

**COUNCIL PROCEEDINGS
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL
OF BLOOMINGTON, ILLINOIS**

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:30 p.m., Monday, December 19, 2011.

The Meeting was opened by Pledging Allegiance to the Flag followed by moment of silent prayer.

The Meeting was called to order by the Mayor who directed the City Clerk to call the roll and the following members answered present:

Aldermen: Judy Stearns, Mboka Mwilambwe, Bernard Anderson, David Sage, Robert Fazzini, Jennifer McDade, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

City Manager David Hales, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

Alderman Fruin read the same statement that appeared on the August 23, 2010 Council meeting prior to voting.

The following was presented:

SUBJECT: Executive Session Minutes for August 8, 2011

RECOMMENDATION: That the reading of the minutes of the August 8, 2011 Executive Session be dispensed with and the minutes approved as printed.

BACKGROUND: The Executive Session Minutes for August 8, 2011 have been reviewed and certified as correct and complete by the City Clerk.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Tracey Covert
City Clerk

Recommended by:

David A. Hales
City Manager

Motion by Alderman Fruin, seconded by Alderman Anderson that the reading of the Executive Session Minutes for August 8, 2011 be dispensed with and the minutes approved as printed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

RECOMMENDATION: That the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

BACKGROUND: The list of bills and payrolls will be posted on the City's website on Thursday, December 22, 2011 by posting via the City's web site.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Total disbursements information will be provided via addendum.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Douglas Ellsworth
Interim Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Fruin, seconded by Alderman Anderson that the Bills and Payroll be allowed and the orders drawn on the Treasurer for the various amounts as funds are available.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Reports

RECOMMENDATION: That the reports be received and placed on file.

BACKGROUND: The following reports should be received and placed on file with the City Clerk:

1. Bloomington-Normal Public Transit System Financial Statements and Supplementary Information For the Year Ended June 30, 2011.
2. Bloomington-Normal Public Transit System Report of Federal Financial Assistance For the Year Ended June 30, 2011.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Tracey Covert
City Clerk

Douglas Ellsworth
Interim Director of Finance

David A. Hales
City Manager

Motion by Alderman Fruin, seconded by Alderman Anderson that the reports be received and placed on file.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Purchase of EMC Network Storage Array

RECOMMENDATION: That the purchase of an EMC VNX 5300 storage array, from Sentinel Technologies, Inc. in the amount of \$84,895.00, be approved, the Purchasing Agent be authorized to issue a Purchase Order for same, and the Resolution adopted.

BACKGROUND: Currently, two (2) EMC storage arrays are in use by the City. One purchased in December 2003 and the other purchased December 2007. Both of these storage arrays are currently configured to their maximum storage capacity. The oldest array is no longer supported through the manufacturer (EMC Corporation) and is technically not supported by our server virtualization software provider (VMWare, Inc.). For this reason, and due to data storage growth, staff believes it important to add storage capacity to the City's network.

Staff researched options within the current storage industry and recommends the purchase of an EMC VNX 5300 array. This new array would replace the one purchased in 2007 as the primary production network storage device. The 2007 era device would then become the secondary storage, supporting server/storage virtualization systems and providing disaster recovery and fail over should the primary storage fail for any reason. The array purchased in 2003 will be used as long as possible, but will eventually need to be retired completely. Once implemented, the new array would provide increased network storage capacity and allow for significant growth through its useful life span.

EMC Corporation certifies vendors to design, sell, implement and support this type of data storage array. This certification ensures only trained and certified technical personnel install and configure the new array. Staff requested a list of local certified vendor, and then requested quotations from all of these vendors.

COMPANY	LOCATION	PRICE
AOS	Springfield, IL	\$108,137.79
Burwood Group, Inc.	Normal, IL	No Bid
CDWG, Inc.	Vernon Hills, IL	No Bid
MCS, Inc.	Springfield, IL	\$121,145.00
Sentinel Technologies**	Springfield, IL	\$84,895.00
WTI Systems	Springfield, IL	\$95,960.00

**Recommended

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The Fiscal Year 2012 Budget has \$90,000 for this project within the Information Services Capital Equipment account (G11610-72120).

