

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

**REGULAR MEETINGS
MONDAY, AUGUST 31, 1998**

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 7:06 p.m. on Monday, August 31, 1998, with Councillor SerVaas presiding.

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

ROLL CALL

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

28 PRESENT: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

1 ABSENT: Black

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

INTRODUCTION OF GUESTS AND VISITORS

Councillor Gray introduced two students attending this evening's meeting as a government class assignment, Adria Crutchfield and Ragan Kenner.

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 the 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, August 31, 1998, 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
President, City-County Council

August 4, 1998

TO THE HONORABLE PRESIDENT AND 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:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* and in the *Indianapolis Star* or the *Indianapolis News* on Friday, August 7, 1998, a copy of a Notice of Public Hearing on Proposal Nos. 528, 529, 536, and 537, 1998, said hearing to be held on Monday, August 31, 1998, at 7:00 p.m. in the City-County Building.

Respectfully,
s/Suellen Hart
Clerk of the City-County Council

August 7, 1998

TO THE HONORABLE PRESIDENT AND 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:

I have this day approved with my signature and delivered to the Clerk of the City-County Council, Suellen Hart, the following ordinances and resolutions:

FISCAL ORDINANCE NO. 94, 1998 - approves an increase of \$940,036 in the 1998 Budget of the Marion County Justice Agency (Drug Free Community Fund) which is the annual appropriation from the Drug Free Community Fund

FISCAL ORDINANCE NO. 95, 1998 - approves an increase of \$125,000 in the 1998 Budget of the Department of Metropolitan Development, Division of Administrative Services (Consolidated County Fund) to fund community enhancement projects administered by the Greater Indianapolis Progress Committee financed by fund balances

FISCAL ORDINANCE NO. 96, 1998 - approves an increase of \$49,000 in the 1998 Budget of the Department of Metropolitan Development, Division of Community Development and Financial Services (State Grants Fund) to fund Brownfield assessments financed by a state grant

FISCAL ORDINANCE NO. 97, 1998 - approves an increase of \$100,000 in the 1998 Budget of the Department of Metropolitan Development, Division of Community Development and Financial Services (Redevelopment General Fund) to make infrastructure improvements in the Barrington neighborhood financed by fund balances

FISCAL ORDINANCE NO. 98, 1998 - approves an increase of \$17,849 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to continue the current part-time facilitator's salary to co-chair a Domestic Violence Coordinating Council in Marion County funded by Federal S.T.O.P. (Services Training Officers Prosecution) funds through the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 99, 1998 - approves an increase of \$20,542 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to continue a grant to help communities to organize against domestic violence and create and implement inter-agency protocols in Marion County to manage domestic violence cases funded by Federal S.T.O.P. (Services Training Officers Prosecution) funds through the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 100, 1998 - approves an increase of \$62,766 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to provide partial funding for staff, Domestic Violence Conference, and transportation for clients of the Salvation Army funded by Federal V.O.C.A. (Victims of Child Abuse) funds through the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 101, 1998 - approves an increase of \$37,296 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to provide for security, staff training, and client transportation for the Salvation Army funded by S.T.O.P. (Services Training Officers Prosecution) funds through the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 102, 1998 - approves an increase of \$52,647 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to continue funding for the Julian Center funded by Federal S.T.O.P. (Services Training Officers Prosecution) funds through the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 103, 1998 - approves an increase of \$66,366 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to fund construction of a Children's Waiting Room near the Domestic Violence Court funded by a grant from the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 104, 1998 - approves an increase of \$60,000 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to fund the second year of a grant to Breaking Free, Inc. to support a Victim Advocate Program funded by a grant from the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 105, 1998 - approves an increase of \$284,633 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to continue funding for the Centers of Hope funded by a grant from the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 106, 1998 - approves an increase of \$20,504 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to cover a portion of the salary of a grants coordinator funded by reimbursements from six grant recipients

FISCAL ORDINANCE NO. 107, 1998 - approves an increase of \$6,793 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to add an additional felony court advocate funded by V.O.C.A. (Victims of Child Abuse) funds through the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 108, 1998 - approves an increase of \$1,500 in the 1998 Budget of the Prosecuting Attorney (County Grants Fund) to expand the production of the crack video produced by Channel 16 funded by contributions from the Indianapolis Neighborhood Housing Partnership

FISCAL ORDINANCE NO. 109, 1998 - approves an increase of \$294,000 in the 1998 Budget of the Marion County Justice Agency (County Corrections Fund) for the diversion of misdemeanor populations from state penal facilities funded by State County Correction Funds

FISCAL ORDINANCE NO. 110, 1998 - approves an increase of \$29,809 in the 1998 Budget of the Marion County Justice Agency (State and Federal Grants Fund) to assist the Julian Center in funding their Respite Care Program for Children funded by a grant from the Indiana Criminal Justice Institute

FISCAL ORDINANCE NO. 112, 1998 - approves a transfer of \$239,000 in the 1998 Budget of the Marion County Public Defender Agency (County General Fund) to cover the increase in full time positions through 1998 and to fund one new secretary and two receptionists/transcribers funded by a decrease in other services and charges

GENERAL ORDINANCE NO. 113, 1998 - authorizes a multi-way stop at 51st Street and Kingsley Drive (District 6)

GENERAL ORDINANCE NO. 114, 1998 - authorizes a multi-way stop at 48th Street and Broadway Street (District 6)

GENERAL ORDINANCE NO. 115, 1998 - authorizes a multi-way stop at Foltz Street and Ironton Street (District 17)

GENERAL ORDINANCE NO. 116, 1998 - authorizes a multi-way stop at Oliver Avenue and Rybolt Avenue (District 17)

GENERAL ORDINANCE NO. 117, 1998 - authorizes an intersection control at New Jersey Street and Werges Avenue (District 20)

GENERAL ORDINANCE NO. 118, 1998 - authorizes a multi-way stop at Rhake Road and Wrangler Court (District 25)

GENERAL ORDINANCE NO. 119, 1998 - authorizes an intersection control at 84th Street and Bearing Drive (District 1)

GENERAL ORDINANCE NO. 120, 1998 - authorizes a weight limit restriction for Conarroe Road from 79th Street to 86th Street (District 1)

GENERAL ORDINANCE NO. 121, 1998 - authorizes parking restrictions on Old Madison Avenue between Raymond Street and LeGrande Avenue (District 20)

GENERAL ORDINANCE NO. 122, 1998 - authorizes parking restrictions on Hague Road from Fall Creek Road to 96th Street (District 4)

GENERAL ORDINANCE NO. 123, 1998 - authorizes parking restrictions on Caroline Avenue south of 30th Street (Districts 10, 11)

SPECIAL ORDINANCE NO. 7, 1998 - elects to fund MECA operations in calendar year 1999 with \$2 million of COIT revenue

SPECIAL RESOLUTION NO. 37, 1998 - recognizes the Suburban West Optimist Club's "Always Buckle Children in the Back Seat" Program

POLICE SPECIAL SERVICE DISTRICT FISCAL ORDINANCE NO. 7, 1998 - approves an increase of \$251,593 in the 1998 Budget of the Department of Public Safety, Police Division (Federal Grants Fund) to upgrade the Live Scan equipment funded by federal grants through the Indiana Criminal Justice Institute

Respectfully,
s/Stephen Goldsmith, Mayor

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS

PROPOSAL NO. 570, 1998. The proposal, sponsored by Councillor Talley, recognizes Fathers Active In The Hood (FAITH). Councillor Talley read the proposal and presented representatives with copies of the document and Council pins. Michael Saahir, a member of FAITH, thanked Councillor Talley for the recognition and presented t-shirts and baseball caps to Councillors Talley and Schneider. Councillor Schneider stated that he has heard great things about the program through the head coach at Arlington High School, and applauds the group's efforts. Councillor Talley moved, seconded by Councillor Schneider, for adoption. Proposal No. 570, 1998 was adopted by a unanimous voice vote.

Proposal No. 570, 1998 was retitled SPECIAL RESOLUTION NO. 38, 1998, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 38, 1998

A SPECIAL RESOLUTION recognizing Fathers Active In The Hood.

WHEREAS, it is individuals and neighborhood groups such as Fathers Active In The Hood (or, F.A.I.T.H.) that make Indianapolis a better place in which to live, work, and to raise and educate our children; and

WHEREAS, F.A.I.T.H. adult male volunteers patrol the neighborhood and offer counseling to young adults and provide other types of assistance to residents in the City-County Council 14th District area; and

WHEREAS, these men are working to improve and strengthen communications in our community by helping younger men and women cope and strive for excellence during their exceedingly challenging and sometimes difficult years; now, therefore:

August 31, 1998

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 Fathers Active In The Hood as one of many fine grass roots organizations in this city whose volunteers are willing to step forward to improve the lives of others.

SECTION 2. The Council specifically commends F.A.I.T.H. volunteers: Michael "Mikal" Saahir, Juan Taylor, Saleem Nu'Man, John Anderson, Lewis Peterson, Dawud Haashim, Michael Williams, Mark Owens, Thomas Portis, Drew Smith and Dustin Gzym.

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. 527, 1998. Councillor McClamroch reported that the Administration and Finance Committee heard Proposal No. 527, 1998 on August 4, 1998. The proposal reappoints William R. Wayman to the Indianapolis-Marion County Building Authority Board of Trustees. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor McClamroch moved, seconded by Councillor Schneider, for adoption. Proposal No. 527, 1998 was adopted by a unanimous voice vote.

Proposal No. 527, 1998 was retitled COUNCIL RESOLUTION NO. 70, 1998, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 70, 1998

A COUNCIL RESOLUTION reappointing William R. Wayman to the Indianapolis-Marion County Building Authority Board of Trustees.

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

SECTION 1. As a member of the Indianapolis-Marion County Building Authority Board of Trustees, the Council appoints:

William R. Wayman

SECTION 2. The appointment made by this resolution is for a term ending June 3, 2002. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 545, 1998. Introduced by Councillor O'Dell. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies, and approves the operating and maintenance budget and tax levies of the Indianapolis Airport Authority District"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 546, 1998. Introduced by Councillor O'Dell. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies, and approves the operating and maintenance budget and tax levies of the Capital Improvement Board of Managers of Marion County"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 547, 1998. Introduced by Councillor O'Dell. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies, and approves the operating and maintenance budget and tax levies of the Health and Hospital Corporation of Marion County"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 548, 1998. Introduced by Councillor O'Dell. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies, and approves the operating and maintenance budget and tax levies of the Indianapolis-Marion County Public Library Board"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 549, 1998. Introduced by Councillor O'Dell. The Clerk read the proposal entitled: "A Proposal for a General Resolution which reviews, modifies, and approves the operating and maintenance budget and tax levies of the Indianapolis Public Transportation Corporation"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 553, 1998. Introduced by Councillor Shambaugh. The Clerk read the proposal entitled: "A Proposal for a General Resolution which approves certain public purpose grants for support of the arts"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 554, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Revised Code pertaining to the Enhanced Access Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 555, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$500,000 in the 1998 Budgets of the County Auditor and the County Sheriff (State and Federal Grants Fund) to continue funding 15 road deputies for the second year of the Law Enforcement Assistant Grant from the Indiana Criminal Justice Institute"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 556, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which corrects the funding allocations within Fiscal Ordinance No. 109, 1998, by increasing the 1998 Budgets of the Community Corrections Agency (\$94,681) and the County Sheriff (\$179,319) (County Corrections Fund) and by decreasing the 1998 Budget of the Marion County Justice Agency (\$274,000) (County Corrections Fund)"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 557, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$8,330 in the 1998 Budget of the Prosecutor's Child Support IV-D (County Grants Fund) to develop a project for the Partners for Fragile Families Demonstration Project funded by a grant from the Ford Foundation"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 558, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$200,000 in the 1998 Budgets of the County Auditor, Prosecuting Attorney, Public Defender Agency, Marion County Superior Court, and the Clerk of the Circuit Court (State and Federal Grants Fund) to fund a

community court financed by a grant from the U.S. Department of Justice"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 559, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$15,000 in the 1998 Budgets of the County Auditor and Marion County Superior Court (State and Federal Grants Fund) to pay for overtime for Probation Officers conducting "Probation Sweeps" in local Weed and Seed areas funded by a grant from the Bureau of Alcohol, Tobacco and Firearms through the U.S. Marshall's Office"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 560, 1998. Introduced by Councillors Borst and Talley. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$250,000 in the 1998 Budget of the Forensic Services Agency (County General Fund) to continue laboratory operations for the remainder of 1998 funded by an appropriation from the City"; and the President referred it to the Public Safety and Criminal Justice Committee.

Councillor Dowden made the following motion:

Mr. President:

I move to suspend the requirements of Sec. 151-76 of the Council Rules as to Proposal No. 560, 1998, and authorize the Clerk to advertise the same for public hearing before this Council at its meeting on September 14, 1998.

Councillor Borst seconded the motion, and the requirements were suspended by a unanimous voice vote.

PROPOSAL NO. 561, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$253,000 in the 1998 Budget of the Department of Public Safety, Emergency Management Planning Division (City Cumulative Capital Development Fund) to install 11 new warning sirens financed by a transfer from the Department of Public Safety, Fire Division (City Cumulative Capital Development Fund)"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 562, 1998. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$259,976 in the 1998 Budget of the Department of Public Safety, Police Division (Federal Grants Fund) for a Weed and Seed program in the West District financed by Federal Asset Sharing Funds"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 563, 1998. Introduced by Councillor Gilmer. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$1,000,000 in the 1998 Budget of the Department of Capital Asset Management, Asset Management Division (Transportation General Fund) to fund the City's match on Federal Aided Transportation projects financed by fund balances"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 564, 1998. Introduced by Councillor Gilmer. The Clerk read the proposal entitled: "A Proposal for a General Resolution which approves the purchase of a temporary and a

permanent sanitary sewer easement for a project in the vicinity of Stop 11 Road and I-65"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 565, 1998. Introduced by Councillor Smith. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal at Arlington Avenue and Churchman By-Pass (District 23)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 566, 1998. Introduced by Councillor Borst. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop for Bitter Bark Lane and Culpeper Drive (District 25)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 567, 1998. Introduced by Councillor Jones. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop for 12th Street and Temple Avenue (District 10)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 568, 1998. Introduced by Councillor Black. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop for 37th Street and Kenwood Avenue (District 6)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 569, 1998. Introduced by Councillor Black. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop for 37th Street and Ruckle Street (District 6)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 571, 1998. Introduced by Councillor McClamroch. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which reappoints Larry J. Barrett to the Beech Grove Economic Development Commission"; and the President referred it to the Economic Development Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

Councillor Borst reported that the Economic Development Committee heard Proposal Nos. 550-552, 1998 on August 20, 1998.

