTION OR COPIES
OF THE IMAGIS LAND BASE MAP
TO NON-IMAGIS PARTICIPANTS

WHEREAS, pursuant to Articles 2.7.3.1 and 2.7.3.2 of the IMAGIS Services Agreement dated January 1, 1991, as amended ("IMAGIS Services Agreement"), the IMAGIS Board is authorized to adopt policies with respect to the use and sale of the "IMAGIS Land Base Map" and "Deliverables," as such terms are defined in the IMAGIS Services Agreement, by and to "Participants" in the IMAGIS Project, as well as members of the public; and

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WHEREAS, the Department of Public Works of the City of Indiana ("DPW"), one of the Participants under the IMAGIS Service Agreement, is a "public agency" as defined in IC 5-14-3-2, and the owner of, and holder of the copyrights on, the IMAGIS Land Base Map; and

WHEREAS, IC 5-14-3-8(j) provides that a public agency, such as DPW, may charge a fee for providing for inspection or copies of an "Electronic Map," which term is defined as "copyrighted data provided by a public agency from an electronic geographic information system"; and

WHEREAS the IMAGIS Land Base Map is an "Electronic Map" as defined in IC 5-14-3-8(j); and

WHEREAS, IC 5-14-3-8(j) also provides that the fee for providing for inspection or copies of all or a portion of the IMAGIS Land Base Map may be comprised of (1) a fee, uniform to all purchasers, based upon a reasonable percentage of the direct cost of maintaining, upgrading and enhancing the IMAGIS Land Base Map ("Electronic Map Maintenance Fee"), and (2) the direct cost of supplying the IMAGIS Land Base Map, or portion thereof, in the form requested by the purchaser ("Processing Fee") (which fees are referred to collectively herein as the "Electronic Map Inspection or Copying Fees"); and

WHEREAS, pursuant to IC 5-14-3-8(j), the Electronic Map Inspection or Copying Fees established by the IMAGIS Board, on behalf of DPW, are subject to approval of the City County Council of the City of Indianapolis and Marion County ("City County Council"); and

WHEREAS, pursuant to IC 5-14-3-8(k), the Electronic Map Maintenance Fee shall be waived if inspection or copying of the IMAGIS Land Base Map will be used for the following noncommercial purposes: public agency program support; nonprofit activities; journalism; or academic research ("Noncommercial Purposes"); and

WHEREAS, the IMAGIS Board, on behalf of DPW, desires to establish Electronic Map Inspection or Copying Fees, subject to the approval of the City County Council, to ensure that the public purposes of IMAGIS will continue to be served, and that the private purposes or benefits of IMAGIS and the IMAGIS Land Base Map are not conferred to the detriment of IMAGIS' public purposes; and

WHEREAS, the IMAGIS Board believes that a uniform Electronic Map Maintenance Fee of \$0.04 for inspection and/or copying of each acre of each layer of the IMAGIS Land Base Map, which Fee is equal to the \$400,000 estimated annual cost of maintaining, upgrading and enhancing the IMAGIS Land Base Map divided by the current 9,318,000 total acre layers of the IMAGIS Land Base Map, is based upon a reasonable percentage of the cost of maintaining, upgrading and enhancing the IMAGIS Land Base Map; and

WHEREAS, the IMAGIS Board believes that a Processing Fee consisting of a plotting charge of \$50.00 per plot, a processing charge of \$50.00 per hour or any portion thereof and all other direct costs incurred by IMAGIS for supplying the IMAGIS Land Base Map for inspection or copying in the form requested by the purchaser, will cover the direct cost of supplying the IMAGIS Land Base Map in the form requested by the purchaser; and

WHEREAS, the IMAGIS Board desires to repeal its prior resolutions or portions thereof that may be in conflict herewith;

NOW, THEREFORE, BE IT RESOLVED that:

1. Electronic Map Inspection or Copying Fees. Subject to the approval of the City County Council, the fees for the inspection or copying of all or any portion of the IMAGIS Land Base Map by non-IMAGIS "Participants," as that term is defined in the IMAGIS Services Agreement, shall consist of (a) an Electronic Map Maintenance Fee and (b) a Processing Fee as hereafter set forth.

