

**CITY—COUNTY COUNCIL  
INDIANAPOLIS, MARION COUNTY, INDIANA  
REGULAR MEETING  
Monday, February 5, 1979**

A Regular Meeting of the City-County Council of Indianapolis, Marion County, convened in the Council Chambers of the City-County Building at 7:06 p.m., Monday, February 5, 1979, President SerVaas in the chair. Councilman Miller opened the meeting with a prayer, followed by the Pledge of Allegiance.

**ROLL CALL**

President SerVaas instructed the Clerk to take the roll. Twenty-seven members being present, he announced a quorum.

*PRESENT: Mr. Anderson, Mr. Boyd, Mrs. Brinkman, Mr. Campbell, Mr. Cantwell, Mr. Clark, Mrs. Coughenour, Mr. Dowden, Mr. Durnil, Mr. Gilmer, Mr. Hawkins, Mr. Howard, Mrs. Journey, Mr. Kimbell, Mr. Lyons, Mr. McGrath, Mr. Miller, Mr. Page, Miss Parker, Mr. Pearce, Mr. Schneider, Mr. SerVaas, Mrs. Stewart, Mr. Tintera, Mr. Vollmer, Mr. Walters and Mr. West.*

*ABSENT: Mr. Patterson and Mr. Tinder.*

**CORRECTION OF JOURNAL**

The Chair called for additions or corrections to the Journal of January 22, 1979. There being no additions or corrections, the minutes were approved as distributed.

**OFFICIAL COMMUNICATIONS**

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

**TO THE MEMBERS OF THE CITY—COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:**

**Ladies and Gentlemen:**

You are hereby notified that there will be a **REGULAR MEETING** of the City-County Council held in the City-County Building, in the Council Chambers, on Monday, February 5, 1979, at 7:00 p.m., the purpose of such **MEETING** being to conduct any and all business that may properly come before the regular meeting of the Council.

Respectfully,

**Beurt SerVaas, President  
City-County Council**

January 22, 1979

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 January 25, 1979 and February 1, 1979, a copy of CITY—COUNTY GENERAL ORDINANCE NO. 4, 1979.

Respectfully,

s/Beverly S. Rippy  
City Clerk

January 23, 1979

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 January 25, 1979 and February 1, 1979 a copy of NOTICE TO TAXPAYERS of a Public Hearing on Proposal Nos. 38, and 39, 1979 to be held on Monday, February 5, 1979 at 7:00 p.m. in the City-County Building.

Respectfully,

s/Beverly S. Rippy  
City Clerk

January 23, 1979

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, Mrs. Beverly S. Rippy, the following ordinances:

SPECIAL ORDINANCE NO. 1, 1979, authorizing the City of Indianapolis to issue its "Economic Development First Mortgage Revenue Bonds, Series 1978 (Payless Cashways, Inc. Project)" in the principal amount of seven hundred fifty thousand dollars and approving and authorizing other actions in respect thereto.

SPECIAL ORDINANCE NO. 2, 1979, authorizing the City of Indianapolis to issue its "Industrial Development Revenue Bonds (Consolidated Freightways Corporation of Delaware Project) Series B" in the principal amount of one million eight hundred thousand dollars and approving and authorizing other actions in respect thereto.

Respectfully submitted,

s/William H. Hudnut, III

January 24, 1979

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, Mrs. Beverly S. Rippy, the following ordinances and resolution:

**FISCAL ORDINANCE NO. 10, 1979**, amending the CITY-COUNTY ANNUAL BUDGET FOR 1979 and appropriating an additional one million four hundred four thousand five hundred ninety dollars in the City General Fund for purposes of the Division of Community Services and reducing the unappropriated and unencumbered balance in the City General Fund.

**FISCAL ORDINANCE NO. 11, 1979**, amending the CITY-COUNTY ANNUAL BUDGET FOR 1979 authorizing changes in the personnel compensation schedule of the Decatur Township Assessor's Office.

**FISCAL ORDINANCE NO. 12, 1979**, amending the CITY-COUNTY ANNUAL BUDGET FOR 1979 transferring and appropriating two hundred twenty-three thousand seven hundred fifty-five dollars in the Community Services Fund for purposes of the Division of Community Services and reducing certain other appropriations for that division.