PROPOSAL NO. 550, 1998. The proposal is a special ordinance for Camby Crossing Apartments, L.P. in an amount not to exceed \$5,400,000 to be used for the acquisition, construction, and equipping of a 120-unit residential apartment complex to be located at Camby Road and State Road 67 (Kentucky Avenue) (Camby Crossing Apartments, L.P. Project) (District 19). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Moriarty Adams stated that she will abstain on Proposal Nos. 550-552, 1998 to avoid the appearance of a conflict of interest.

Councillor Borst moved, seconded by Councillor Cockrum, for adoption. Proposal No. 550, 1998 was adopted on the following roll call vote; viz:

25 YEAS: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Gilmer, Gray, Hinkle, Jones, Massie, McClamroch, Moores, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

0 NAYS:

3 NOT VOTING: Franklin, Golc, Moriarty Adams

1 ABSENT: Black

Proposal No. 550, 1998 was retitled SPECIAL ORDINANCE NO. 8, 1998, and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 8, 1998

A SPECIAL ORDINANCE authorizing the City of Indianapolis to issue up to \$5,400,000 City of Indianapolis, Indiana Economic Development Multi-Family Housing Revenue Bonds (Camby Crossing Apartments, L.P. Project) and approving and authorizing other actions in respect thereto.

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, the Act provides that an issuer may, pursuant to the Act, issue revenue bonds and lend the proceeds thereof to a corporation, partnership or individual for the purpose of financing costs of acquisition or construction of facilities, including real and personal property, for diversification of economic development and promotion of job opportunities in or near such issuer; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee; and

WHEREAS, a representative of Camby Crossing Apartments, L.P. (the "Company") has requested that the City of Indianapolis, Indiana (the "Issuer") issue bonds and lend the proceeds thereof to the Company in order to enable the Company to undertake and complete the acquisition, construction and equipping of a 120-unit apartment complex consisting of ten two-story buildings and a clubhouse located on a 12.5 parcel of land at Camby Road and State Road 67 (Kentucky Avenue), Indianapolis, Indiana (the "Project"); and

WHEREAS, the Indianapolis Economic Development Commission has rendered a report of the Indianapolis Economic Development Commission concerning the proposed financing of economic development facilities for the Company and the Metropolitan Development Commission of Marion County has commented thereon; and

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to provide funds to finance the acquisition and substantial rehabilitation of the Project by issuing up to \$5,400,000 City of Indianapolis, Indiana Economic Development Multi-Family Housing Revenue Bonds (Camby Crossing Apartments, L.P. Project) (the "Bonds"); and

WHEREAS, the Indianapolis Economic Development Commission, after a public hearing conducted on August 19, 1998 pursuant to Indiana Code Title 36, Article 7, Chapter 12, Section 24 and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), found that the financing of the Project complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the Issuer and its citizens; and

WHEREAS, the Issuer intends to issue the Bonds pursuant to an Indenture of Trust (the "Indenture") dated as of September 1, 1998 by and between the Issuer and PNC Bank, N.A., as Trustee (the "Trustee") in order to obtain funds to lend to the Company pursuant to a Loan Agreement (the "Loan Agreement") dated as of September 1, 1998 between the Issuer and the Company for the purpose of financing or providing reimbursement for the cost of the Project and to pay a portion of the costs of issuance of the Bonds; and

WHEREAS, the Loan Agreement provides for the repayment by the Company of the loan of the proceeds of the Bonds pursuant to which the Company will agree to make payments sufficient to pay

the principal and interest on the Bonds as the same become due and payable and to pay⁴ administrative expenses in connection with the Bonds; and

WHEREAS, the financing will not have an adverse competitive effect or impact on any similar facility or facility of the same kind already constructed or operating in the same market area or in or about Marion County, Indiana; and

WHEREAS, there has been submitted to the Commission for its approval substantially final forms of the Loan Agreement, Indenture, Preliminary Private Placement Memorandum, Land Use Restriction Agreement, Placement Agreement and Form of Bond (hereinafter referred to collectively as the "Financing Documents") and this proposed form of special ordinance which are by this reference incorporated herein by Resolution adopted prior in time to this date, which Resolution has been transmitted hereto; now, therefore:

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

SECTION 1. It is hereby found that the financing of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, the loan of the net proceeds thereof to the Company for the purposes of financing or providing reimbursement for a portion of the cost of the Project, and the repayment of said loan by the Company will be of benefit to the health or general welfare of the Issuer and its citizens and does comply with the purposes and provisions of the Act.

SECTION 2. The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Clerk of the Council or City-Controller. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two (2) copies of the Financing Documents are on file in the office of the Clerk of the Council for public inspection.

SECTION 3. The Issuer shall issue its Bonds in the principal amount not to exceed \$5,400,000 for the purpose of procuring funds to loan to the Company in order to finance or provide reimbursement for a portion of the cost of the Project which Bonds will be payable as to principal and interest solely from the payments made by the Company pursuant to the Loan Agreement to evidence and secure said loan and as otherwise provided in the above-described Financing Documents. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the Issuer.

SECTION 4. The City Clerk and City Controller are authorized and directed to sell such Bonds to the purchasers thereof at a price not less than 97% of the aggregate principal amount thereof, plus accrued interest, if any, and at a rate of interest not to exceed 15% percent per annum.

SECTION 5. The Mayor and City Clerk are authorized and directed to execute those Financing Documents approved herein which require the signature of the Mayor and City Clerk and any other document which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the City Clerk on the Bonds may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the City Clerk on the Bonds may be facsimile signatures. The City Clerk and City Controller are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and City Clerk may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve changes therein and also in those Financing Documents which do not require the signature of the Mayor and/or City Clerk without further approval of this City-County Council or the Commission if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

SECTION 6. The provisions of this special ordinance and the Financing Documents shall constitute a contract binding between the Issuer and the holder or holders of the Bonds and after the issuance of said Bonds, this special ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

SECTION 7. The Issuer hereby preliminarily finds and determines that the amount of tax credits to be allocated to the Project under Section 42 of the Code and regulations promulgated thereunder does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the

Issuer has relied upon representations of the Company. The foregoing determinations shall not be construed to be a representation or warranty by the Issuer as to the feasibility or viability of the Project. The Issuer hereby authorizes and directs the Mayor to make the foregoing determination again for and on behalf of the Issuer at the request of the Company following receipt of supporting materials submitted by the Company to the Indiana Housing Finance Authority (the "IHFA") and either written representations of the Company or of the IHFA to the effect that (i) the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project, and (ii) the Project satisfied the requirements for the allocation of a housing credit dollar amount under IHFA's qualified allocation plan. Such determinations shall occur on or about the date of the sale of the Bonds to the purchasers thereof and on or about the date that each building of the Project is placed in service. In reliance upon the representations of the Company, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHFA's qualified allocation plan.

SECTION 8. Rule 15c2-12(b)(1) of the Securities Exchange Act of 1934, as amended (the "SEC Rule"), provides that, prior to the time a participating underwriter or placement agent bids for, purchases, offers or sells municipal securities, the participating underwriter or placement agent shall obtain and review an official statement that an issuer of such securities deems a "near final" official statement. The Preliminary Private Placement Memorandum is hereby deemed final as of its date, except for the omission of no more than the following information: the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the securities depending on such matters. The Mayor, the City Clerk or any other officer of the Issuer familiar with the matters with respect to the Issuer set forth in the Preliminary Private Placement Memorandum is hereby authorized to certify to PNC Capital Markets, Inc., the Placement Agent, that the information in the Preliminary Private Placement Memorandum with respect to the Issuer is deemed to be final within the meaning of the SEC Rule prior to the distribution of the Preliminary Private Placement Memorandum.

SECTION 9. This special ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Title 36, Article 3, Chapter 4, Section 14.

PROPOSAL NO. 551, 1998. The proposal is a special ordinance for Falcon Creek Place L.P. authorizing the issuance of \$6,144,600 to be used for the construction and equipping of a 131-unit multi-family residential facility at 4300 Moeller Road (Falcon Creek Place Apartments Project) (District 9). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Borst made the following motion:

Mr. President:

I move to recommend to the Council that Proposal No. 551, 1998, as considered by the Committee, be amended by substituting therefor Proposal No. 551, 1998, marked "Amended Version."

Councillor Massie seconded the motion, and Proposal No. 551, 1998 was amended by substitution. Councillor Borst moved, seconded by Councillor Shambaugh, for adoption. Proposal No. 551, 1998, as amended, was adopted on the following roll call vote; viz:

26 YEAS: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

0 NAYS:

2 NOT VOTING: Franklin, Moriarty Adams

1 ABSENT: Black

Proposal No. 551, 1998, as amended, was retitled SPECIAL ORDINANCE NO. 9, 1998, and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 9, 1998

A SPECIAL ORDINANCE authorizing the City of Indianapolis to issue up to \$6,144,600 City of Indianapolis, Indiana Multifamily Housing Revenue Bonds, Series 1998 (Falcon Creek Place Apartments Project) and approving and authorizing other actions in respect thereto.

WHEREAS, the City of Indianapolis, Indiana (the "Issuer") is a municipal corporation and political subdivision of the State of Indiana (the "State"), and by virtue of the constitution and laws of the State, including Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (the "Act"), is authorized and empowered, among other things, to (a) provide funds for the acquisition, construction, equipping and improving of economic development facilities; (b) issue its revenue bonds for the purpose set forth herein; (c) secure such revenue bonds by a pledge and assignment of revenues and other documents as provided for herein; and (d) enact this Ordinance (the "Bond Ordinance"), execute the Indenture, the Loan Agreement, the Tax Regulatory Agreement, the Intercreditor Agreement, the Bonds (all hereinafter identified) and all other documents to be executed by it, upon the terms and conditions provided therein; and

WHEREAS, the Indianapolis Economic Development Commission (the "Commission") has given approval to the issuance of an amount not to exceed \$6,144,600 of economic development revenue bonds for the purpose of providing financing for Falcon Creek Place L.P., an Indiana limited partnership (the "Borrower"), to enable the Borrower to acquire, construct and equip certain economic development facilities consisting of the acquisition, construction and equipping of a 131 unit multifamily rental housing facility to be known as Falcon Creek Place Apartments located on approximately 9 acres of vacant land in the 4300 block of and on the east side of Moeller Road, Indianapolis, Indiana (the "Project"); and

WHEREAS, the Borrower has requested that the Issuer approve the issuance of economic development revenue bonds in an amount not to exceed \$6,144,600; and

WHEREAS, based upon the report and resolution of the Commission, this City-County Council of the Issuer (the "Council") has found and determined, and does hereby confirm that the Project will increase business opportunities within the City of Indianapolis, Indiana, and will be to the benefit of the health and general welfare of the citizens of the City of Indianapolis, Indiana, and that the Issuer, by assisting with the financing of the Project through the issuance of economic development revenue bonds in an amount not to exceed \$6,144,600, will be acting in a manner consistent with and in furtherance of the provisions of the Act; and

WHEREAS, pursuant to a Trust Indenture (the "Indenture"), dated as of September 1, 1998, between Norwest Bank Indiana, N.A., as trustee (the "Trustee") and the Issuer, the Issuer proposes to issue an amount not to exceed \$6,144,600 of its Multifamily Housing Revenue Bonds, Series 1998 (Falcon Creek Place Apartments Project) (the "Bonds") to provide funds for the acquisition, construction, equipping and improving of the Project, by lending such funds to the Borrower pursuant to a Loan Agreement (the "Loan Agreement"), dated as of September 1, 1998, among the Issuer, the Borrower and the Trustee, which prescribes the terms and conditions under which the Borrower shall repay such loan and pursuant to which the Borrower will execute and deliver to the Issuer its promissory note (the "Note") in the principal amount equal to the aggregate principal amount of the Bonds which Note the Issuer will endorse to the Trustee; and

WHEREAS, the Bonds will be secured by a First Mortgage and Security Agreement (the "Mortgage"), dated as of September 1, 1998, issued by the Borrower to the Trustee for the benefit of the holders of the Bond and an Assignment of Leases Rents and Other Income (the "Assignment"), dated as of September 1, 1998, from the Borrower to the Trustee for the benefit of the holders of the Bonds; and

WHEREAS, it is determined by the Issuer that the amount necessary to finance the costs of or related to the acquisition, construction, equipping and improving of the Project, will require the issuance, sale and delivery of not to exceed \$6,144,600 aggregate principal amount of the Bonds; now, therefore:

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

Section 1. Definitions. In addition to the words and terms defined in this Bond Ordinance, the words and terms used in this Bond Ordinance shall have the meanings set forth in the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement and in the form of the Bonds unless the context or use indicates another or different meaning or intent, which forms are before this meeting, are hereby incorporated by reference in this Bond Ordinance.

Any reference herein to the Issuer, or to any officers thereof, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms "hereof," "hereby," "hereto," "hereunder," and similar terms, mean this Bond Ordinance.

Section 2. Determination of Issuer. Pursuant to the Act, the Issuer hereby finds and determines that the Project is an "economic development facility" as defined in the Act and is consistent with the provisions of the Act. The Mayor of the Issuer, as the "applicable elected representative" of the Issuer for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), hereby approves the issuance of the Bonds in the principal amount of \$6,144,600 to assist in the acquisition, construction, equipping and improving of the Project as hereinbefore provided.

At a public hearing held on August 19, 1998 by the Indianapolis Economic Development Commission (the "Commission"), pursuant to the provisions of Indiana Code 36-7-12-24(a) and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), notice of publication of which was published in *The Indianapolis Star/News* and the *Court and Commercial Record* which complied with Section 24(a) of the Act and Section 147(f) of the Code, the public was given an opportunity to express their views for or against the Project. The Council hereby acknowledges the public hearing.

The Issuer has received from the Commission its Resolution dated August 19, 1998, wherein the Commission has found that the proposed financing will be of benefit to the health and general welfare of the citizens of the City of Indianapolis, Indiana and that the proposed financing complies with the provisions of the Act, and further recommending this form of Ordinance for approval by this Common Council.