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

Scott A. Sprouls
Information Services Director

Douglas Ellsworth
Interim Director of Finance

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2011 - 59

**A RESOLUTION AUTHORIZING A PURCHASE IN THE
AMOUNT OF \$84,895 IN THE CONTRACT BETWEEN THE CITY OF
BLOOMINGTON AND SENTINEL TECHNOLOGIES FOR AN
EMC VNX 5300 STORAGE ARRAY**

WHEREAS, the City of Bloomington has selected Sentinel Technologies for a storage array; and

WHEREAS, for the reasons set forth in a staff report dated December 19, 2011 it was necessary to increase network storage and replace outdated equipment; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the December 19, 2011 memo was in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a purchase in the amount of \$84,895 of an EMC VNX 5300 storage array from Sentinel Technologies be approved.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fruin, seconded by Alderman Anderson that the purchase of an EMC VNX 5300 storage array, from Sentinel Technologies, Inc. in the amount of \$84,895.00 be approved, the Purchasing Agent be authorized to issue a Purchase Order for same, and the Resolution adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Professional Services Contract for the Bloomington Center for Performing Arts

RECOMMENDATION: That the contract be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff respectfully requests approval of contract to engage persons and/or groups represented by: William Morris Entertainment to perform services in the Bloomington Center for the Performing Arts (BCPA) on dates agreed by staff. Contract expenses for the contract will be \$40,000. The contract price covers the performing artist fees for a musical performance coming to the BCPA in January, 2012. For proprietary and competitive advantage reasons we do not mention the acts by name in the staff back up report. As is standard industry practice, some artist contracts require some additional expenses for items such as travel, meals and lodging that vary from artist to artist. Travel expenses and local lodging fees occur less often, however virtually all artists are provided with meals and non-alcoholic beverages.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The selection of these artists was coordinated with the Cultural Commission and the BCPA's Programming Advisory Committee. Staff and community advisors agree that the visiting professionals would attract broad, positive community involvement and contribute to the public service mission of the BCPA.

FINANCIAL IMPACT: Funding for these contracts will come from account X21100-70220 of the BCPA's Fiscal Year 2012 Budget, to be offset by future revenues from ticket sales, grants,

playbills, concessions, advertising and sponsorships. These revenues are also targeted to offset the additional artist expenses for travel, meals and lodging.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

John R. Kennedy, Director
Parks, Recreation & Cultural Arts

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Motion by Alderman Fruin, seconded by Alderman Anderson that the contract with Glenn Campbell Enterprises Ltd. in the amount of \$40,000 be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Proposed Constitution Trail Clearing Policy

RECOMMENDATION: That the City Constitution Trail Snow Removal Policy be adopted

BACKGROUND: The City maintains over twenty-four (24) miles of hard surface trails for the enjoyment of residents and visitors to the community. The Constitution Trail is comprised of approximately sixteen (16) miles with the remainder miles located in various park locations. Since the Constitution Trail's beginning in 1988, both the Town of Normal and City have agreed not to remove snow from the Trail. However, current practice by the City includes snow removal from segments of hard surface trails within White Oak Park, Clearwater Park, Tipton Park and McGraw Park. The segments of trail are located within parks and are not considered part of Constitution Trail.

Due to the increased requests for snow removal on the Trail, staff was asked to review the current policy to determine if there would be significant cost to clear snow from the most used segments. Staff also reviewed what type of equipment would be necessary to clear the snow. Normal recently reviewed their policy and the Town Council approved a new Town of Normal Constitution Trail Snow Removal Policy. Normal will begin snow removal along three (3) selected segments of the Trail this winter.

These segments of the Trail will be cleared of snow as follows (7.6 miles):

- West: from Alton Depot Park (Front & Western) to Lincoln St. (1.6 miles)
- Center: from Croxton Ave. to Division St. (1.8 miles)
- North East: from Veterans Pkwy. to Towanda Barnes Rd. (2.7 miles)
- South East: from Streid Dr. to Arcadia Dr. (1.5 miles)

The City would need to purchase one (1) additional snow blower attachment. This piece of equipment is priced at approximately \$8,500. The Friends of Constitution Trail have agreed to provide all of the funding for this piece of equipment, just as the Friends contributed to the Town of Normal for the same purchase.