**GENERAL ORDINANCE NO. 5, 1979**, prohibiting parking at all times on a certain portion of Pershing Avenue.

**GENERAL ORDINANCE NO. 6, 1979**, establishing an intersection control at a certain intersection.

**GENERAL ORDINANCE NO. 7, 1979**, amending Sec. 22-20(5) of the Code of Indianapolis and Marion County by the addition of provisions concerning the regulation of the use of parks for concerts and theatrical performances.

**GENERAL ORDINANCE NO. 8, 1979**, amending the Code of Indianapolis and Marion County by adding a new Division 4 to Article V of Chapter 2, thereby transferring from the community services division of the Department of Administration to the office of the Director of the Department of Metropolitan Development the authority to receive and distribute proceeds from community development grants.

**SPECIAL ORDINANCE NO. 3, 1979**, authorizing the City of Indianapolis to issue its "Economic Development Revenue Bonds, Series 1979 (Lane Bryant, Inc. Project)" in the principal amount of one million dollars and approving other actions in respect thereto.

**SPECIAL RESOLUTION NO. 3, 1979**, commending Chief William Patterson for his outstanding service to the City of Indianapolis.

Respectfully submitted,

s/William H. Hudnut, III  
MAYOR

## INTRODUCTION OF GUESTS

Councilman Miller presented former chief of the Indianapolis Fire Department, William Patterson, with Special Resolution No. 3, 1979, commending him for his service to the community. Former mayor, Charles Boswell, was introduced by Mr. Schneider. Former councilman, Harry Robbins, was introduced by Mr. Durnil. Mr. SerVaas introduced Colonel Reuben Darr. Committeemen from the 21st district were introduced by Councilman Page. Mr. Cantwell announced the death of a prominent Indianapolis democrat, Irving Silver.

## INTRODUCTION OF PROPOSALS

PROPOSAL NO. 53, 1979. Introduced by Councilmen SerVaas, Clark, and Miller. The Clerk read the proposal entitled: "A Proposal for a General Ordinance fixing the compensation payable to council members of the city-county council for the year 1979, 1980, 1981, 1982, and 1983;" and the President referred it to the Administration Committee.

PROPOSAL NO. 54, 1979. Introduced by Councilmen SerVaas, Clark and Miller. The Clerk read the proposal entitled: "A Proposal for a General Ordinance amending Section 2-144 to fix the compensation for the mayor of Indianapolis for the years 1979, 1980, 1981, 1982, 1983 and thereafter;" and the President referred it to the Administration Committee.

PROPOSAL NO. 55, 1979. Introduced by Miss Parker. The Clerk read the proposal entitled: A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating three hundred ninety-seven thousand seven hundred fifty dollars (\$397,750) in the City General Fund for purposes of the Division of Community Services, Department of Administration and reducing the unappropriated and unencumbered balance in the Community Services Fund;" and the President referred it to the Community Affairs Committee.

PROPOSAL NO. 56, 1979. Introduced by Miss Parker. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating an additional eighty-five thousand dollars (\$85,000) in the City General Fund for purposes of the Division of Community Services, Department of Administration, and reducing the unappropriated and unencumbered balance in the Community Services Fund;" and the President referred it to the Community Affairs Committee.

PROPOSAL NO. 57, 1979. Introduced by Mr. Schneider. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) transferring and appropriating eighteen thousand nine hundred nineteen dollars (\$18,919) in the County General Fund for purposes of the Center Township Assessor and reducing certain other appropriations for that division;" and the President referred it to the County & Townships Committee.