Section 3. Authorization of the Bonds. It is hereby determined to be necessary to, and the Issuer shall, issue, sell and deliver, as provided and authorized herein and pursuant to the authority of the Act, Bonds in the maximum aggregate principal amount of not to exceed \$6,144,600, designated as "City of Indianapolis, Indiana Multifamily Housing Revenue Bonds, Series 1998 (Falcon Creek Place Apartments Project)," the proceeds of which will be held by the Trustee under the Indenture and used to make a loan to the Borrower to pay the cost of the acquisition, construction, equipping and improving of the Project, which Project will be used as an economic development facility within the meaning of the Act.

Section 4. Terms and Execution of the Bonds. The Bonds shall be issued as fully registered Bonds, without coupons, in the denominations set forth in the Indenture, numbered consecutively as set forth in the Indenture, and shall be payable at the office of the Trustee and mature as provided in the Indenture. The Bonds shall have such terms, bear such interest rates (but in no event in excess of 15% per annum), and be subject to mandatory and optional redemption as provided in the Indenture heretofore presented to the Issuer. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signatures of the Mayor of the Issuer and the Clerk of the Issuer, and the seal of the Issuer shall be impressed thereon or a facsimile of such seal placed thereon. In case any officer whose signature or a facsimile thereof shall appear on the Bonds shall cease to be such officer before the issuance or delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until after that time.

The form of the Bonds submitted to this meeting, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, be and the same is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated by the Indenture in an aggregate principal amount not to exceed \$6,144,600 shall represent the approved form of Bonds of the Issuer.

The Bonds are special, limited obligations of the Issuer payable solely from payments¹ of principal of, premium, if any, and interest on the Bonds made by the Borrower under the Note and the Loan Agreement except to the extent that the principal of, premium, if any, and interest on the Bonds may be paid out of money attributable to Bond proceeds or from temporary investments thereof and as otherwise set forth in the Indenture.

Section 5. Sale of the Bonds. The Bonds will be purchased by Charter Municipal Mortgage Acceptance Company (the "Purchaser"), at the purchase price not less than 95%.

Section 6. Arbitrage Provisions. Subject to the provisions of the Non-Arbitrage Certificate, the Tax Certificate of the Borrower and the Indenture imposing such obligation upon the Borrower, the Issuer will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to expectations at the time the Bonds are delivered to the Purchaser, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed under that Section. The Mayor of the Issuer and the Clerk of the Issuer or any other officer having responsibility with respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the Issuer, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 and regulations thereunder.

Section 7. Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement, the Bonds, and all other Documents to be Executed or Accepted by the Issuer. In order to better secure the payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due and payable, the Mayor of the Issuer and the Clerk of the Issuer are authorized and directed to execute, acknowledge and deliver, in the name and on behalf of the Issuer, the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement, and all other material documents and assignments to be executed or accepted by it in substantially the forms submitted to the Council or its counsel, which are hereby approved, with such changes therein not inconsistent with this Bond Ordinance and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officers executing the same on behalf of the Issuer without further approval of the Council or of the Commission if such changes do not affect terms set forth in Indiana Code 36-7-12-27(a)(1) through (a)(10). The approval of such changes by such officers to the extent such are not substantially adverse to the Issuer, shall be conclusively evidenced by the execution or acceptance of receipt of any of the foregoing documents by such officers.

Section 8. Covenants of the Issuer. In addition to other covenants of the Issuer in this Bond Ordinance, the Issuer further covenants and agrees as follows:

(a) Payment of Principal, Premium and Interest. The Issuer will, solely from the sources herein provided, pay or cause to be paid the principal of, premium, if any, and interest on each and all Bonds on the dates, at the places and in the manner provided herein and in the Bonds, and in all other documents referred to herein.

(b) Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions applicable to it contained in the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement, executed and delivered, or received, and in this Bond Ordinance, and in all other proceedings of the Issuer pertaining to the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement and the Intercreditor Agreement. The Issuer warrants and covenants that it is, and upon delivery of the Bonds will be, duly authorized by the laws of the State of Indiana, including particularly and without limitation, the Act, to issue the Bonds and to execute the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement, and all other documents to be executed or received by it, to provide the security for payment of the principal of, premium, if any, and interest on the Bonds in the manner and to the extent herein set forth; that all actions on its part for the issuance of the Bonds and execution or acceptance and delivery of the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement and all other documents to be executed or accepted by it have been or will be duly and effectively taken; and that the Bonds will be valid and enforceable special, limited obligations of the Issuer according to the terms thereof. Each

provision of this Bond Ordinance, the Indenture, each Bond and all other documents to be executed by the Issuer is binding upon such officer of the Issuer as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision; and each duty of the Issuer and of its officers and employees undertaken pursuant to such proceedings for the Bonds and all other documents to be executed by the Issuer is established as a duty of the Issuer and of each such officer and employee having authority to perform such duty.

Section 9. No Personal Liability. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Bond Ordinance, or in the Bonds, the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement and the issuance of the Bonds.

Section 10. No Debt or Tax Pledge. The Bonds shall not constitute a debt or pledge of the faith and credit of the Issuer, the State or any political subdivision thereof, and the holders or owners thereof shall have no right to have taxes levied by the Issuer, the State or taxing authority of any political subdivision for the payment of the principal thereof or interest thereon. Moneys raised by taxation shall not be obligated or pledged for the payment of principal or interest on the Bonds, and the Bonds shall be payable solely from the revenues and security interests pledged for their payment as authorized by the Indenture.

Section 11. Severability. Subject to Section 10 hereof, if any section, paragraph or provision of this Bond Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 12. Repeal of Conflicting Ordinances and Resolutions. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Bond Ordinance are, to the extent of such conflict, hereby repealed.

Section 13. Public Inspection. In compliance with Indiana Code 36-1-5-4, two copies of the Loan Agreement, the Note, the Indenture, the Tax Regulatory Agreement, the Mortgage, the Assignment, the Environmental Indemnity Agreement, the Intercreditor Agreement and the form of the Bonds are on file in the office of the Clerk of the Council of the Issuer and are available for public inspection.

Section 14. Compliance with Open Door Law. It is hereby determined that all formal actions of the Council relating to the adoption of this Bond Ordinance were taken in an open meeting of the Council, that all deliberations of the Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, et seq., as supplemented and amended.

Section 15. Findings Regarding Section 42 of the Code. The Issuer hereby preliminarily finds and determines that the amount of tax credits to be allocated to the Project under Section 42 of the Code and regulations promulgated thereunder does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the Issuer has relied upon representations of the Borrower. The foregoing determinations shall not be construed to be a representation or warranty by the Issuer as to the feasibility or viability of the Project. The Issuer hereby authorizes and directs the Mayor to make the foregoing determination again for and on behalf of the Issuer at the request of the Borrower

following receipt of supporting materials submitted by the Borrower to the Indiana Housing Finance Authority (the "IHFA") and either written representations of the Borrower or of the IHFA to the effect that (i) the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project, and (ii) the Project satisfied the requirements for the allocation of a housing credit dollar amount under IHFA's qualified allocation plan. Such determinations shall occur on or about the date of the sale of the Bonds to the purchasers thereof and on or about the date that each building of the Project is placed in service. In reliance upon the representations of the Borrower, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHFA's qualified allocation plan.

Section 16. Contract. The provisions of the special ordinance and the Financing Documents shall constitute a contract binding between the Issuer and the holder or holders of the Bonds and after the issuance of said Bonds, this special ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

Section 17. Effective Date. This special ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Title 36, Article 3, Chapter 4, Section 14.

PROPOSAL NO. 552, 1998. The proposal amends S. R. No. 11, 1998 by extending the expiration date in the inducement resolution through February 28, 1999 for Indiana IV, LLP in an amount not to exceed \$7,000,000 to be used for the acquisition and rehabilitation of the existing 248-unit Greystone Village Apartment complex located at 5505A Scarlett Drive (Northeast and Northwest quadrants of Moeller Road and 34th Streets) (Greystone Village Apartments Project) (District 8). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Borst moved, seconded by Councillor Massie, for adoption. Proposal No. 552, 1998 was adopted on the following roll call vote; viz:

25 YEAS: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Tilford, Williams

0 NAYS:

3 NOT VOTING: Franklin, Moriarty Adams, Talley

1 ABSENT: Black

Proposal No. 552, 1998 was retitled SPECIAL RESOLUTION NO. 39, 1998, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 39, 1998

A SPECIAL RESOLUTION amending City-County Special Resolution No. 11, 1998, approving and authorizing certain actions and proceedings with respect to certain proposed economic development bonds.

WHEREAS, the City of Indianapolis, Indiana (the "City") is authorized by IC 36-7-11.9 and IC 36-7-12 (collectively, the "Act") to issue revenue bonds for the financing of economic development facilities, the funds from said financing to be used for acquisition, renovation, construction, installation and equipping of said facilities, and said facilities to be either sold or leased to a company or the proceeds of the revenue bond issue may be loaned to the company and said facilities directly owned by the company; and

WHEREAS, City-County Special Resolution No. 11, 1998 has been previously-adopted by the City-County Council of the City of Indianapolis and Marion County, Indiana concerning certain proposed economic development facilities to be developed by Indiana IV, LLP (the "Company") which resolution set an expiration date of August 31, 1998 unless the economic development revenue bonds

August 31, 1998

for the Project (as defined in the Inducement Resolution) had been issued prior to the aforesaid date or unless, upon a showing of good cause by the Company, the City, by official action, extends the terms of the Inducement Resolution; and

WHEREAS, such bonds have not yet been issued as of the date of adoption of this City-County Special Resolution, but the Company has shown good cause to extend the aforesaid expiration date; now, therefore:

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

SECTION 1. The City-County Council finds, determined, ratifies and confirms that the Resolution is hereby amended by deleting the expiration date of August 31, 1998, contained therein and replacing said date with the date of February 28, 1999

SECTION 2. The City-County Council further finds, determined, ratifies and confirms that except as modified by Section 1 hereof, all other findings and provisions of the Inducement Resolution shall remain unchanged and are hereby reaffirmed and confirmed.

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

Councillor O'Dell made the following motion:

Mr. President:

I move that Proposal No. 572, 1998 [Rezoning Case 98-Z-89 (98-DP-12)] be scheduled for a hearing before this Council at its next regular meeting on September 14, 1998 at 7:00 p.m. and that the Clerk read the announcement of such hearing and enter same in the minutes of this meeting.

Consent was given to schedule this proposal for a public hearing on September 14, 1998. Proposal No. 572, 1998 is identified as follows:

98-Z-82 (98-DP-12)
1550 SOUTH GERMAN CHURCH ROAD (approximate address), INDIANAPOLIS.
WARREN TOWNSHIP, COUNCILMANIC DISTRICT # 13
BAY DEVELOPMENT CORPORATION, by Stephen D. Mears, requests a rezoning of 65.79 acres, being in the D-A (FP) (FW) District, to the D-P (FP) (FW) classification to provide for a single family residential community consisting of 135 residential units.

PROPOSAL NOS. 573-583, 1998 and PROPOSAL NOS. 584-590, 1998. Introduced by Councillor Hinkle. Proposal Nos. 573-583, 1998 and Proposal Nos. 584-590, 1998 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on August 28, 1998. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 178-195, 1998, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 178, 1998.
98-Z-99
1312-1314 SOUTH RILEY AVENUE (approximate addresses), INDIANAPOLIS.
CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 21
DELIVERANCE TEMPLE requests a rezoning of 0.523 acre, being in the D-3 District, to the SU-1 classification to provide for religious uses.

REZONING ORDINANCE NO. 179, 1998.
98-Z-103 (Amended)
7650 REYNOLDS ROAD (approximate address), INDIANAPOLIS.
7710 REYNOLDS ROAD (approximate address), INDIANAPOLIS.
DECATUR TOWNSHIP, COUNCILMANIC DISTRICT # 19
RONALD RATCLIFF and DONNA ENGLAND request a rezoning of 3.208 acres, being in the D-A District, to the D-1 classification to provide for two single-family residences on two lots.

REZONING ORDINANCE NO. 180, 1998.
98-Z-114
3131 WEST 76th STREET (approximate address), INDIANAPOLIS.
PIKE TOWNSHIP, COUNCILMANIC DISTRICT # 2
WILLIAM J. AND MOLLIE BEAN requests a rezoning of 0.20 acre, being in the D-5 District, to the C-1 classification to provide for office uses.

REZONING ORDINANCE NO. 181, 1998.
98-Z-131
850, 902, 906 & 918 NORTH COLLEGE and 661 & 665 EAST 9th STREET, INDIANAPOLIS.
CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 22
METROPOLITAN DEVELOPMENT COMMISSION, requests a rezoning of .60 acre, being in the C-1 District, to the D-8 classification to provide for residential development and be in compliance with the recommendation of the Chatham-Arch Historic Area Preservation Plan.

REZONING ORDINANCE NO. 182, 1998.
98-Z-143
7591 OLD TRAIL ROAD (approximate address), INDIANAPOLIS.
WARREN TOWNSHIP, COUNCILMANIC DISTRICT # 13
UNISITE, INC., AND OMNIPOINT COMMUNICATIONS, INC., by, James B. Burroughs, requests a rezoning of 0.06 acre, being in the C-S District, to the C-S classification to provide for a telecommunications facility consisting of a monopole tower being 180 feet in height.

REZONING ORDINANCE NO. 183, 1998.
98-Z-145 (98-DP-19)
8051 MATHEWS ROAD (approximate address), INDIANAPOLIS.
FRANKLIN TOWNSHIP, COUNCILMANIC DISTRICT # 23
COMMUNITY DEVELOPMENT III, INC., by Raymond Good requests a rezoning of 18.39 acres, being in the D-A District, to the D-P classification to provide for residential development consisting of 9 single-family residences and 28 duplexes consisting of 56 units, and park uses.

REZONING ORDINANCE NO. 184, 1998.
98-Z-147
655 SOUTH HIGH SCHOOL ROAD (approximate address), INDIANAPOLIS.
WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 18
BEN DAVIS CHRISTIAN CHURCH, by Steven R. Hall, requests a rezoning of 7.0 acres, being in the D-3 (FF) District, to the SU-1 (FF) classification to provide for religious use.

REZONING ORDINANCE NO. 185, 1998.
98-Z-148
2728 NORTH TACOMA AVENUE (approximate address), INDIANAPOLIS.
CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 10
DEPARTMENT OF METROPOLITAN DEVELOPMENT requests a rezoning of 0.226 acre, being in the SU-1 District, to the D-5 classification to provide for single-family residential use.