- (a) Electronic Map Maintenance Fee. This portion of the Electronic Map Inspection or Copying Fees shall consist of a charge of \$0.04 per acre per layer of data inspected or copied. If the Electronic Map Maintenance Fee for any individual request would exceed the price of a single layer of data county-wide (327,000 acres), the person or entity making such request may request to become an "Associate Participant" pursuant to Article 2.7.4.2 of the Service Agreement and any applicable Resolutions adopted by the IMAGIS Board and in effect at the time. The Board finds and determines that such Electronic Map Maintenance Fee is based upon a reasonable percentage of IMAGIS' direct cost of maintaining, upgrading and enhancing the IMAGIS Land Base Map. Pursuant to IC 5-14-3-8(k), the Electronic Map Maintenance Fee shall be waived if inspection or copying of the IMAGIS Land Base Map is for Noncommercial Purposes.

(b) Processing Fee. This portion of the Electronic Map Inspection or Copying Fees shall include all direct costs of IMAGIS incurred in supplying the IMAGIS Land Base Map in the form requested by the purchaser, including, but not limited to, a fee of \$50.00 per plot where the information is provided in a hard-copy format, and a fee of \$50.00 per hour or any portion thereof devoted to processing the particular request where the information is provided in digital format.

2. IMAGIS Electronic Map Generation Fund. Following the approval of the foregoing Electronic Map Inspection or Copying Fees by the City County Council, such Fees shall be collected by the IMAGIS Director on behalf of DPW and deposited into the IMAGIS Electronic Map Generation Fund, to be established by the City County Council and administered by DPW pursuant to IC 5-14-3-8.5. The IMAGIS Electronic Map Generation Fund shall be a dedicated fund and the fees deposited therein shall be used only for (a) the maintenance, upgrading and enhancement of the IMAGIS Land Base Map and (b) the reimbursement of expenses incurred by IMAGIS in supplying all or a portion of the IMAGIS Land Base Map in the form requested by the purchaser.

3. Repeal of Prior Resolutions. IMAGIS Board Resolution No. 2-1991 adopted on August 13, 1991 and IMAGIS Board Resolution No. 2-1992 adopted on September 27, 1992 are repealed effective on the effective date of the Ordinance adopted by City-County Council of City of Indianapolis and Marion County approving the Electronic Map Inspection or Copying Fees set forth herein.

4. Copyright License. No person or entity shall be entitled to obtain a copy of the IMAGIS Land Base Map or any portion thereof for use for any purpose other than Noncommercial Purposes until such time as such person or entity has paid all applicable Electronic Map Inspection or Copying Fees and has entered into a copyright licensing agreement with DPW in the form attached hereto as Exhibit A. No person or entity shall be entitled to obtain a copy of the IMAGIS Land Base Map or any portion thereof for use for Noncommercial Purposes until such time as such person or entity has paid all applicable Processing Fees and has entered into a copyright licensing agreement with the DPW in the form attached hereto as Exhibit A.

ADOPTED this 21st day of December, 1993.

IMAGIS BOARD

By _____
Chairman, IMAGIS Board

ANNOUNCEMENTS AND ADJOURNMENT

Mr. Elrod read the following announcement:

This Council will hold a public hearing on Rezoning Petition No. 93-Z-95 (Amended), Council Proposal No. 10, 1994, at its next regular meeting on January 31, 1994, 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 1.2 acres at 2221-2249 West Minnesota Street from D-5 to I-3-U classification to provide for the continued operation of a contractor's business and machine tool shop.

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.

Councillor Boyd moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Marie Rita Irene (Marietta) Doyle and Julia Mae Payne. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 8:35 p.m.

January 10, 1994

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 10th day of January, 1994.

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

Beurt SerVaas

President

Barry J. Kappas

Clerk of the Council

ATTEST:

(SEAL)