PROPOSAL NO. 58, 1979. Introduced by Mr. Durnil. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating an additional one million one hundred twenty-two thousand seven hundred fifty dollars (\$1,122,750) in the Community Services Fund for purposes of the Division of Community Development, Department of Metropolitan Development, and reducing the unappropriated and unencumbered balance in the Community Services Fund;" and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 59, 1979. Introduced by Mr. Durnil. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating an additional five hundred fifty thousand dollars (\$550,000) in the Redevelopment General Fund for purposes of the Division of Urban Renewal and reducing the unappropriated and unencumbered balance in the Community Services Fund;" and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 60, 1979. Introduced by Mr. Durnil. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating an additional three hundred seventy-seven thousand dollars (\$377,000) in the Community Services Fund for purposes of the Division of Community Development Administration, Department of Metropolitan Development, and reducing the unappropriated and unencumbered balance in the Community Services Fund;" and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 61, 1979. Introduced by Miss Parker. The Clerk read the proposal entitled: "A Proposal for a General Resolution approving certain amendments to the 1979 calendar year budget of the Capital Improvements Board of Marion County;" and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 62, 1979. Introduced by Mr. West. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating an additional seventy-two thousand five hundred twenty-seven dollars (\$72,527) in the Crime Control Fund for purposes of the County Sheriff and reducing the unappropriated and unencumbered balance in the Crime Control Fund;" and the President referred it to the Public Safety & Criminal Justice Committee.

PROPOSAL NO. 63, 1979. Introduced by Mrs. Coughenour. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating an additional three million dollars (\$3,000,000) in the Sanitation General Fund for purposes of the Sanitation/Liquid Waste Division, Department of Public Works, and reducing the unappropriated and unencumbered balance in the Sanitation General Fund;" and the President referred it to the Public Works Committee.

PROPOSAL NO. 64, 1979. Introduced by Councilman Lyons. The Clerk read the proposal entitled: "A Proposal for a General Ordinance prohibiting parking at all times on a certain portion of Pershing Avenue [Amends Code Sec. 29-267];" and the President referred it to the Transportation Committee.

PROPOSAL NO. 65, 1979. Introduced by Councilman Lyons. The Clerk read the proposal entitled: "A Proposal for a General Ordinance changing Tremont Avenue between Fourteenth and Sixteenth Street from a one-way street to a two-way street [Amends Code Section 29-166];" and the President referred it to the Transportation Committee.

PROPOSAL NO. 66, 1979. Introduced by Councilmen SerVaas and Tintera. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance amending the City-County Annual Budget for 1979 (City-County Fiscal Ordinance No. 91, 1978) and appropriating twenty-five thousand dollars (\$25,000) in the Park General Fund for purposes of a grant to WFYI, Public Broadcasting Service, and reducing the unappropriated and unencumbered balance in the Park General Fund;" and the President referred it to the Parks & Recreation Committee.

#### SPECIAL ORDERS – PUBLIC HEARING

PROPOSAL NO. 413, 1978. Mr. Gilmer stated that he had been notified by the petitioner that all conflicts had been resolved. The Council recessed to a Committee of the Whole at 7:15 p.m. for public hearing, and reconvened at 7:16 p.m. Following public hearing, Proposal No. 413, 1978, was adopted on the following roll call vote; viz:

25 AYES: Mr. Anderson, Mr. Boyd, Mrs. Brinkman, Mr. Campbell, Mr. Clark, Mrs. Coughenour, Mr. Dowden, Mr. Durnil, Mr. Gilmer, Mr. Hawkins, Mr. Howard, Mrs. Journey, Mr. Kimbell, Mr. Lyons, Mr. McGrath, Mr. Miller, Mr. Page, Miss Parker, Mr. Pearce, Mr. Schneider, Mr. SerVaas, Mrs. Stewart, Mr. Vollmer, Mr. Walters and Mr. West.

NO NOES.

2 NOT VOTING: Mr. Cantwell and Mr. Tintera.

Proposal No. 413, 1978, was retitled REZONING ORDINANCE NO. 26, 1979, and reads as follows:

**REZONING ORDINANCE NO. 26, 1979 78-Z-140 A PIKE TOWNSHIP**

**COUNCILMANIC DISTRICT NO. 1**

**7710 TRADERS LANE, INDIANAPOLIS**

**Meremar Development Corp. by Mervyn Y. Posner, President for Christian Meeting Corp. by J. Gregory Hundles, 6535 East 82nd Street requests rezoning of 2.70 acres, being in D-6 district, to SU-1 classification to permit church uses.**

PROPOSAL NO. 521, 1978. Mr. Miller moved, seconded by Mr. Gilmer, to remove this proposal from the table. The motion carried by a unanimous voice vote. Mr. Miller reported that the funding for the Human Rights Commission was adequate, and the Administration Committee recommended striking the proposal. He then moved, seconded by Mr. Durnil, the previous question. The motion carried on the following roll call vote; viz:

13 AYES: Mr. Anderson, Mr. Clark, Mrs. Coughenour, Mr. Dowden, Mr. Durnil, Mr. Gilmer, Mr. Kimbell, Mr. Lyons, Mr. McGrath, Mr. Miller, Mr. Schneider, Mr. SerVaas and Mr. West.