If approved, the Parks, Recreation and Cultural Arts Department, through its Park Maintenance Division, would clear snow from designated portions of the Trail. The policy was developed based on the recognition that there are limited community resources for snow removal activities. Snow removal on the Trail segments will be the City's lowest snow clearing priority behind streets, alleys and City parking lots. Trail snow removal would only be completed during regular working hours and would not be performed on an overtime basis. The attached policy is also consistent with policy adopted by the Town of Normal.

With the inherent nature and variability of winter conditions, it is the responsibility of Trail users to use common sense when utilizing the Trail for recreational and alternative transportation activities.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Town of Normal Parks & Recreation Department, Friends of Constitution Trail and McLean County Greenways Committee.

FINANCIAL IMPACT: Staff estimates the annual costs to remove snow from selected segments of Constitution Trail to be approximately \$7,600.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Reviewed by:

John Kennedy, Director
Parks, Recreation &
Cultural Arts

J. Todd Greenburg
Corporation Counsel

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

City of Bloomington Constitution Trail Snow Removal Policy

The City of Bloomington maintains over twenty-four (24) miles of hard surface trails for the enjoyment of residents and visitors to the community. The Constitution Trail comprises approximately sixteen (16) of those miles with the remainder miles located in various park locations. The Parks, Recreation and Cultural Arts Department, through its Park Maintenance division, will undertake the clearing of snow from designated portions of the Constitution Trail, under the following guidelines, for snow events of two inches (2") or greater. This policy has been developed based upon the recognition that there are limited community resources for snow removal activities, and that snow removal on the Trail segments will be the City's lowest snow clearing priority behind streets, alleys and City parking lots. With the inherent nature and variability of winter conditions, it is the responsibility of trail users to use common sense when utilizing the trail for recreational and alternative transportation activities.

Trail Snow Removal Policies

- Trail snow removal by Park Maintenance will not begin until regularly assigned snow clearing work at parking lots, departmental locations, and sidewalks that are adjacent to park facilities have been completed. Further, trail snow removal activities will not commence until all City streets are cleared of snow.
- Trail snow clearing will occur only during regularly scheduled work shifts, Monday through Friday. Overtime compensation will not be expended to clear trails during non-work hours.
- Breakdown of equipment will result in delays in snow clearing until repairs are made. Every attempt will be made to continue the clearing of snow after the repairs are made, within the scheduled work shifts.
- Due to surrounding landscapes and property, trails will not be cleared or maintained at dry pavement level. Materials such as sand and salt will not be used, unless deemed necessary in select locations by Park Maintenance staff. Surface irregularities and icy conditions may result. The use of Constitution Trail is at the risk of the individual user.
- Due to the construction of the trails, the use of heavy equipment such as backhoes or dump trucks will not be used for snow removal. No hauling of snow away from the trail will occur due to potential damage to the trail surface or edges.
- The removal of snow from the Trail is based on the availability of Park Maintenance staff to perform the work. There are no guarantees that the removal of snow will occur within a specific time period following a snow fall.
- The removal of snow from the Trail will consist of one 6' path cleared by a snow blower.

The Trail will be cleared of snow as follows (7.6 miles):

- West: The Trail from Alton Depot Park (Front & Western) to Lincoln Street (1.6 miles)
- Center: The Trail from Croxton Avenue to Division Street (1.8 miles)
- North East: The Trail from Veterans Parkway to Towanda Barnes Road (2.7 miles)
- South East: The Trail from Streid Drive to Arcadia Drive (1.5 miles)

This policy is subject to change by authorization of the Bloomington City Council.