REZONING ORDINANCE NO. 186, 1998.
98-Z-159 (98-DP-22)
2901 WALNUT STREET (approximate address), INDIANAPOLIS.
WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 16
INDIANAPOLIS HOUSING AGENCY requests a rezoning of 7.312 acres, being in the D-7 District, to the D-P classification to provide for a multi-family residential development consisting of 21 single-family residences and 16 two-family residences.

REZONING ORDINANCE NO. 187, 1998.

98-CP-13Z (Amended)

5050 EAST 21st STREET (approximate address), INDIANAPOLIS.

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 10

M. R. KENDALL CORPORATION, by J. Murray Clark, requests a rezoning of 5.64 acres, being in the C-3 and D-5 Districts, to the D-8 classification to provide for single-, two- and/or multi-family residential development.

REZONING ORDINANCE NO. 188, 1998.

98-CP-26Z

10367-10375 COURAGEOUS DRIVE (approximate addresses), INDIANAPOLIS.

LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 5

RONALD L. DYER AND TAUNYA K. DYER, by Mitch Sever, request a rezoning of 1.6 acres, being in the D-A District, to the D-1 classification to provide for a single-family residential development.

REZONING ORDINANCE NO. 189, 1998.

98-Z-48 (Amended)

6840 SOUTH TIBBS AVENUE (approximate address), INDIANAPOLIS.

PERRY TOWNSHIP, COUNCILMANIC DISTRICT # 25

BIG BARN WOOD PRODUCTS, INC., by Michael Kias, requests a rezoning of 5.77 acres, being in the SU-41 (FF) (W-5) District, to the C-S (FF) (W-5) classification to permit all C-3 uses except for the following: Automobile oil change or lubrication shop, Check cashing or validation service Coupon or trading stamp redemption service, Emergency shelter, Gasoline service station, Parcel packing/ mailing service, Post office, Rental or leasing of clothing, furniture, computers, office machines, costumes, Liquor store. And including the following uses: Seasonal retail sales, Indoor interactive paintball/lazer facility, Periodic holiday themed events or shows, including outdoor displays, Accessory food preparation and vending.

REZONING ORDINANCE NO. 190, 1998.

98-Z 113

936-938 DR. MARTIN LUTHER KING JR. STREET (approximate address), INDIANAPOLIS.

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 16

CITY OF INDIANAPOLIS/DEPARTMENT OF METROPOLITAN DEVELOPMENT requests a rezoning of 0.13 acre, being in the I-3-U(RC) District, to the D-8(RC) classification to provide for residential use.

REZONING ORDINANCE NO. 191, 1998.

98-Z-141 (98-DP-20)

4850 SOUTH FIVE POINTS ROAD (approximate address), INDIANAPOLIS.

FRANKLIN TOWNSHIP, COUNCILMANIC DISTRICT # 23

JOHN B. URBAHNS, II, by Thomas Michael Quinn, requests a rezoning of 71.3 acres, being in the D-A District, to the D-P classification to provide for single-family residential development consisting of 194 lots and park uses.

REZONING ORDINANCE NO. 192, 1998.

98-Z-156

2760 FORTUNE CIRCLE WEST (approximate address), INDIANAPOLIS.

WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 19

DUKE REALTY LIMITED PARTNERSHIP, by Philip A. Nicely, requests a rezoning of 4.256 acres, being in the I-3-S District, to the C-6 classification to provide for thoroughfare service commercial uses including a hotel.

REZONING ORDINANCE NO. 193, 1998.

98-Z-158

2510-2514 NORTH ARLINGTON AVENUE (approximate addresses), INDIANAPOLIS.

WARREN TOWNSHIP, COUNCILMANIC DISTRICT # 10

KENNETH E. SULLIVAN, by Joseph Techy, requests a rezoning of 1.7 acres, being in the D-3 District, to the SU-1 classification to provide for religious uses.

REZONING ORDINANCE NO. 194, 1998.

98-Z-162

8950 SOUTH EMERSON AVENUE (approximate address), INDIANAPOLIS.

PERRY TOWNSHIP, COUNCILMANIC DISTRICT # 24

J. W. PARTNERS requests a rezoning of 18.86 acres, being in the C-3 District, to the C-4 classification to provide for community-regional commercial uses.

REZONING ORDINANCE NO. 195, 1998.

98-CP-27Z

4502 WEST NEW YORK STREET (approximate address), INDIANAPOLIS.

WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 17

DONALD C. SKILES, by Stephen D. Mears, requests a rezoning of 0.83 acre, being in the D-A District, to the I-2-S classification to provide for light industrial uses.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 485, 1998. Councillor Curry reported that the Rules and Public Policy Committee heard Proposal No. 485, 1998 on July 21, 1998. The proposal was postponed in Council on August 3, 1998. The proposal approves the issuance of special taxing district bonds of the Redevelopment District of the City, in one or more series or issues, payable solely from taxes on real property located in the Consolidated Redevelopment Allocation Area ("Area") allocated and deposited into the Area Special Fund and from other revenues of the Metropolitan Development Commission, acting as the Redevelopment Commission. Councillor Curry moved, seconded by Councillor Borst, to postpone Proposal No. 485, 1998 until September 14, 1998. Proposal No. 485, 1998 was postponed by a unanimous voice vote.

Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 528, 1998 on August 26, 1998, and Proposal No. 529, 1998 on August 5, 1998. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 528, 1998. The proposal approves an increase of \$90,000 in the 1998 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to administer the "Network of Employers for Traffic Safety Program" funded by a grant from the Indiana Governor's Council on Impaired and Dangerous Driving. PROPOSAL NO. 529, 1998. The proposal approves an increase of \$8,800 in the 1998 Budget of the County Sheriff (State and Federal Grants Fund) to increase the salary of the victim assistance director funded by an amended grant from the Indiana Criminal Justice Institute. By unanimous votes, the Committee reported the proposals to the Council with the recommendation that they do pass.

The President called for public testimony at 7:37 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Smith, for adoption. Proposal Nos. 528 and 529, 1998 were adopted on the following roll call vote; viz:

27 YEAS: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford

0 NAYS:

1 NOT VOTING: Williams

1 ABSENT: Black

Proposal No. 528, 1998 was retitled FISCAL ORDINANCE NO. 113, 1998, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 113, 1998

A FISCAL ORDINANCE amending the City-County Annual Budget for 1998 (City-County Fiscal Ordinance No. 90, 1997) appropriating an additional Ninety Thousand Dollars (\$90,000) 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(y) of the City-County Annual Budget for 1998 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Prosecuting Attorney to administer the "Network of Employers for Traffic Safety Program."

SECTION 2. The sum of Ninety Thousand Dollars (\$90,000) 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 appropriation is hereby approved:

<u>PROSECUTING ATTORNEY</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
3. Other Services and Charges	<u>90,000</u>
TOTAL INCREASE	90,000

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

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered State and Federal Grants Fund	<u>90,000</u>
TOTAL REDUCTION	90,000

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 529, 1998 was retitled FISCAL ORDINANCE NO. 114, 1998, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 114, 1998

A FISCAL ORDINANCE amending the City-County Annual Budget for 1998 (City-County Fiscal Ordinance No. 90, 1997) appropriating an additional Eight Thousand Eight Hundred Dollars (\$8,800) in the State and Federal Grants Fund for purposes of the County Sheriff and County Auditor 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(b,y) of the City-County Annual Budget for 1998 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the County Sheriff and County Auditor to increase the salary of the victim assistance director.

SECTION 2. The sum of Eight Thousand Eight Hundred Dollars (\$8,800) 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 appropriation is hereby approved:

<u>COUNTY AUDITOR</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
1. Personal Services - fringes	1,750
<u>COUNTY SHERIFF</u>	
1. Personal Services	<u>7,050</u>
TOTAL INCREASE	8,800

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

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>8,800</u>
TOTAL REDUCTION	8,800

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Curry reported that the Rules and Public Policy Committee heard Proposal Nos. 535-537, 1998 on August 4, 1998. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 535, 1998. The proposal establishes the "Year 2000 Special Purpose Fund." PROPOSAL NO. 536, 1998. The proposal approves an increase of \$12,654,515 in the 1998 Budget of the Office of the City Controller (Year 2000 Special Purpose Fund) to fund the City/County Year 2000 project financed by County General Revenue and fund balance reductions in the Consolidated County General Fund, the Police General Fund, and the Fire General Fund. PROPOSAL NO. 537, 1998. The proposal approves an increase of \$7,685,504 in the 1998 Budget of the County Auditor (County General Fund \$5,285,504; Deferral Programs Fee Fund \$1,500,000; Cumulative Capital Development Fund \$900,000) to pay the County portion of the year 2000 project financed by the funds balances. By 6-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass.

The President called for public testimony at 7:42 p.m. There being no one present to testify, Councillor Curry moved, seconded by Councillor Massie, for adoption. Proposal Nos. 535-537, 1998 were adopted on the following roll call vote; viz:

28 YEAS: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams
 0 NAYS:
 1 ABSENT: Black

Proposal No. 535, 1998 was retitled GENERAL ORDINANCE NO. 124, 1998, and reads as follows:

August 31, 1998

CITY-COUNTY GENERAL ORDINANCE NO. 124, 1998

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," by amending Article II of Chapter 135.

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

SECTION 1. Article III, Chapter 135 of the Revised Code of the Consolidated City and County is hereby amended by inserting the words underlined as follows:

ARTICLE III. NONREVERTING CITY FUNDS

DIVISION 7. YEAR 2000 SPECIAL PURPOSE FUND

Sec. 135- 371. Year 2000 Special Purpose Fund.

(a) There is hereby created a special nonlapsing fund for the City Controller, to be designated as the "Year 2000 Special Purpose Fund." The Controller shall deposit in such fund all moneys received by or credited to the City Controller in the performance of its functions and duties in relation to the Consolidated City and County's Year 2000 Project.

(b) This fund shall be a continuing, nonlapsing fund, with all balances remaining therein at the end of the year, and such balances shall not lapse into the consolidated county fund or be diverted directly or indirectly in any manner other than that set forth in subsection (c).

(c) Moneys in the Year 2000 Special Purpose Fund may be used for expenses incurred by the City Controller in the resolution of year 2000 century date problems.

(d) Amounts shall be paid from this fund only pursuant to appropriations authorized by the City-County Council. Such appropriations shall not expire at the end of the year but shall continue until the completion of the Year 2000 Project.

(e) After the final report to Council concluding the end of the Year 2000 project, all remaining funds will revert back to originating funds as agreed by the City Controller and County Auditor and will signal the termination of this special purpose fund.

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

Proposal No. 536, 1998 was retitled FISCAL ORDINANCE NO. 115, 1998, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 115, 1998

A FISCAL ORDINANCE amending the City-County Annual Budget for 1998 (City-County Fiscal Ordinance No. 90, 1997) appropriating an additional Twelve Million Six Hundred Fifty-four Thousand Five Hundred Fifteen Dollars (\$12,654,515) in the Year 2000 Special Purpose Fund for purposes of the Office of the City Controller and reducing the unappropriated and unencumbered balance in the Consolidated County General Fund, the Police General Fund, the Fire General Fund, and the Year 2000 Special Purpose 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 1.01(g) of the City-County Annual Budget for 1998 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the identification correction and test of software and hardware for a year 2000 problem.

SECTION 2. The sum of Twelve Million Six Hundred Fifty-four Thousand Five Hundred Fifteen Dollars (\$12,654,515) 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 appropriation is hereby approved:

<u>OFFICE OF THE CITY CONTROLLER</u>	<u>YEAR 2000 SPECIAL PURPOSE FUND</u>
2. Supplies	40,000
3. Other Services and Charges	12,164,516
4. Capital Outlay	<u>450,000</u>
TOTAL INCREASE	12,654,516

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

	<u>CONSOLIDATED COUNTY GENERAL FUND</u>
Unappropriated and Unencumbered Consolidated County General Fund	<u>3,308,909</u>
TOTAL REDUCTION	3,308,909

	<u>POLICE GENERAL FUND</u>
Unappropriated and Unencumbered Police General Fund	<u>1,658,003</u>
TOTAL REDUCTION	1,658,003

	<u>FIRE GENERAL FUND</u>
Unappropriated and Unencumbered Fire General Fund	<u>2,100</u>
TOTAL REDUCTION	2,100

	<u>YEAR 2000 SPECIAL PURPOSE FUND</u>
Unappropriated and Unencumbered Year 2000 Special Purpose Fund	<u>7,685,504</u>
TOTAL REDUCTION	7,685,504

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

Proposal No. 537, 1998 was retitled FISCAL ORDINANCE NO. 116, 1998, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 116, 1998

A FISCAL ORDINANCE amending the City-County Annual Budget for 1998 (City-County Fiscal Ordinance No. 90, 1997) appropriating an additional Five Million Two Hundred Eighty-five Thousand Five Hundred Four Dollars (\$5,285,504) in the County General Fund; One Million Five Hundred Thousand Dollars (\$1,500,000) in the Deferral Program Fees Fund; and Nine Hundred Thousand Dollars (\$900,000) in the Cumulative Capital Development Fund for purposes of the County Auditor and reducing the unappropriated and unencumbered balance in the County General Fund, Pre-Trial Diversion Program Fund, Deferral Program Fees Fund, and the Cumulative Capital Development 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(b) of the City-County Annual Budget for 1998 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the County Auditor to pay the County portion of the year 2000 project.

SECTION 2. The sum of Seven Million Six Hundred Eighty-five Thousand Five Hundred Four Dollars (\$7,685,504) 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.

August 31, 1998

SECTION 3. The following additional appropriation is hereby approved:

<u>COUNTY AUDITOR</u>	<u>COUNTY GENERAL FUND</u>
3. Other Services and Charges	5,285,504
<u>COUNTY AUDITOR</u>	<u>DEFERRAL PROGRAM FEES FUND</u>
3. Other Services and Charges	1,500,000
<u>COUNTY AUDITOR</u>	<u>CUMULATIVE CAPITAL DEVELOPMENT FUND</u>
3. Other Services and Charges	<u>900,000</u>
TOTAL INCREASE	7,685,504

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

	<u>COUNTY GENERAL FUND</u>
Unappropriated and Unencumbered County General Fund	5,285,504
	<u>DEFERRAL PROGRAM FEES FUND</u>
Unappropriated and Unencumbered Deferral Program Fees Fund	1,500,000
	<u>CUMULATIVE CAPITAL DEVELOPMENT FUND</u>
Unappropriated and Unencumbered Cumulative Capital Development Fund	<u>900,000</u>
TOTAL REDUCTION	7,685,504

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. 530, 1998. Councillor Coughenour reported that the Public Works Committee heard Proposal No. 530, 1998 on August 20, 1998. The proposal authorizes amendments to an existing agreement between the City and Boone County Utilities, LLC for sewage and wastewater treatment and disposal services. By a 5-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Coughenour moved, seconded by Councillor Hinkle, for adoption.