12 NOES: Mr. Boyd, Mrs. Brinkman, Mr. Campbell, Mr. Cantwell, Mr. Hawkins, Mr. Howard, Mrs. Journey, Mr. Page, Miss Parker, Mr. Pearce, Mr. Vollmer, and Mr. Walters.

2 NOT VOTING: Mrs. Stewart and Mr. Tintera.

The motion to strike then failed on the following roll call vote; viz:

12 AYES: Mr. Anderson, Mr. Clark, Mrs. Coughenour, Mr. Dowden, Mr. Durnil, Mr. Gilmer, Mr. Lyons, Mr. McGrath, Mr. Miller, Mr. Schneider, Mr. SerVaas and Mrs. Stewart.

14 NOES: Mr. Boyd, Mrs. Brinkman, Mr. Campbell, Mr. Cantwell, Mr. Hawkins, Mr. Howard, Mrs. Journey, Mr. Kimbell, Mr. Page, Miss Parker, Mr. Pearce, Mr. Vollmer, Mr. Walters and Mr. West.

1 NOT VOTING: Mr. Tintera.

Mr. Cantwell moved, seconded by Mrs. Journey, to adopt Proposal No. 521, 1978. The motion failed for a lack of a statutory majority on the following roll call vote; viz:

14 AYES: Mr. Boyd, Mrs. Brinkman, Mr. Campbell, Mr. Cantwell, Mr. Hawkins, Mr. Howard, Mrs. Journey, Mr. Kimbell, Mr. Page, Miss Parker, Mr. Pearce, Mr. Vollmer, Mr. Walters and Mr. West.

12 NOES: Mr. Anderson, Mr. Clark, Mrs. Coughenour, Mr. Dowden, Mr. Durnil, Mr. Gilmer, Mr. Lyons, Mr. McGrath, Mr. Miller, Mr. Schneider, Mr. SerVaas and Mrs. Stewart.

1 NOT VOTING: Mr. Tintera.

PROPOSAL NO. 38, 1979. Mr. West reported that the Public Safety & Criminal Justice Committee is waiting for the State to report on the availability of funds.

PROPOSAL NO. 39, 1979. By consent, this proposal was postponed until the Council meeting of February 26, 1979. The Public Safety & Criminal Justice Committee anticipates receiving corrected appropriation figures from Title XX by that time.

#### SPECIAL ORDERS – FINAL ADOPTION

PROPOSAL NO. 477, 1978. Mr. Miller stated that this proposal was the preliminary inducement resolution for Westside Retirement Village, Inc. The complex will consist of 160 units of apartments and a 40 unit nursing home facility. During the discussion which ensued, Mr. Pearce stated that he opposed the resolution partially because the board of directors consisted of eleven white males; no minorities were represented. Mr. Howard said the board would be willing to expand, and completion of the complex would increase the number of available jobs. In response to a question from Mr. Page, Mr. Ed Hock of Medical Facilities Corporation stated that the Economic Development Commission included six stipulations to be met before it would approve the bond.

Mrs. Brinkman moved, seconded by Mr. Page, to amend the committee recommendations version of Proposal No. 477, 1978, in section 4, line 14, by deleting the words "excluding school tax". Mrs. Brinkman justified her motion by explaining that elderly citizens who own their homes support the schools. Mr. Miller opposed the amendment on the basis that the facility would have no children; therefore, there should be no school tax rate. Mrs. Brinkman's amendment passed on the following roll call vote; viz:

14 AYES: Mr. Anderson, Mr. Boyd, Mrs. Brinkman, Mr. Cantwell, Mr. Clark, Mr. Durnil, Mr. Hawkins, Mrs. Journey, Mr. McGrath, Mr. Page, Mr. Pearce, Mr. Schneider, Mr. Walters and Mr. West.