Estimated Costs

Start-Up Costs

Purchase 6' snow blower attachment\$8500*

Labor Costs for clearing additional 7.6 miles of trail

1 mile of trail cleared per hour, including travel time

Light Machine Operator & Tractor Costs:\$632 per 2" snow event

Approximate 12 2" snow events annually:\$7,584 annually

* - To be provided by Friends of Constitution Trail

Motion by Alderman Fruin, seconded by Alderman Anderson that the Policy be adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application of Santok 13, Inc., d/b/a Santok 13, located at 2444 S. Main St., for a GPBS liquor license, which will allow the sale of packaged beer and wine for consumption off the premises seven (7) days week

RECOMMENDATION: Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that a GPBS liquor license for Santok 13 Inc., d/b/a Santok 13, located at 2444 S. Main St., be created, contingent upon compliance with all applicable health and safety codes.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to consider the application of Santok 13, Inc., d/b/a Santok 13 located at 2444 S. Main St., requesting a GPBS liquor license which would allow the sale of packaged beer and wine for consumption off the premises seven (7) days week. Present at the hearing were Liquor

Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel and Tracey Covert, City Clerk, and Pragnesu Patel, new owner/operator and Applicant representative and Aratl Patel, current owner/operator and License holder.

Commissioner Stockton opened the liquor hearing and requested that the Applicant explain this request. He added that this application represented a change of ownership. Pragnesu Patel, new owner/operator and Applicant representative, addressed the Commission. He currently was employed by his sister assisting in her operation of a convenient store/gas station in East Peoria. He had seven (7) years of experience. He hoped to start his own business.

Commissioner Stockton questioned if Mr. Patel had been cited with any liquor violations. Mr. Patel responded negatively. He noted that at his current employer there was new software which required a customers' identification to be scanned to verify date of birth.

Aratl Patel, current owner/operator and License holder, addressed the Commission. She noted that she currently offered this software feature.

Commissioner Stockton noted that the Commission had reviewed the Application. Commissioner Buchanan questioned if the Applicant had a lease to the premise. Mr. Patel noted that there was an agreement to sublease the premise.

Commissioner Tompkins noted that there currently was a liquor license at this location. Mr. Patel noted that the business was a convenient store. Sales which were key to business success were gasoline, tobacco and liquor. Commissioner Tompkins questioned Mr. Patel's understanding of City ordinances and state statutes. Mr. Patel cited his seven (7) years of experience without a violation.

Commissioner Tompkins addressed Mr. Patel financial wherewithal. Mr. Patel addressed his assets. He noted his plan to sell his current residence and relocate to the City. He initially planned to rent an apartment.

Commissioner Stockton addressed residency. Tracey Covert, City Clerk, addressed the Council. The Applicant was a corporation. Therefore, the business' manager must reside in the County. Mr. Patel informed the Commission that Ms. Patel, current owner/operator and License holder, would manage the business. She resided within McLean County.

Commissioner Clapp questioned the number of employees. Mr. Patel noted that there would only be two (2).

Commissioner Tompkins readdressed the Applicant's financial information. Commissioner Stockton noted that questions must be relevant to the liquor license.

Commissioner Buchanan noted his hope that applications would be carefully completed. He believed the care and attention to detail would be reflected in the store's operations. He suggested that the application packet be reviewed for potential updating.

Commissioner Tompkins questioned which liquor license classification had been eliminated. Ms. Covert cited GPA, (Gasoline, Packaged sales, All types of alcohol).

Commissioner Stockton noted Mr. Patel's seven (7) of management experience without a single violation.

Motion by Commissioner Buchanan, seconded by Commissioner Clapp that the application of Santok 13 Inc., d/b/a Santok 13 located at 2444 S. Main St., requesting a GPBS liquor license which allows the sale of packaged beer and wine for consumption off the premises seven (7) days a week be approved.

Motion carried, (unanimously).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately one (1) courtesy copy of the Public Notice was mailed. In addition, the Agenda for the December 13, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: None. Request is for a change of ownership. Annual fee for a GPBS liquor license is \$1,180.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman Fruin, seconded by Alderman Anderson that a GPBS liquor license for Santok 13 Inc., d/b/a Santok 13 located at 2444 S. Main St., be created, contingent upon compliance with all applicable health and safety codes.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Council Meeting Dates for Calendar Year 2012

RECOMMENDATION: That the Council Meeting dates be approved with the exception that the second meeting in December be held on December 17, 2012.