Councillor Gilmer asked how many homes will be built if this proposal passes. Councillor Coughenour stated that this proposal has no effect on the building of homes, but simply readjusts the boundaries to which service is provided. Councillor Gilmer stated that he is concerned because offering these types of services to adjacent counties helps to build their residential opportunities causing many City residents to move out of the County. He stated that he is against this type of promotion and cannot vote for this proposal in good conscience. Ted Rhinehart, Director of the Department of Public Works, stated that this proposal simply redraws the boundaries but does not change how many gallons of sewage and wastewater are serviced. He added that Boone County cannot discharge more than the plan already allows for. Councillor Gilmer stated that a new mixed-use property will benefit from this new service. The President stated that the City tries to cooperate with adjacent counties whenever possible to make the quality of life in the central Indiana area better for all citizens. He stated that this proposal is a slight modification of the boundaries and should not impact the citizenry drastically. Councillor Gilmer stated that some guidelines need to be in place to make the City's cooperation with other counties level and fair.

Proposal No. 530, 1998 was adopted on the following roll call vote; viz:

26 YEAS: *Borst, Boyd, Bradford, Brens, Cockrum, Coonrod, Coughenour, Curry, Franklin, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams*
1 NAY: *Gilmer*
1 NOT VOTING: *Dowden*
1 ABSENT: *Black*

Proposal No. 530, 1998 was retitled GENERAL RESOLUTION NO. 9, 1998, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 9, 1998

A GENERAL RESOLUTION ratifying and authorizing amendments to an existing agreement between the City of Indianapolis and Boone County Utilities, LLC for treatment of Boone County Utilities sewage and wastewater by the City of Indianapolis.

WHEREAS, by City-County General Resolution No. 16, 1996 (Proposal No 747, 1996) the City-County Council of the City of Indianapolis and Marion County, Indiana ("City-County Council") approved and authorized an agreement between the City of Indianapolis and Boone County Utilities, LLC for treatment of Boone County Utilities sewage and wastewater by the City of Indianapolis; and

WHEREAS, the City and the User have agreed to certain amendments regarding: (1) expansion of the User's geographic service area, (2) the User notifying the City as it allocates its reserved flow capacity and, (3) the City's remedies in the event the User allocates in excess of the reserved capacity resulting in damage to the City.

WHEREAS, the amendments allow the User to service its service area with greater efficiency without detrimental effect upon the City.

WHEREAS, the City-County Council, having considered the amendments and being duly advised, approves said amendments; now, therefore:

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

SECTION 1. Amendment No. 1 to the Agreement between the City of Indianapolis and Boone County Utilities, LLC for Wastewater Treatment and Disposal Services attached hereto and incorporated herein, is hereby approved and ratified, and the Clerk is directed to attach a copy of such Amendment to the official copy of this Resolution, and insert a copy in the permanent minutes of the Council.

SECTION 2. The Director of the Department of Public Works is hereby authorized to execute the Amendment on behalf of the City of Indianapolis.

EXHIBIT A

AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN
THE CONSOLIDATED CITY OF INDIANAPOLIS
AND BOONE COUNTY UTILITIES LLC, FOR SEWAGE AND
WASTEWATER TREATMENT AND DISPOSAL SERVICES

This Amendment No. 1, executed as of this _____ day of _____, 1998, and made by and between the CONSOLIDATED CITY OF INDIANAPOLIS, INDIANA (the "City"), acting by and through its DEPARTMENT OF PUBLIC WORKS (the "Department"), and Boone County Utilities, LLC (the "User"), WITNESSES THAT:

August 31, 1998

WHEREAS, the City and the User entered into an agreement, dated January 7, 1997, entitled Agreement Between the Consolidated City of Indianapolis and Boone County Utilities LLC, for Sewage and Wastewater Treatment and Disposal Services (the "Agreement"); and

WHEREAS, the City and the User have agreed to certain amendments to the Agreement which will allow the User to service its service area with greater efficiency without detrimental effect upon the City.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the User agree as follows:

1. Article II, Section 2.01, of the Agreement shall be deleted and replaced in its entirety with the following language:

Section 2.01. Geographic Location. The geographic area from which the City will accept, treat and dispose of wastewater pursuant to this Agreement consists of that portion of the geographic area that is serviced or is to be serviced by the User's system which is more particularly described and/or depicted on Exhibit A attached hereto and incorporated herein by this reference. The User's service area may be expanded or further modified in the future, specifically excepting any areas of Marion County, as approved by the IURC and upon written approval from the City. Written approval from the City shall be from the Director. Approval of an expanded service area shall not increase Boone County Utilities' reserved flow capacity as granted under Article V, Section 5.01 of the Agreement.

The map attached hereto as "Exhibit A" describes and/or depicts the geographic area from which the City will accept, treat and dispose of wastewater pursuant to the Agreement as amended by this Amendment No. 1.

2. The following clause shall be added to Article V of the Agreement amending Section 5.01, Volume Parameters, with a 5.01(a) containing original language, as now seen in 5.01, and 5.01(b) containing new language as follows:

(b) The User shall provide, to the City, copies of all wasteload allocation letters issued to those within the User's Service Area within 10 days of the granting of such allocation and notify both the City and the Indiana Department of Environmental Management when the User has issued wasteload allocation letters accounting for the User's entire reserved capacity of 600,000 gallons (0.6MGD) Average Daily Flow.

3. The following Section 10.02 shall be added to Article X of the Agreement:

Section 10.02. The User shall protect, defend, indemnify and save harmless the City from and against all liabilities, obligations, claims damages, injuries, penalties, fines, causes of action, and other costs and expenses (including, without limitation, reasonable attorneys' fees, court costs and litigation expenses), imposed upon or incurred by or asserted against the City by reason of or pertaining to User's issuance of wasteload allocation certifications under 327 IAC 3-2-2(c)(6). Furthermore, User's payment of the surcharge under Section 5.01 and Article XIII shall not alter User's obligations under this Section.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 as of the date and in the year first written above.

“THE CITY”

THE CONSOLIDATED CITY OF
INDIANAPOLIS, INDIANA, acting by and
through its DEPARTMENT OF PUBLIC WORKS

By: _____
Ted Rhinehart, Director
Department of Public Works

Date: _____

AS AUTHORIZED BY THE BOARD OF ASSET
MANAGEMENT AND DEPARTMENT OF
PUBLIC WORKS BY RESOLUTION
NO. _____
Date: _____

AS AUTHORIZED BY THE CITY-COUNTY
COUNCIL BY RESOLUTION
NO. _____
DATED _____
PROPOSAL NO. _____

ATTEST:

Ruth Landreth
Secretary, Board of Public Works

APPROVED AS TO LEGAL FORM AND
LEGALITY

Office of Corporation Counsel
Date: _____

“THE USER”

BOONE COUNTY UTILITIES, LLC

By: _____
Newland Resources, LLC
Managing Member of Boone
County Utilities, LLC

Printed: _____
Title: _____
Date: _____

PROPOSAL NO. 544, 1998. Councillor Smith reported that the Regulatory Research and Review Committee heard Proposal No. 544, 1998 on August 11, 1998. The proposal, sponsored by Councillor Moores, amends and recodifies the chapter concerning human relations and equal opportunity by deleting provisions which have been adjudged to be unconstitutional and to make certain other technical changes. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Moores stated that a court ruling by the United States District Courts in Indiana, and a later affirmation by the Seventh Circuit Court of Appeals, determined that some of the language originally included to protect women against discrimination was unconstitutional. This language needs to be deleted from the Code so that the City does not attempt to enforce an unconstitutional ordinance.

Councillor Talley added that the amendment also clears up some legal terms that were not easily understandable.

Councillor Dowden asked if the Supreme Court has ruled that the City’s particular ordinance is unconstitutional. Robert Elrod, General Counsel, stated that the ordinance originally adopted in

the 1980's defined pornography as a type of discrimination based on sex, and prohibited the sale or distribution of such. This was found by the Court to be a violation of the first amendment and ruled unconstitutional. Therefore, the City's particular ordinance is also ruled unconstitutional. Councillor Dowden stated that it is his belief that in the future the Court may change their ruling. Mr. Elrod stated that if this happens, another revision of the ordinance will have to take place.

Councillor Schneider asked if any sections of this proposal overrule any other proposals included in the Code that may reference actions involving pornography or gender. Mr. Elrod stated that it does not. He added that this proposal simply puts housing and employment provisions back in the same state they were in before the pornography language was added in the mid-80s.

Councillor McClamroch asked if passage of this proposal creates any rights implicit to any protected class. Mr. Elrod stated that he cannot think of any circumstance wherein this would occur.

Councillor Smith moved, seconded by Councillor Moores, for adoption. Proposal No. 544, 1998 was adopted on the following roll call vote; viz:

23 YEAS: Borst, Bradford, Brents, Cockrum, Coonrod, Curry, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, Moores, Moriarty Adams, O'Dell, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams
4 NAYS: Coughenour, Dowden, McClamroch, Schneider
1 NOT VOTING: Boyd
1 ABSENT: Black

Proposal No. 544, 1998 was retitled GENERAL ORDINANCE NO. 125, 1998, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 125, 1998

A PROPOSAL FOR A GENERAL ORDINANCE to amend and recodify Chapter 16 of the "Code of Indianapolis and Marion County Indiana," regarding human relations and equal opportunity, as Chapter 581 of the "Revised Code of the Consolidated City and County," to delete provisions which have been adjudged to be unconstitutional, and to make certain other technical changes.

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

SECTION 1. Chapter 16 of the "Code of Indianapolis and Marion County, Indiana" hereby is amended and recodified as Chapter 581 of the "Revised Code of the Consolidated City and County," by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Chapter ~~16~~ 581

HUMAN RELATIONS; EQUAL OPPORTUNITY

ARTICLE I. GENERAL PROVISIONS

Sec. ~~16-1~~ 581-101. Findings, ~~polieies~~ and purposes.

(a) ~~Findings. The city county council hereby makes the following findings:~~

(1) The council finds that the practice of denying equal opportunities in employment, education, access to and use of public accommodations, and acquisition of real estate based on race, color, religion, ancestry, national origin, handicap, or sex is contrary to the principles of freedom and equality

of opportunity and is a burden to the objectives of the policies contained herein and shall be considered discriminatory practices.

~~(2) Pornography is a discriminatory practice based on sex which denies women equal opportunities in society. Pornography is central in creating and maintaining sex as a basis for discrimination. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. The bigotry and contempt it promotes, with the acts of aggression it fosters, harm women's opportunities for equality of rights in employment, education, access to and use of public accommodations, and acquisition of real property; promote rape, battery, child abuse, kidnapping and prostitution and inhibit just enforcement of laws against such acts; and contribute significantly to restricting women in particular from full exercise of citizenship and participation in public life, including in neighborhoods.~~

(b) It is the purpose of this chapter to carry out the following policies of the City of Indianapolis and Marion County:

- (1) To provide equal employment opportunity in all city and county jobs without regard to race, color, religion, handicap, national origin, ancestry, age, sex, disabled veteran, or Vietnam era veteran status;
- (2) To encourage the hiring of the handicapped in both the public and the private sectors and to provide equal access to the handicapped to public accommodations;
- (3) To utilize minority-owned businesses, securing goods and services for the city and county in a dollar amount equal to at least ten (10) per cent of monies spent by the City of Indianapolis and Marion County;
- (4) To utilize women-owned businesses and encourage the utilization of women in construction and industry;
- (5) To protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, lending institutions, governmental and educational agencies and other persons from unfounded charges of discrimination;
- (6) To provide all citizens of the City of Indianapolis and Marion County equal opportunity for education, employment, and access to public accommodations without regard to race, religion, color, handicap, sex, national origin, ancestry, age, or disabled veteran or Vietnam era veteran status; and.
- (7) To provide all citizens of the City of Indianapolis and Marion County equal opportunity for acquisition through purchase or rental of real property including, but not limited to, housing without regard to race, sex, religion or national origin; and
- ~~(8) To prevent and prohibit all discriminatory practices of sexual subordination or inequality through pornography.~~

Sec. ~~16-2~~ 581-102. Nondiscrimination clauses.

~~(a)~~ Every contract to which one of the parties is the city or the county, or any board, department or office of either the city or county, including franchises granted to public utilities, shall contain a provision requiring the governmental contractor and subcontractors not to discriminate against any employee or applicant for employment in the performance of the contract, with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, sex, religion, color, national origin, ancestry, age, handicap, disabled veteran status and Vietnam era veteran status. Breach of this provision may be regarded as a material breach of the contract.

~~(b)~~ All applications, postings, announcements, and advertisements recruiting applicants for employment with the city or county shall conspicuously post in the bottom margin of such recruiting bids a clause as follows: "An Affirmative Action Equal Employment Opportunity Employer."

Sec. ~~16-3~~ 581-103. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section:

(a) *Acquisition of real estate* shall mean the sale, rental, lease, sublease, construction or financing, including negotiations and any other activities or procedures incident thereto, of:

- (1) Any building, structure, apartment, single room or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters by one or more families or single individuals;
- (2) Any building, structure or portion thereof, or any improved or unimproved land utilized or designed or intended for utilization, for business, commercial, industrial or agricultural purposes; or,
- (3) Any vacant or unimproved land offered for sale or lease for any purpose whatsoever.

(b) *Appointing authorities* shall mean and includes the mayor, ~~city-county~~ council and such other person or agency as may be entitled to appoint any member of the equal opportunity advisory board created in this chapter.

(c) *Appraiser* shall mean any person who, for a fee or in relation to his^t or her employment or usual occupation, establishes a value for any kind of real estate, the acquisition of which is defined in this section.

(d) *Board* shall mean the equal opportunity advisory board.

(e) *Complainant* shall mean any person who signs a complaint on his^t or her own behalf alleging that he^t or she has been aggrieved by a discriminatory practice.