13 NOES: Mr. Campbell, Mrs. Coughenour, Mr. Dowden, Mr. Gilmer, Mr. Howard, Mr. Kimbell, Mr. Lyons, Mr. Miller, Miss Parker, Mr. SerVaas, Mrs. Stewart, Mr. Tintera, and Mr. Vollmer.

Additional discussion followed. Mr. Gilmer called upon Mr. Dave McNamar, an attorney, who stated that the City would be liable if there were a default on the bond. Mr. Murry Hatcher, J.C. Bradford Company, stated that Mr. McNamar is alone on his theory that the City would be liable for the bond. Mr. Ed Hock, Medical Facilities Corporation, answered council members questions concerning the stability of the company, and its previous experiences with similar operations.

Mr. West moved, seconded by Mr. Tintera, to reconsider Mrs. Brinkman's amendment to delete the words "excluding school tax" from section 4, line 14. The motion to reconsider carried on a voice vote. The Brinkman amendment then failed on the following roll call vote; viz:

11 AYES: Mr. Anderson, Mr. Boyd, Mrs. Brinkman, Mr. Cantwell, Mr. Clark, Mr. Durnil, Mr. Hawkins, Mr. McGrath, Mr. Page, Mr. Pearce, and Mr. Schneider.

16 NOES: Mr. Campbell, Mrs. Coughenour, Mr. Dowden, Mr. Gilmer, Mr. Howard, Mrs. Journey, Mr. Kimbell, Mr. Lyons, Mr. Miller, Miss Parker, Mr. SerVaas, Mrs. Stewart, Mr. Tintera, Mr. Vollmer, Mr. Walters and Mr. West.

Mr. Tintera stated that this proposal was enabling legislation, and that the project was well within the definition of "medical facility". Proposal No. 477, 1978, As Amended, then failed for a lack of statutory majority on the following roll call vote; viz:

13 AYES: Mr. Campbell, Mrs. Coughenour, Mr. Dowden, Mr. Howard, Mr. Kimbell, Mr. Lyons, Mr. Miller, Miss Parker, Mr. SerVaas, Mr. Tintera, Mr. Vollmer, Mr. Walters and Mr. West.

13 NOES: Mr. Anderson, Mrs. Brinkman, Mr. Cantwell, Mr. Clark, Mr. Durnil, Mr. Gilmer, Mr. Hawkins, Mrs. Journey, Mr. McGrath, Mr. Page, Mr. Pearce, Mr. Schneider, and Mrs. Stewart.

1 NOT VOTING: Mr. Boyd.

PROPOSAL NO. 36, 1979. Mr. West reported that the loitering proposal had been revised as to form by the staff which made it more legally acceptable. He then moved the adoption of the committee recommendations version. The motion carried on a unanimous voice vote. Mr. Hawkins then spoke as to the problem of police harrassment of citizens if this proposal were adopted. Mr. West moved the adoption of the following amendment:

**CITY—COUNTY COUNCIL MOTION**

**Mr. President:**

I move to amend Proposal No. 36, 1979, Committee Recommendations as follows:

1. On line four after the word "prowl" insert ", in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity."
2. On line sixteen after the word "prowling" insert ", in a place, at a time or in a manner not usual for law abiding citizens under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity."

s/S. R. West

The motion carried by unanimous voice vote. Following discussion, Proposal No. 36, 1979, was adopted on the following roll call vote; viz:

22 AYES: Mr. Anderson, Mrs. Brinkman, Mr. Campbell, Mr. Clark, Mrs. Coughenour, Mr. Dowden, Mr. Durnil, Mr. Gilmer, Mr. Howard, Mr. Kimbell, Mr. Lyons, Mr. McGrath, Mr. Miller, Mr. Page, Miss Parker, Mr. Schneider, Mr. SerVaas, Mrs. Stewart, Mr. Tintera, Mr. Vollmer, Mr. Walters, and Mr. West.