BACKGROUND: The Open Meeting Act, (OMA) requires that public notice be given of the regular schedule of meetings at the beginning of the calendar or fiscal year. The City has a history of preparing this list on the calendar year basis. City staff is currently in the process of preparing the Annual List of Meetings.

The Council's second meeting in December would fall on Monday, December 24, 2012, (the City's Christmas holiday). If this meeting is held on the regular meeting date it would be held on Wednesday, December 26, 2012. It is recommended that this meeting be moved to December 17, 2012. The OMA allows for a change to a single regular meeting date.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Fruin, seconded by Alderman Anderson that the Council Meeting dates be approved with the exception that the second meeting in December be held on December 17, 2012.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: A Text Amendment to Chapter 2, Administration, Section 15, Changing Council Meeting Start Time to 7:00 p.m.

RECOMMENDATION: That the Text Amendment be approved and the Ordinance be passed.

BACKGROUND: Council has expressed its desire to begin their regular meetings at 7:00 p.m. The proposed Text Amendment will implement same.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Council.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

ORDINANCE NO. 2011 - 63

AN ORDINANCE AMENDING SECTION 15 OF CHAPTER 2 OF THE BLOOMINGTON CITY CODE, ESTABLISHING RULES FOR THE CITY COUNCIL

BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF BLOOMINGTON, ILLINOIS:

SECTION 1: That Sections 15 of Chapter 2 of the Bloomington City Code, 1960, as amended, be further amended as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

Section 15: Meetings – Regular and Adjourned.

Beginning January 2012, regular ~~Regular~~ meetings of the City Council of the City of Bloomington shall be held on the second and fourth Monday of each month at the hour of 7:00 ~~7:30~~ p.m. in the Council Chambers of the City Hall in the City of Bloomington, Illinois, or at such other place in said City as the Council shall designate; provided, however, that should any such regular meeting fall upon any holiday recognized by and under the laws of the United States or the State of Illinois, then said regular meeting so falling on said holiday shall be held on the day following such regular meeting date at the same hour and at the place aforesaid.

An adjourned meeting may be held for the purpose of completing the unfinished business of a regular meeting at such time as may be determined by the Council.

SECTION 2. Except as provided herein, the Bloomington City Code, 1960, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk is hereby authorized to publish this ordinance in pamphlet form as provided by law.

SECTION 4. This ordinance shall be effective ten (10) days after the date of its publication.

SECTION 5. This ordinance is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fruin, seconded by Alderman Anderson that the Text Amendment be approved and the Ordinance passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Abatements of Tax Levy

RECOMMENDATION: That the Resolutions be adopted.

BACKGROUND: The adoption of ten (10) Resolutions are required to abate property taxes for multiple General Obligation Bond issuances, lease payments payable to the Public Building Commission, and payments for the 2004 Taxable General Obligation Bond Series. State law requires McLean County to levy property taxes for the payment of these bonds. During the debt issuance process, McLean County is notified to apply debt service payments on to the City's Tax Levy to ensure funds are available to pay the annual debt service. A municipality is permitted to abate the property tax if sufficient funds are available to make the required principal and interest payments. Rather than levy a tax for the payments of these obligations, the City has budgeted sufficient sums from other sources within the General and other City funds to service the debt. The City must file abatements annually for each issuance to be abated.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: In order to abate the 2011 Tax Levy, collectible in 2012, the Council must approve the proposed abatement Resolutions that will certify to the McLean County Clerk that sufficient funds are on hand or will be on hand when the principal and interest payments become due on June 1, 2012 and December 1, 2012, respectively:

1. Abatement for tax levy for \$4,965,000 General Obligation Refunding of Market Square Tax Increment Bonds Series 1994. This abatement pertains to Ordinance Number 1994 - 25. (The last debt service payment for this issue is December 1, 2013.)