(f) *Complaint* shall mean a written grievance filed with the division of equal opportunity, either by a complainant or by the board or division, which meets all the requirements of ~~sSections 16-18 and 16-19~~ 581-406 and 581-407 of this chapter.

(g) *Discriminatory practice* shall mean and includes the following:

- (1) The exclusion from or failure or refusal to extend to any person equal opportunities or any difference in the treatment of any person by reason of race, sex, religion, color, national origin or ancestry, handicap, age, disabled veteran or Vietnam era veteran status;
- (2) The exclusion from or failure or refusal to extend to any person equal opportunities or any difference in the treatment of any person, because the person filed a complaint alleging a violation of this chapter, testified in a hearing before any members of the board or otherwise cooperated with the division or board in the performance of its duties and functions under this chapter, or requested assistance from the board in connection with any alleged discriminatory practice, whether or not such discriminatory practice was in violation of this chapter; and,
- (3) In the case of a real estate broker or real estate salesperson or agent, acting in such a capacity in the ordinary course of his^t or her business or occupation, who does any of the following:
 - a. Any attempt to prevent, dissuade or discourage any prospective purchaser, lessee or tenant of real estate from viewing, buying, leasing or renting the real estate because of the race, sex, religion or national origin of:
 1. Students, pupils or faculty of any school or school district;
 2. Owners or occupants, or prospective owners or occupants, of real estate in any neighborhood or on any street or block; provided, however, this clause shall not be construed to prohibit disclosure in response to inquiry by any prospective purchaser, lessee or tenant of:

- (i) Information reasonably believed to be accurate regarding such race, sex, religion or national origin; or,
 - (ii) The honest professional opinion or belief of the broker, salesperson or agent regarding factors which may affect the value or desirability of property available for purchase or lease;
 - b. Any solicitation, promotion or attempt to influence or induce any owner to sell, lease or list for sale or lease any real estate, which solicitation, promotion or attempted inducement includes representations concerning:
 1. Race, sex, religion or national origin of present, prospective or possible purchasers or occupants of real estate in any area, neighborhood or particular street or block;
 2. Present, prospective or possible neighborhood unrest, tension or change in the race, sex, religion or national origin of occupants or prospective occupants of real estate in any neighborhood or any street or block;
 3. Present, prospective or possible decline in market value of any real estate by reason of the present, prospective or possible entry into any neighborhood, street or block of persons of a particular race, sex, religion or national origin; or,
 4. Present, prospective or possible decline in the quality of education offered in any school or school district by reason of any change in the race, sex, religion or national origin of the students, pupils or faculty of such school or district.
- (4) ~~Trafficking in pornography: The production, sale, exhibition, or distribution of pornography:~~
 - a. ~~City, state, and federally funded public libraries or private and public university and college libraries in which pornography is available for study, including on open shelves, shall not be construed to be trafficking in pornography, but special display presentations of pornography in said places is sex discrimination.~~
 - b. ~~The formation of private clubs or associations for purposes of trafficking in pornography is illegal and shall be considered a conspiracy to violate the civil rights of women.~~
 - e. ~~This paragraph (4) shall not be construed to make isolated passages or isolated parts actionable.~~
- (5) ~~Coercion into pornographic performance: Coercing, intimidating or fraudulently inducing any person, including a man, child or transsexual, into performing for pornography, which injury may date from any appearance or sale of any products of such performance.~~
 - a. ~~Proof of the following facts or conditions shall not constitute a defense:~~
 1. ~~That the person is a woman; or~~
 2. ~~That the person is or has been a prostitute; or~~
 3. ~~That the person has attained the age of majority; or~~
 4. ~~That the person is connected by blood or marriage to anyone involved in or related to the making of the pornography; or~~
 5. ~~That the person has previously had, or been thought to have had, sexual relations with anyone, including anyone involved in or related to the making of the pornography; or~~
 6. ~~That the person has previously posed for sexually explicit pictures for or with anyone, including anyone involved in or related to the making of the pornography at issue; or~~

7. That anyone else, including a spouse or other relative, has given permission on the person's behalf; or
 8. That the person actually consented to a use of the performance that is changed into pornography; or
 9. That the person knew that the purpose of the acts or events in question was to make pornography; or
 10. That the person demonstrated no resistance or appeared to cooperate actively in the photographic sessions or in the sexual events that produced the pornography; or
 11. That the person signed a contract, or made statements affirming a willingness to cooperate in the production of pornography; or
 12. That no physical force, threats, or weapons were used in the making of the pornography; or
 13. That the person was paid or otherwise compensated.
- (6) Forcing pornography on a person: The forcing of pornography on any woman, man, child or transsexual in any place of employment, in education, in a home, or in any public place.
- (7) Assault or physical attack due to pornography: The assault, physical attack, or injury of any woman, man, child, or transsexual in any way that is directly caused by specific pornography.
- (8) Defenses: Where the materials which are the subject matter of a complaint under paragraphs (4), (5), (6), or (7) of this subsection (g) are pornography, it shall not be a defense that the respondent did not know or intend that the materials were pornography or sex discrimination; provided, however, that in the cases under paragraph (g)(4) of section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of section 16-3, no damages or compensation for losses shall be recoverable unless the complainant proves that the respondent knew or had reason to know that the materials were pornography. Provided, further, that it shall be a defense to a complaint under paragraph (g)(4) of section 16-3 that the materials complained of are those covered only by paragraph (q)(6) of section 16-3.
- (h) ~~Division~~ shall mean the division of equal opportunity created by this chapter.
- (i) ~~Education~~ shall mean the construction, maintenance or operation of any school or educational facility utilized or intended to be utilized for the education or training of persons residing within the territorial jurisdiction of the division and controlled by a public governmental board or agency which operates one or more elementary or secondary schools.
- (j) ~~Employer~~ shall mean:
- (1) Any political subdivision within the county, not represented by the office of corporation counsel, pursuant to under sSection 3-3(B) 202-103 of the Code of Indianapolis and Marion County, Indiana, and any separate municipal corporation which has territorial jurisdiction primarily within the county; and,
 - (2) Any person who employs at the time of any alleged violation six (6) or more employees within the territorial jurisdiction of the division.
- (k) ~~Employment~~ shall mean a service performed by an individual for compensation on behalf of an employer, except that such services shall not include the following for:
- (1) Services performed by an individual who in fact is engaged in an independently established trade, occupation, business or profession, and who has been and will continue to be free from direction or control over the manner of performance of such services;
 - (2) Services performed by an agent who receives compensation solely upon a commission basis and who controls his/ or her own time and efforts; or,

(3) Services performed by an individual in the employ of his ~~or~~ her spouse, child¹ or parent.

(H) *Employment agency shall* means and includes any person ~~undertaking who undertakes~~, with or without compensation, to procure, recruit, refer or place any individual for employment.

(M) *Labor organization shall* means and includes any organization which exists for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

(N) *Lending institution shall* means any bank, building and loan association, insurance company or other corporation, association, firm or enterprise, the business of which consists in whole or in part in making or guaranteeing loans, secured by real estate or any interest therein.

(O) *Owner shall* means and includes the title holder of record, a contract purchaser, lessee, sublessee, managing agent or other person having rights of ownership or possession, or the right to sell, rent or lease real estate.

(P) *Person shall* means and includes one or more individuals, partnerships, associations, organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, governmental agencies and other organized groups of persons.

(Q) *Pornography shall mean the sexually explicit subordination of women, graphically depicted, whether in pictures or in words, that also includes one or more of the following:*

- (1) ~~Women are presented as sexual objects who enjoy pain or humiliation; or~~
- (2) ~~Women are presented as sexual objects who experience sexual pleasure in being raped; or~~
- (3) ~~Women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt, or as dismembered or truncated or fragmented or severed into body parts; or~~
- (4) ~~Women are presented being penetrated by objects or animals; or~~
- (5) ~~Women are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual;~~
- (6) ~~Women are presented as sexual objects for domination, conquest, violation, exploitation, possession, or use, or through postures or positions of servility or submission or display.~~

~~The use of men, children, or transsexuals in the place of women in paragraphs (1) through (6) above shall also constitute pornography under this section.~~

(R) *Public accommodation shall* means an establishment which caters to or offers its services, facilities or goods to the general public.

(S) *Public facility shall* means any facility or establishment, other than an educational institution, which is owned, operated or managed by or on behalf of a governmental agency.

(T) *Real estate broker shall* means any person who, for a fee or other valuable consideration, sells, purchases, rents, leases or exchanges, or negotiates or offers or attempts to negotiate the sale, purchase, rental, lease or exchange of real property owned by another person; or a person who is licensed and holds himself ~~or~~ herself out to be engaged in the business of selling, purchasing, renting, leasing or exchanging real property for other persons, or who manages and collects rents for the real property of another.

(U) *Real estate salesperson or agent shall* means any person employed by a real estate broker to perform or assist in performing any or all of the functions of the real estate broker.

(V) *Respondent shall* means one or more persons against whom a complaint is filed under this chapter, and who the complaint alleges has committed or is committing a discriminatory practice.

ARTICLE II. DIVISION OF EQUAL OPPORTUNITY

Sec. ~~16-4~~ 581-201. Division of equal opportunity — ~~Created~~; purpose.

There is hereby created a division of equal opportunity within the department of administration. This division and its board are empowered as provided in this chapter to carry out the public policy of the state as stated in ~~section 2~~ of the Indiana Civil Rights Act Law at IC 22-9-1-2, within the territorial boundaries of ~~Marion~~ the County.

Sec. ~~16-5~~ 581-202. ~~Same~~ — Composition of division; and functions.

The division shall be directed by an administrator who shall also be the affirmative action officer for the city and county. The administrator shall be appointed by and serve at the pleasure of the mayor and shall be responsible for performing the following functions:

- (1) To monitor internal employment practices as follows:
 - a. By ensuring that city and county government offers equal employment opportunities to persons regardless of race, religion, color, sex, national origin, ancestry, age, handicap, or disabled veteran or Vietnam era veteran status;
 - b. By providing a vehicle through which employees may seek redress for alleged discriminatory acts by city and county government and/or retaliatory acts by city or county government for filing or assisting in the discrimination complaint process;
 - c. By establishing affirmative action goals for city and county government;
 - d. By complying with federal reporting requirements concerning affirmative action and equal opportunity; and,
 - e. By reviewing policies and procedures of the city and the county to eliminate discriminatory practices;
- (2) To monitor contract compliance as follows:
 - a. By ensuring compliance with federal grant requirements respective to the utilization of minority business enterprises (~~MBE~~) and women business enterprises (~~WBE~~);
 - b. By reviewing city-county contracts to assure compliance with relevant federal, state and local laws and regulations on affirmative action and equal employment;
 - c. By functioning as a liaison between the city-county and its contractors by providing technical assistance in developing affirmative action goals and monitoring these compliance efforts to meet established goals; and,
 - d. By managing and implementing the MBE/WBE minority and women business enterprises programs, and by monitoring city and county purchasing as specified in ~~section 16-1(3)~~. Subsection 581-101(b)(3) of this chapter;
- (3) To evaluate the effect which state and federal prevailing wage legislation has on:
 - a. The employment and training of minorities, families, handicapped and other protected groups in public construction projects funded in whole or in part by the ~~City of Indianapolis or Marion County~~; and,
 - b. Employers and particularly minority and women-owned business enterprises in bidding and working in public construction projects funded in whole or in part by the ~~City of Indianapolis or by Marion County~~;

As part of its evaluation, the division shall annually conduct surveys to determine the prevailing wage rates for various classes of construction work in private construction projects in ~~Marion~~ the County; and,

- (4) To receive, investigate and adjudicate community complaints as specified in ~~Sections 16-18 through 16-28~~ 581-406 through 581-416 of this chapter.

Sec. ~~16-6~~ 581-203. ~~Same~~— General powers and duties.

In addition to the functions previously mentioned in ~~Section 16-5~~ 581-202 of this chapter, the division shall have the following powers and duties:

- (1) To gather and distribute information for the purpose of improving human relations and removing inequities to protected groups in the areas of housing, recreation, education, employment, law enforcement, vocational guidance and related matters;
- (2) To assist other governmental and private agencies, groups and individuals in reducing community tensions and preventing conflicts between persons of different racial, ethnic and religious groups;
- (3) To discourage persons from engaging in discriminatory practices through informal methods of persuasion and conciliation and through programs of public information and education;
- (4) To furnish technical assistance upon request to persons to assist them in eliminating discriminatory practices or otherwise implementing the policy and purposes of the Indiana Civil Rights Act Law;
- (5) To make such general investigations, studies and surveys as the division shall deem necessary for the performance of its duties;
- (6) To prepare and submit at least annually a report of its activities to the mayor and to the public, which report shall describe the investigations and proceedings conducted by the division, the outcome thereof and the progress and achievements of the division and the community toward elimination of discriminatory practices;
- (7) To cooperate with the ~~Indiana State Civil Rights Commission,~~ any appropriate federal, state or local agencies, and with private organizations, individuals and neighborhood associations in order to effectuate the purposes of this chapter and to further compliance with federal, state and local laws and ordinances prohibiting discriminatory practices; and,
- (8) To perform any other duties assigned by ordinance or the mayor.

ARTICLE III. EQUAL OPPORTUNITY ADVISOR BOARD

Sec. ~~16-7~~ 581-301. ~~Equal opportunity advisory board~~—~~Created; purpose.~~

There is hereby created an equal opportunity advisory board empowered as provided in this chapter to carry out the public policy of the state as stated in ~~section 2~~ of the Indiana Civil Rights Act Law at IC 22-9-1-2, within the territorial boundaries of ~~Marion~~ the County.

Sec. ~~16-8~~ 581-302. ~~Same~~— Composition of board; appointment and terms of members.

~~(4a)~~ The board shall consist of twenty-two (22) members. Fourteen (14) members shall be appointed by the mayor and eight (8) members shall be appointed by the ~~city-county~~ council. In addition, the administrator shall be an ex officio member of the board. In ~~making appointments~~ the appointment of members, the mayor and the ~~city-county~~ council shall consider the following:

- ~~(a)~~ No more than seven (7) members of the board appointed by the mayor shall be from any one political party. No more than four (4) members of the board appointed by the ~~city-county~~ council shall be from any one political party; and,
- ~~(b)~~ In making appointments to the board, the mayor and the ~~city-county~~ council shall take into consideration all interests in the community, including but not limited to age, racial, ethnic, sexual, religious and economic groups, business, labor, the handicapped and the general public.