5 NOES: Mr. Boyd, Mr. Cantwell, Mr. Hawkins, Mrs. Journey, and Mr. Pearce.

Proposal No. 36, 1979, As Amended, was retitled GENERAL ORDINANCE NO. 9, 1979, and reads as follows:

**CITY—COUNTY GENERAL ORDINANCE NO. 9, 1979**

A GENERAL ORDINANCE amending the Code of Indianapolis and Marion County by amending Section 20-9 to make the provisions dealing with loiterers, unlawful assemblies, and vagrants more precise and workable.

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

**SECTION 1.** Article I of Chapter 20 of the Code of Indianapolis and Marion County is hereby amended by repealing the existing Section 20-9 and adding a new Section 20-9 to read as follows:

Sec. 20-9. Loitering, Unlawful Assemblies.

(a) **LOITERING.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in any public way, street, highway, place, or alley and refuse to obey the lawful command of a police officer to move on or provide to said police officer a lawful reason for remaining on said public way, street, highway, place or alley if the alleged loitering by said person would create or cause to be created any of the following:

- (1) Danger of a breach of the peace;
- (2) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place, or alley reserved for pedestrians;
- (3) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place, or alley;
- (4) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place, or alley to fear for his or her safety.

(b) **UNLAWFUL ASSEMBLY.** No person who is a member of a group of three or more persons who are loitering or prowling in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in a public way, street, highway, place, or alley, shall refuse the lawful command of a police officer to move or provide to said police officer a lawful reason for remaining in a public way, street, highway, place, or alley, whether said group is stationary or in transit, if the alleged loitering would create or cause to be created any of the following:

- (1) Danger of a breach of the peace;
- (2) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place, or alley reserved for pedestrians;
- (3) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place or alley;
- (4) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place or alley, in a manner that would cause a reasonable person or pedestrian of a public way, street, highway, place, or alley to fear for his or her safety.

(c) No person shall be convicted under this section if the police officer failed to comply with the procedure outlined herein.

(d) No person shall be convicted under this section if it appears at trial that the explanation given by the person is true and, if believed by the police would;

- (1) have dispelled the fear for human safety;
- (2) have dispelled the concern for safety of property;
- (3) have dispelled the fear of a breach of the peace;
- (4) have provided a justifiable reason for obstructing vehicular or pedestrian traffic, subject to the discretion of the court.

(e) If a person takes flight upon appearance of a police officer who identifies himself as such, or refuses to identify himself, or attempts to conceal himself, said police officer has probable cause to believe a violation of this section has occurred and is hereby duly authorized to make an arrest.

(f) Any person, firm or corporation who violates the provisions of the section and is found guilty for said violation shall be fined not less than twenty-five dollars (\$25.00) or more than five hundred dollars (\$500.00) for each offense and a separate offense shall be deemed committed on each day during which a violation occurs or continues.

(g) The provisions of this section shall not apply to solicitation for any lawful business or any lawful charity licensed by the Charities Solicitation Commission of the City.

SECTION 2.

(a) The express or implied repeal or amendment by this 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.

(b) An offense committed before the effective date of this ordinance, under any ordinance expressly or impliedly repealed or amended by this ordinance, shall be prosecuted and remains punishable under the repealed or amended ordinance as if this ordinance had not been adopted.

(c) 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 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.

(d) This ordinance shall be in effect from and after its passage by the council and compliance with IC 18-4-5-2.

UNFINISHED BUSINESS

PROPOSAL NO. 205, 1978. Mr. Durnil stated that the funds were no longer available to finance the scattered-site housing project. He then moved, seconded by Mr. Miller, to strike the proposal. The motion carried by a unanimous voice vote.

PROPOSAL NO. 521, 1978. Miss Parker moved, seconded by Mr. Hawkins, to remove Proposal No. 521, 1978, from the table. After discussion concerning the procedures to make such a motion, and since the General Counsel was absent due to illness, Miss Parker and Mr. Hawkins withdrew the motion.

ANNOUNCEMENTS AND ADJOURNMENT

There being no further business, upon motion duly made and seconded, the meeting adjourned at 9:00 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the City-County Council of Indianapolis—Marion County, held at its Regular Meeting on the 5th day of February, 1979.

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

ATTEST:

President   
Clerk of the City-County Council 

(SEAL)