2. Abatement for tax levy for \$4,965,000 of Market Square Increment General Obligation Bonds Series 1994. This abatement pertains to Ordinance Number 1994 - 26. (The last debt service payment for this issue is December 1, 2013.)
3. Partial abatement for the tax levy to pay the rent payable under the Lease Agreement between the Public Building Commission, McLean County and the City of Bloomington for the old Champion Building and the expansion of the parking garage. This abatement pertains to Ordinance Number 2001 - 121. (The last debt service payment for this issue is November 1, 2021.)
4. Abatement for 2003 addition to the tax levy to pay the rent payable under the Lease Agreement between the Public Building Commission, McLean County and the City of Bloomington for the old Champion Building and the expansion of the parking garage. This abatement pertains to Ordinance Number 2003 - 125. (The last debt service payment for this issue is November 1, 2022.)
5. Abatement for tax levy for \$15,600,000 Variable General Obligation Bonds, Series 2004. This bond issuance was issued to construct the Pepsi Ice Center, Coliseum Parking Garage, and for improvements at the Bloomington Center for the Performing Arts. This abatement pertains to Ordinance Number 2004 - 90. (The last debt service payment for this issue is June 1, 2024.)
6. Abatement for tax levy for \$29,455,000 Taxable General Obligation Bonds, Series 2004. This bond issuance was issued to construct the US Cellular Coliseum. This abatement pertains to Ordinance Number 2004 – 49. (The last debt service payment for this issue is June 1, 2034.)
7. Abatement for tax levy for \$9,900,000 General Obligation Bonds, Series 2005. This bond issuance was used to pay for capital infrastructure improvements within the Cultural District. This abatement pertains to Ordinance Number 2005 – 109. (The last debt service payment for this issue is June 1, 2026.)
8. Partial abatement for tax levy for \$10,000,000 General Obligation Bonds, Series 2007. This bond issuance was used to pay for capital infrastructure improvements within the sewer fund, construct McGraw Park, and Fire Station #5. This abatement pertains to Ordinance Number 2007 – 70. (The last debt service payment for this issue is June 1, 2032.)
9. Partial abatement for tax levy for \$2,840,000 General Obligation Refunding Bonds, Series 2009. This bond issuance was used to refund a portion of the General Obligation Refunding Series 2001. This abatement pertains to Ordinance Number 2009 – 75. (The last debt service payment for this issue is June 1, 2025.)
10. Abatement for tax levy for \$5,075,000 General Obligation Bonds Refunding, Series 2011. This bond issuance was used to refinance a portion of \$29.4 million debt used to construct the US Cellular Coliseum. This abatement pertains to Ordinance Number 2011 - 27. (The last debt service payment for this issue is June 1, 2026.)

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Timothy Ervin
Performance Auditor

Douglas Ellsworth, CPA
Interim Director of Finance

David A. Hales
City Manager

RESOLUTION NO. 2011 – 61

**A RESOLUTION ABATING TAX LEVY FOR \$4,965,000 GENERAL OBLIGATION
REFUNDING BONDS, SERIES 1994**

WHEREAS, the City of Bloomington is authorized under the provisions of the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1, et seq.) to issue general obligation bonds for the purpose of financing improvements in the increment financing areas; and

WHEREAS, the City Council on March 28, 1994 passed Ordinance No. 1994 - 25, “An Ordinance Authorizing the Issuance of \$4,965,000 General Obligation Refunding Bonds, Series 1994 of the City of Bloomington”; and

WHEREAS, Section 8 of said Ordinance included a levy of taxes on all taxable real estate within the City of Bloomington corporate limits to pay principal and interest on the bonds issued thereby; and

WHEREAS, said Section 8 provided for the levy of \$412,450 in 2011 to pay off a portion of said principal and interest due in 2012, but the City of Bloomington has funds on hand available to pay such principal and interest.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the year 2011 and on account of the aforesaid \$4,965,000 in bonds be and the same is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the \$412,450.00 in real estate taxes.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

RESOLUTION NO. 2011 – 62**A RESOLUTION ABATING TAX LEVY FOR MARKET SQUARE TAX
INCREMENT GENERAL OBLIGATION PURPOSE BONDS, SERIES 1994**