(2b) A board member may be removed for just cause, including nonattendance, by a two-thirds (2/3) vote of the board.

(3c) In the event of the death, resignation or removal of any member of the board prior to the expiration of his/ or her term, the appointing authority shall make an appointment to fill the vacancy for the unexpired term of the member.

(4d) In making the original appointments to the board, the mayor shall designate five (5) appointees to serve three-year terms; five (5) appointees to serve two-year terms and four (4) appointees to serve one-year terms; and the ~~city-county~~ council shall designate three (3) appointees to serve three-year terms; three (3) appointees to serve two-year terms and two (2) appointees to serve one-year terms. Subsequent appointments shall be for three-year terms beginning on the first day of January and ending three (3) years later on the last day of December. Any member of the board whose term has expired may continue in office until a successor has been appointed.

(5e) The mayor shall appoint from the membership of the board, a chairperson who shall serve a one-year term and until his/ or her successor is appointed and qualified, but serves at the pleasure of the mayor.

(6f) The chairperson shall appoint a vice-chairperson and a ~~S~~ecretary to serve during his/ or her term of office.

Sec. ~~16-9~~ 581-303. ~~Same~~— Meetings; vote required for board action.

The board shall hold regular meetings every two (2) months on a day agreed upon by the board. The board shall hold special meetings as may be called by two-thirds (2/3) of the membership. One-half (1/2) of the members of the board, excluding vacancies, shall constitute a quorum at any meeting. A majority vote of those in attendance shall be necessary for action, except in the case of a determination after hearing provided in ~~s~~Section ~~16-26~~ 581-414 of this chapter, when a majority of the members of the board not disqualified from participation in such determination shall be required. The administrator shall not be allowed to vote, except in case of a tie, when the administrator may cast the deciding vote.

Sec. ~~16-10~~ 581-304. ~~Same~~— General powers and duties.

The board shall have the following powers and duties:

- (1) To appoint an executive committee, a majority of which shall constitute a quorum, which committee shall be authorized to act upon emergency matters between meetings of the board; provided, however, the executive committee shall not take any action inconsistent with action previously taken or policies adopted by the board, and the executive committee shall not exercise any of the powers or functions of the board under ~~s~~Sections ~~16-17 through 16-27-~~ 581-405 through 581-415 of this chapter; All officers of any executive committee appointed by the board must be members of the board;
- (2) To establish three (3) standing committees, composed of seven (7) board members each, and each to deal with one of the following subject matters:
 - a. Internal employment practices;
 - b. Contract compliance; and,
 - c. Complaint adjudication;

The chairperson shall appoint the board members to each committee; ~~N~~o board member shall serve on more than one committee; ~~T~~he chairperson shall be an ex officio member of each committee but have voting privileges only in case of a tie, when he/ or she may cast the deciding vote; ~~T~~he board may establish any additional committees as in its judgment will aid the board in effectuating the purposes of this chapter;

- (3) To advise the division in formulating policies designed to effectuate the purposes of this chapter and to make such recommendations to the mayor and the ~~city-county~~ council as the board shall deem appropriate to implement such policies;

- (4) To adopt, amend and rescind procedural and substantive rules and regulations for the conduct of its affairs, not inconsistent with the provisions or intent and purposes of this chapter, as the board shall deem necessary or appropriate; ~~The rules or regulations shall be adopted subject to the provisions of Chapter 151, Article VIII of the Code; only after notice is given and a hearing is held thereon in the manner provided by state law relating to rule making by state agencies. Any rule or regulation adopted by the board shall be submitted to the corporation counsel for approval as to legality. Upon approval by the corporation counsel, the board shall cause the rule or regulation to be printed or duplicated in such a manner as to be readily available to interested persons and the public, and shall thereupon file the original approved copy and one duplicate with the clerk and the clerk of any other city or town which has adopted this chapter. The rule or regulation shall be effective as of the date and time of filing the original approved copy with the clerk.~~
- (5) To exercise such additional powers or functions as may be delegated to the board by ordinance or by executive order validly adopted and promulgated by the mayor ~~of the consolidated city; and.~~
- (6) To generally advise the division in the area of equal opportunity which shall include but not be limited to recommending new programs and program objectives, reviewing problem areas and recommending changes in existing programs.

Sec. ~~16-11~~ 581-305. Same — Internal employment practices committee; duties.

(~~1a~~) A committee on internal employment practices is hereby established. The committee shall be composed of seven (7) members of the board appointed by the chairperson of the board. The committee shall meet quarterly and at such other times as its members deem necessary. The committee shall have the power to establish and adopt rules for the conduct of its affairs.

(~~2b~~) The duties of the internal employment practices committee shall include:

- (~~a1~~) To review employment policies and procedures of the city and county and make recommendations to eliminate discriminatory employment practices;
- (~~b2~~) To review internal employment programs in the area of equal employment opportunity and affirmative action and make recommendations concerning their effective and efficient operation; and.
- (~~e3~~) To provide recommendations for establishing and achieving affirmative action goals.

Sec. ~~16-12~~ 581-306. Same — Contract compliance committee; duties.

(~~1a~~) A committee on contract compliance is hereby established. The committee shall be composed of seven (7) members of the board. The committee shall meet quarterly and at such other times as the members of the committee shall deem necessary. The committee shall have the power to establish and adopt rules for the conduct of its affairs.

(~~2b~~) The duties of the contract compliance committee shall include:

- (~~a1~~) To review contract compliance procedures and make recommendations concerning their effective and efficient operation; and.
- (~~b2~~) To make recommendations for improving the utilization of minority and women businesses by the city and county.

ARTICLE IV. COMPLAINT ADJUDICATION

Sec. ~~16-13~~ 581-401. ~~Complaint adjudication; territorial application.~~

This chapter shall apply within the territorial limits of the ~~consolidated city and within the territorial limits of the county,~~ with respect to any discriminatory practice occurring within such territorial limits and which relates to:

- (1) Acquisition of real estate; ~~or~~
- (2) Employment; ~~or~~
- (3) Education controlled by any public board or agency; ~~or,~~
- (4) Public accommodations; ~~or~~
- (5) ~~Pornography.~~

Sec. ~~16-14~~ 581-402. Unlawful acts other than discriminatory practices; penalty.

(a) It shall be unlawful for any person to discharge, expel or otherwise discriminate against any other person because that person:

- (1) Has filed a complaint alleging a violation of ~~s~~Section 16-15 581-403 of this chapter;
- (2) Has testified in a hearing before the board or any committee thereof;
- (3) Has otherwise cooperated with the board or division in the performance of their duties and functions; or,
- (4) Has requested assistance from the board or division in connection with any alleged discriminatory practice, whether or not the discriminatory practice was in violation of ~~s~~Section 16-15 581-403 of this chapter.

(b) It shall be unlawful for any person willfully to file a complaint alleging a violation of ~~s~~Section 16-15 581-403 of this chapter with knowledge that the complaint is false in any material respect.

(c) Any person who violates any of the provisions of this section shall, upon conviction, be subject to fine in an amount not less than ten dollars (\$10.00) nor more than three hundred dollars (\$300.00); provided, however, no such fine shall be imposed upon any person against whom the board or division has proceedings under this chapter with respect to any violation of ~~s~~Subsection (a) of this section, which violation is also a discriminatory practice. Any proceeding to impose a penalty under this section shall be commenced within six (6) months after the date the violation occurred.

Sec. ~~16-15~~ 581-403. Discriminatory practices declared unlawful.

Each discriminatory practice as defined in ~~s~~Section 16-3 581-103 of this chapter shall be considered unlawful unless it is specifically exempted by this chapter.

Sec. ~~16-16~~ 581-404. Persons and activities to which ~~s~~Sections 16-14 and 16-15 581-402 and 581-403 of this chapter do not apply.

(a) Sections ~~16-14 and 16-15~~ 581-402 and 581-403 of this chapter shall not apply to employment performed for the ~~consolidated~~ city and department or agency thereof, or any employment performed for the county or agency thereof which is represented by the office of corporation counsel pursuant to under s~~Section 3-3(B) 202-103~~ of the Code of Indianapolis and Marion County, Indiana.

(b) ~~Subject to the provisions of section 16-3(g)(4),~~ The provisions of s~~Sections 16-14 and 16-15 581-402 and 581-403 of this chapter~~ shall not include any not-for-profit corporation or association organized exclusively for fraternal or religious purposes, nor any school, education, charitable or religious institution owned or conducted by, or affiliated with, a church or religious institution, nor any exclusively social club, corporation or association that is not organized for profit and is not in fact open to the general public.

(c) Sections ~~16-14 and 16-15~~ 581-402 and 581-403 of this chapter shall not apply to the rental of rooms in a boardinghouse or rooming house or single-family residential unit; provided, however, the owner of the building unit actually maintains and occupies a unit or room in the building as his^s ~~or~~ her residence and, at the time of the rental the owner intends to continue to so occupy the unit or room therein for an indefinite period subsequent to the rental.

- (d) The following shall not be discrimination on the basis of sex:
- (1) For any person to maintain separate restrooms or dressing rooms for the exclusive use of either sex; and.
 - (2) For an employer to hire and employ employees; for an employment agency to classify or refer for employment any individual; for a labor organization to classify its membership or to classify or refer for employment any individual; or for an employer, labor organization or joint labor-management committee, controlling apprenticeship or other training or retraining programs, to admit or employ any individual in any such program; on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

Sec. ~~16-17~~ 581-405. Grounds for complaint; persons who may file; ~~persons against whom complaint may be made.~~

(a) A complaint charging that any person has engaged in or is engaging in a discriminatory practice prohibited by ~~Sections 16-14 and/or 16-15~~ 581-402 and/or 581-403 of this chapter may be filed with the division by any person claiming to be aggrieved by the practice, or by one or more members of the board of employees of the division who have reasonable cause to believe that such a violation of ~~sections 16-14 and 16-15~~ has occurred, in any of the following circumstances:

- (1) In the case of the acquisition of real estate, against the owner of the real estate, a real estate broker, real estate salesperson or agent, or a lending institution or appraiser;
- (2) In the case of education, against the governing board of any public school district which operates schools within the territorial limits of the consolidated city or of the county;
- (3) In the case of a public accommodation, against the owner or person in charge of any such establishment, or both;
- (4) In the case of a public facility, against the governmental body which operates or has jurisdiction over the facility; or.
- (5) In the case of employment, against any employer, employment agency or labor organization;
- (6) ~~In the cases of trafficking in pornography, coercion into pornographic performances, and assault or physical attack due to pornography (as provided in section 16-3 (g)(7)) against the perpetrator(s), maker(s), seller(s), exhibitor(s), or distributor(s).~~
- (7) ~~In the case of forcing pornography on a person, against the perpetrator(s) and/or institution.~~

(b) ~~In the case of trafficking in pornography, any woman may file a complaint as a woman acting against the subordination of women and any man, child, or transsexual may file a complaint but must prove injury in the same way that a woman is injured in order to obtain relief under this chapter.~~

(c) ~~In the case of assault or physical attack due to pornography, compensation for losses or an award of damages shall not be assessed against:~~

- (1) ~~Maker(s), for pornography made.~~
- (2) ~~Distributor(s), for pornography distributed,~~
- (3) ~~Seller(s), for pornography sold, or~~
- (4) ~~Exhibitor(s) for pornography exhibited, prior to the effective date of this act.~~

Sec. ~~16-18~~ 581-406. Contents of complaint.

To be acceptable by the division, a complaint shall be sufficiently complete so as to reflect properly the following:

- (1) ~~¶~~The full name and address of the complainant or other aggrieved person or persons;

- (2) ~~€~~The full name and address of the person against whom the complaint is made;
- (3) ~~€~~The alleged discriminatory practice and a statement of particulars thereof;
- (4) ~~€~~The date or dates of the alleged discriminatory practice;
- (5) ~~€~~f the alleged discriminatory practice is of a continuing nature, the dates between which the continuing discriminatory practices are alleged to have occurred;
- (6) a ~~A~~ statement as to any other action, civil or criminal, instituted before any other administrative agency, commission, department or court, whether state or federal, based upon the same grievance alleged in the complaint, with a statement as to the status or disposition of any such other action; and,
- (7) ~~€~~n the case of alleged employment discrimination a statement that the employer employs six (6) or more employees in the territorial jurisdiction of the division.

Sec. ~~16-19~~ 581-407. Execution and verification of complaint.

The original complaint shall be signed and verified before a notary public or other person duly authorized by law to administer oaths and take acknowledgments. Notarial services shall be furnished by the division without charge.

Sec. ~~16-20~~ 581-408. Timeliness of complaint.

No complaint shall be valid unless filed within ninety (90) calendar days from the date of occurrence of the alleged discriminatory practice or, in the case of a continuing discriminatory practice, during the time of the occurrence of the alleged practice; but not more than ninety (90) calendar days from the date of the most recent alleged discriminatory act.

Sec. ~~16-21~~ 581-409. Referral of complaint to ~~Indiana State Civil Rights Commission~~.

The administrator may, in his~~l~~ or her discretion, prior to scheduling of the complaint for hearing under ~~sSection 16-26 581-414 of this chapter~~, refer any complaint to the ~~Indiana State Civil Rights Commission~~ for proceedings in accordance with the ~~Indiana Civil Rights Act Law~~.

Sec. ~~16-22~~ 581-410. Receipt of complaint from ~~Indiana State Civil Rights Commission~~.

The division is hereby authorized to receive any complaint ~~referred~~ transferred to it by the ~~Indiana State Civil Rights Commission pursuant to section 11a of the Indiana State Civil Rights Act IC 22-9-1-12.1~~, and to take such action with respect to any such complaint as is authorized or required in the case of a complaint filed under ~~sSection 16-17 581-405 of this chapter~~.

Sec. ~~16-23~~ 581-411. Service of complaint on respondent; answer.

The administrator shall cause a copy of the complaint to be served by certified mail upon the respondent, who may file a written response to the complaint at any time prior to the close of proceedings with respect thereto, except as otherwise provided in ~~sSection 16-26 581-414 of this chapter~~. The complaint and any response received shall not be made public by the administrator, the board or any member thereof or any agent or employee of the division, unless and until a public hearing is scheduled thereon as provided in ~~sSection 16-26 581-414 of this chapter~~.

Sec. ~~16-24~~ 581-412. Investigation and conciliation.