WHEREAS, the City of Bloomington is a home rule unit pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, which Section authorizes home rule units to incur debt without referendum; and

WHEREAS, the City of Bloomington, pursuant to procedures adopted in Ordinance No. 1975 - 30 as shown in Chapter 16, Article VI of the Bloomington City Code, 1960 as amended, decided to issue Four Million Nine Hundred Sixty Five Thousand Dollars (\$4,965,000) in Market Square Increment General Obligation Bonds pursuant to Ordinance No. 1994 - 26, passed March 28, 1994; and

WHEREAS, pursuant to the authority of said home rule ordinances in said election and provisions of all ordinances relating thereto, taxes would be extended against all the taxable property within the City of Bloomington for the year 2011, payable in the year 2012; and

WHEREAS, there are surplus funds on hand from incremental property and sales tax revenues and interest from the investment of these revenues in an amount sufficient to pay the principal and interest obligations due on said issues for the 2011 levy of \$453,900.00 payable in the year 2012.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy of \$453,900.00 against taxable property in the City of Bloomington for the year 2011, payable in 2012 and on account of the aforesaid Four Million Nine Hundred Sixty Five Thousand Dollars (\$4,965,000) in Market Square Tax Increment General Obligation Bonds Series 1994 is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the same on the tax books of the City of Bloomington property for the levy year 2011.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

RESOLUTION NO. 2011 - 63

A RESOLUTION ABATING TAX LEVY FOR RENT PAYABLE UNDER LEASE AGREEMENT BETWEEN THE PUBLIC BUILDING COMMISSION, MCLEAN COUNTY AND THE CITY OF BLOOMINGTON FOR THE OLD CHAMPION BUILDING AND THE EXPANSION OF THE PARKING GARAGE

WHEREAS, the City of Bloomington is a home rule unit pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, which Section authorizes home rule units to incur debt without referendum; and

WHEREAS, the City of Bloomington, pursuant to procedures adopted in Ordinance No. 2001 - 121 as shown in Chapter 16, Article VI of the Bloomington City Code, 1960 as amended, decided to enter into an agreement with the Public Building Commission to lease a portion of the old Champion Building and to expand the parking garage, passed November 13, 2001; and

WHEREAS, pursuant to the authority of said home rule ordinances in said election and provisions of all ordinances relating thereto, taxes would be extended against all the taxable property within the City of Bloomington for the year 2011, payable in the year 2012; and

WHEREAS, there are surplus funds on hand from incremental property and sales tax revenues and interest from the investment of these revenues in an amount sufficient to pay the principal and interest obligations due on said issues in the year 2012.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the year 2011, payable in 2012 for \$382,556.00 and on account of the aforesaid agreement is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the same on the tax books of the City of Bloomington property for the tax year levy 2011.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

RESOLUTION NO. 2011 - 64**A RESOLUTION ABATING TAX LEVY FOR RENT PAYABLE UNDER LEASE AGREEMENT BETWEEN THE PUBLIC BUILDING COMMISSION, MCLEAN COUNTY AND THE CITY OF BLOOMINGTON FOR THE OLD CHAMPION BUILDING AND THE EXPANSION OF THE PARKING GARAGE**

WHEREAS, the City of Bloomington is a home rule unit pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, which Section authorizes home rule units to incur debt without referendum; and

WHEREAS, the City of Bloomington, pursuant to procedures adopted in Ordinance No. 2003 - 125 as shown in Chapter 16, Article VI of the Bloomington City Code, 1960 as amended, decided to enter into an agreement with the Public Building Commission of McLean County, Illinois to lease a portion of the old Champion Building and to expand the parking garage, passed December 22, 2003; and

WHEREAS, pursuant to the authority of said home rule ordinances in said election and provisions of all ordinances relating thereto, taxes would be extended against all the taxable property within the City of Bloomington for the year 2011, payable in the year 2012; and

WHEREAS, there are surplus funds on hand from incremental property and sales tax revenues and interest from the investment of these revenues in an amount sufficient to pay the principal and interest obligations due on said issues in the year 2012.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the year 2011, payable in 2012 for \$229,000.00 and on account of the aforesaid agreement is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the same on the tax books of the City of Bloomington property for the tax year levy 2011.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