(1a) *Investigation.* Within ten (10) working days after the receipt of a complaint filed ~~pursuant to~~ under this chapter, the administrator shall initiate an investigation of the alleged discriminatory practice charged in the complaint. All such investigations shall be made by the division at the direction of the administrator and may include informal conferences or discussions with any party to the complaint for the purpose of obtaining additional information or attempting to resolve or eliminate the alleged discriminatory practice by conciliation or persuasion. The division shall have the authority to initiate discovery, including but not limited to interrogatories, request for production of documents and subpoenas, on approval of the administrator at any time within ten (10) working days after filing of a

complaint. Any request by the division to compel discovery may be by appropriate petition to the Marion County circuit or superior courts.

(2b) *Report of investigation; determination by panel.* Unless the complaint has been satisfactorily resolved prior thereto, the administrator shall, within thirty (30) working days after the date of filing of a complaint pursuant to ~~under~~ sSection 16-17 581-405 of this chapter, report the results of the investigation made pursuant to ~~under~~ sSubsection (1) (a) of this section to a panel of three (3) members of the board designated by the chairperson or vice-chairperson or pursuant to the rules of the board, which panel shall not include any member of the board who initiated the complaint, who might have participated in the investigation of the complaint, or who is a member of the complaint adjudication committee. The administrator shall make a recommendation as to whether there is reasonable cause to believe that the respondent has violated ~~sSections 16-14 and/or 16-15 581-402 and/or 581-403 of this chapter~~. The chairperson, vice-chairperson or such other member of the panel so designated may, for good cause shown, extend the time for making such report. Such extension thereof shall be evidenced in writing, and the division shall serve a copy of the extension on both the complainant and the respondent. The panel shall then determine by majority vote whether reasonable cause exists to believe that any respondent has violated ~~sSections 16-14 and/or 16-15 581-402 and/or 581-403 of this chapter~~. In making such a determination, the panel shall consider only the complaint, the response, if any, and the administrator's report; provided, however, the panel may request the administrator to make a supplemental investigation and report with respect to any matter which it deems material to such determination.

(3c) *Action when violation found.* If the panel, ~~pursuant to under~~ sSubsection (2) (b) of this section determines that reasonable cause exists to believe that any respondent has violated ~~sSections 16-14 and/or 16-15 581-402 and/or 581-403 of this chapter~~, it may direct the administrator to endeavor to eliminate the alleged discriminatory practice through a conciliation conference. At least one panel member shall be present at any conciliation conference at which both the complainant and respondent are present or represented. If the complaint is satisfactorily resolved through conciliation, the terms of any agreement reached or undertaking given by any party shall be reduced to writing and signed by the complainant, respondent and the administrator. Any disagreement between the respondent and the administrator in regard to the terms or conditions of a proposed conciliation agreement may be referred to the panel which considered the complaint, and the decision of the panel with respect to such terms or conditions shall be final for purposes of conciliation proceedings under this subsection, but shall not be binding upon the respondent without his written consent thereto. No action taken or statement made in connection with any proceedings under this subsection, and no written conciliation agreement or any of the terms thereof, shall be made public by the board or any member thereof, or any agent or employee of the division, without the written consent of the parties, nor shall any such action, statement or agreement be admissible in evidence in any subsequent proceedings; provided, however, the board or division may institute legal proceedings under this chapter for enforcement of any written agreement or undertaking executed in accordance with subsection.

Sec. ~~16-25~~ 581-413. Complaint adjudication committee; duties.

A complaint adjudication committee is hereby established. The committee shall be composed of seven (7) members of the board. The committee shall meet for the purpose of holding public hearings on citizens' complaints, which shall be at such times as its members deem necessary.

Sec. ~~16-26~~ 581-414. Hearings, findings and recommendations when conciliation not effected.

(a) *Hearing to be held; notice.* If a complaint ~~filed pursuant to this article~~ has not been satisfactorily resolved within a reasonable time through informal proceedings pursuant to ~~under~~ sSection 16-24 581-412 of this chapter, or if the panel investigating the complaint determines that a conciliation conference is inappropriate under the circumstances surrounding the complaint, the complaint adjudication committee may hold a public hearing thereon upon not less than ten (10) working days' written notice to the complainant or other aggrieved person, and to the respondent. If the respondent has not previously filed a written response to the complaint, he^l or she may file such response and serve a copy thereof upon the complainant and the division not later than five (5) working days prior to the date of the hearing.

(b) *Powers; rights of parties at hearing.* In connection with a hearing held pursuant to ~~under~~ sSubsection (a) of this section, the complaint adjudication committee shall have power, upon any matter pertinent to the complaint or response thereto, to subpoena witnesses and compel their attendance; to require the production of pertinent books, papers or other documents; and to administer oaths. The

complainant shall have the right to be represented by the administrator or any attorney of his/ or her choice. The respondent shall have the right to be represented by an attorney or any other person of his/ or her choice. The complainant and respondent shall have the right to appear in person at the hearing, to be represented by an attorney or any other person, to subpoena and compel the attendance of witnesses, and to examine and cross examine witnesses. The complaint adjudication committee may adopt appropriate rules for the issuance of subpoenas and the conduct of hearings under this section. The complaint adjudication committee and the board shall have the power to enforce discovery and subpoenas by appropriate petition to the Marion County circuit or superior courts.

(c) *Statement of evidence; exceptions; arguments.* Within thirty (30) working days from the close of the hearing, the complaint adjudication committee shall prepare a report containing written recommended findings of fact and conclusions and file such report with the division. A copy of the report shall be furnished to the complainant and respondent, each of whom shall have an opportunity to submit written exceptions within such time as the rules of the complaint adjudication committee shall permit. The complaint adjudication committee may, in its discretion, upon notice to each interested party hear further evidence or argument upon the issues presented by the report and exceptions, if any.

(d) *Findings of fact; sustaining or dismissing complaint.* If, upon the preponderance of the evidence, the committee shall be of the opinion that any respondent has engaged or is engaging in a discriminatory practice in violation of the chapter, it shall state its findings of fact and conclusions and serve a copy thereof upon the complainant and the respondent. In addition, the committee may cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to:

- (1) ~~to require~~ restoration of complainant's losses incurred as a result of discriminatory treatment, as the board {committee} may deem necessary to assure justice;
- (2) ~~to require~~ The posting of notice setting forth the public policy of Marion the County concerning equal opportunity and respondent's compliance with said such policy in places of public accommodations;
- (3) ~~to require~~ The submission of proof of compliance to be filed by respondent at periodic intervals; and,
- (4) ~~to require a person who has been found to be in violation of this chapter and who~~ If the respondent is licensed by a city or county agency authorized to grant a license, the submission of a statement to show cause to the licensing agency why his or her license should not be revoked or suspended.

If, upon the preponderance of the evidence, the committee shall be of the opinion that any respondent has not engaged in a discriminatory practice in violation of this chapter it shall state its findings of fact and conclusions and serve a copy thereof upon the complainant and the respondent, and dismiss the complaint. Findings and conclusions made by the committee shall be based solely upon the record of the evidence presented at the hearing.

(e) *Appeal to the board.* Within thirty (30) working days after the issuance of findings and conclusions by the committee, either the complainant or the respondent may file a written appeal of the decision of the committee to the board; however, in the event that the committee requires a respondent to correct or eliminate a discriminatory practice within a time period less than thirty (30) working days, then that respondent must file his/ or her appeal within that time period. After considering the record of the evidence presented at the hearing and the findings and conclusions of the committee, the board may affirm the decision of the committee and adopt the findings and conclusions of the committee, or it may affirm the decision of the committee and make supplemental findings and conclusions of its own, or it may reverse the decision of the committee and make findings of fact and conclusions to support its decision. The board may also adopt, modify or reverse any relief ordered by the committee. The board must take any of the above actions within thirty (30) working days after the appeal is filed.

(f) *Members of board who are ineligible to participate.* No member of the board who initiated a complaint under this chapter or who participated in the investigation thereof shall participate in any hearing or determination under this section as a member of either a hearing panel, the complaint adjudication committee or of the board.

(g) *Applicability of state law; judicial review.* Except as otherwise specifically provided in this section or in rules adopted by the board or the complaint adjudication committee under this chapter, the applicable provisions of the Administrative Adjudication Act, ~~IC 4-22-1, (IC 4-21.5)~~ shall govern the conduct of hearings and determinations under this section, and findings of the board hereunder shall be subject to judicial review as provided in that act.

Sec. ~~16-27~~ 581-415. Court enforcement.

(a) *Institution of action.* In any case where the board or the committee has found that a respondent has engaged in or is engaging in a discriminatory practice in violation of ~~sSections 16-14 and/or 16-15 581-402 and/or 581-403 of this chapter,~~ and such respondent has failed to correct or eliminate such discriminatory practice within the time limit prescribed by the board or the committee and the time limit for appeal to the board has elapsed, the board ~~shall~~ may file in its own name in the Marion County circuit or superior courts a complaint against the respondent for the enforcement of ~~sSection 16-26 581-414 of this chapter.~~ Such complaint may request such temporary or permanent injunctive relief as may be appropriate and such additional affirmative relief or orders as will effectuate the purposes of this chapter and as may be equitable, within the powers and jurisdiction of the court.

(b) *Record of hearing; evidentiary value.* In any action filed ~~pursuant to~~ under this section, the board may file with the court a record of the hearing held by the complaint adjudication committee ~~pursuant to~~ under ~~sSection 16-26 581-414 of this chapter,~~ which record shall be certified by the secretary of the board as a true, correct and complete record of the proceedings upon which the findings of the complaint adjudication committee and/or the board were based. The court may, in its discretion, admit any evidence contained in the record as evidence in the action filed under ~~sSubsection (a) of this section,~~ to the extent such evidence would be admissible in court under the rules of evidence if the witness or witnesses were present in court, without limitation upon the right of any party to offer such additional evidence as may be pertinent to the issues and as the court shall, in its discretion, permit.

(c) *Temporary judicial relief upon filing of complaint.* Upon the filing of a complaint ~~pursuant to~~ under ~~sSection 16-17 581-405 of this chapter~~ by a person claiming to be aggrieved, the administrator, in the name of the board and in accordance with such procedures as the board shall establish by rule, may seek temporary orders for injunctions in the Marion County circuit or superior courts to prevent irreparable harm to the complainant, pending resolution of the complaint by the division, complaint adjudication committee and the board.

(d) *Enforcement of conciliating agreements.* If the board determines that any party to a conciliation agreement approved by the administrator under ~~sSection 16-24 581-412 of this chapter~~ has failed or refused to comply with the terms of the agreement, it may file a complaint in the name of the board in the Marion County circuit or superior courts seeking an appropriate decree for the enforcement of the agreement.

~~(e) *Trial de novo upon finding of sex discrimination related to pornography.* In complaints involving discrimination through pornography, judicial review shall be de novo. Notwithstanding any other provision to the contrary, whenever the board or committee has found that a respondent has engaged in or is engaged in one of the discriminatory practices set forth in paragraph (g)(4) of section 16-3 or as against a seller, exhibitor or distributor under paragraph (g)(7) of section 16-3, the board shall, within ten (10) days after making such finding, file in its own name in the Marion County circuit or superior court an action for declaratory and/or injunctive relief. The board shall have the burden of proving that the actions of the respondent were in violation of this chapter.~~

~~Provided, however, that in any complaint under paragraph (g)(4) of section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of section 16-3 no temporary or permanent injunction shall issue prior to a final judicial determination that said activities of respondent do constitute a discriminatory practice under this chapter.~~

~~Provided further, that no temporary or permanent injunction under paragraph (g)(4) of section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of section 16-3 shall extend beyond such material(s) that, having been described with reasonable specificity by the injunction, have been determined to be validly proscribed under the chapter.~~

Sec. 16-28 581-416. Other remedies.

Nothing in this chapter shall affect any person's right to pursue any and all rights and remedies available in any other local, state or federal forum.

SECTION 2. The expressed 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 provision or 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-I4, and shall have an expiration date of January 1, 2003.

PROPOSAL NO. 531, 1998. Councillor Gilmer reported that the Capital Asset Management Committee heard Proposal No. 531, 1998 on August 12, 1998. The proposal, sponsored by Councillor Brents, authorizes a traffic signal at Senate Boulevard and Methodist Hospital (District 22). By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Gilmer moved, seconded by Councillor Brents, for adoption. Proposal No. 531, 1998 was adopted on the following roll call vote; viz:

28 YEAS: *Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams*
0 NAYS:
1 ABSENT: *Black*

Proposal No. 531, 1998 was retitled GENERAL ORDINANCE NO. 126, 1998, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 126, 1998

A GENERAL ORDINANCE amending the "Revised Code of the Consolidated City and County," Sec. 44I-416, Schedule of intersection controls.

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

SECTION I. The "Revised Code of the Consolidated City and County," specifically, Sec. 44I-416, Schedule of intersection controls, be and the same is hereby amended by the addition of the following to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
25	Senate Blvd., Methodist Hospital Access Drive (1800 N)	None	Signal

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-I4.

NEW BUSINESS

Mr. Elrod read the following announcement:

Mr. President:

This Council will hold a public hearing on Rezoning Petition No. 98-Z-82 (98-DP-12), Council Proposal No. 572, 1998, at its next regular meeting on September 14, 1998, 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 65.79 acres at 1550 South German Church Road from D-A (FP) (FW) District to the D-P (FP) (FW) classification to provide for a single family residential community consisting of 135 residential units.

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 Bradford thanked all those involved in the Broad Ripple Go Kart Race benefitting the Huntington's Disease Association of Indiana, and stated that the race was an even greater success than last year.

Councillor O'Dell moved to suspend the rule to allow Proposal No. 107, 1998 to remain on the agenda for another six months. Councillor Tilford seconded the motion, and the rule was suspended by a unanimous voice vote.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Boyd stated that he had been asked to offer the following motion for adjournment by:

- (1) Councillor Moriarty Adams in memory of Gertrude Kriech ; and
- (2) Councillor Gilmer in memory of Robert L. Pritchard ; and
- (3) Councillor Smith in memory of Ralph H. Hadley, Richard L. Lanman, and Carl F. Waterman; and
- (4) Councillor Boyd in memory of Inge Hauschild.

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 Gertrude Kriech, Robert L. Pritchard, Ralph H. Hadley, Richard L. Lanman, and Carl F. Waterman. 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 8:15 p.m.

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-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 31st day of August, 1998.

August 31, 1998

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



President

ATTEST:



Clerk of the Council

(SEAL)