RESOLUTION NO. 2011 - 65

**A RESOLUTION ABATING TAX LEVY FOR \$15,600,000 GENERAL
OBLIGATION BONDS, SERIES 2004**

WHEREAS, the City of Bloomington is a home rule unit pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, which Section authorizes home rule units to incur debt without referendum; and

WHEREAS, the City Council on September 27, 2004 passed Ordinance No. 2004 - 90, "An Ordinance Providing For The Issue Of General Obligation Demand Bonds, Series 2004, Of The City Of Bloomington, McLean County, Illinois, And For The Levy Of A Direct Annual Tax Sufficient To Pay The Principal Of and Interest On Such Bonds And For Certain Revenue Sources To Pay The Principal Of And Interest On Such Bonds, And Related Matters."; and

WHEREAS, Article III of said Ordinance included a levy of taxes on all taxable real estate within the City of Bloomington corporate limits to pay principal and interest on the bonds issued thereby; and

WHEREAS, said Article III provided for the levy of \$1,251,171 in tax year 2011 to pay off a portion of said principal and interest due in 2012, but the City of Bloomington has funds on hand available to pay such principal and interest.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the levy year 2011 payable in 2012 and on account of the aforesaid \$15,600,000 in bonds be and the same is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the \$1,251,171.00 in real estate taxes for levy 2011 payable in 2012.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

RESOLUTION NO. 2011 - 66**A RESOLUTION ABATING TAX LEVY FOR \$29,445,000 TAXABLE
GENERAL OBLIGATION BONDS, SERIES 2004**

WHEREAS, the City of Bloomington is a home rule unit pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, which Section authorizes home rule units to incur debt without referendum; and

WHEREAS, the City Council on April 12, 2004 passed Ordinance No. 2004 - 21, "An Ordinance of the City of Bloomington, McLean County, Illinois, Providing for the Issuance of Taxable General Obligation Bonds, Series 2004, Providing the Details of Such Bonds and for a Levy of Taxes to Pay the Principal of and Interest on Such Bonds, and Related Matters"; and was amended by Ordinance No, 2004 - 49 passed on June 28, 2004, and

WHEREAS, Section 8 of said Ordinance 2004-21 included a levy of taxes on all taxable real estate within the City of Bloomington corporate limits to pay principal and interest on the bonds issued thereby; and

WHEREAS, said Section 8 provided for the levy of \$2,850,000.00 in 2011 to pay off a portion of said principal and interest due in 2012, but the City of Bloomington has funds on hand available to pay such principal and interest, and that \$1,180,693 has previously been abated leaving a remaining balance for the 2011 levy of \$1,669,907.00.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the levy year 2011 payable in 2012 and on account of the aforesaid \$29,445,000 in bonds be and the same is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the remaining \$1,669,907.00 in real estate taxes for levy 2011.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

RESOLUTION NO. 2011 - 67

**A RESOLUTION ABATING TAX LEVY FOR \$9,900,000 GENERAL
OBLIGATION BONDS, SERIES 2005**

WHEREAS, the City of Bloomington is a home rule unit pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, which Section authorizes home rule units to incur debt without referendum; and

WHEREAS, the City Council on October 24, 2005 passed Ordinance No. 2005 - 109 "An Ordinance Of The City Of Bloomington, McLean County, Illinois, Providing For The Issuance Of General Obligation Demand Bonds, Series 2005, Providing the Details of Such Bonds And For The Levy Of Taxes To Pay The Principal Of and Interest On Such Bonds And For Certain Revenue Sources To Pay The Principal Of And Interest On Such Bonds, And Related Matters."; and

WHEREAS, Article 8 of said Ordinance included a levy of taxes on all taxable real estate within the City of Bloomington corporate limits to pay principal and interest on the bonds issued thereby; and

WHEREAS, said Article 8 provided for the levy of \$740,114 in tax year 2011 to pay off a portion of said principal and interest due in 2012, but the City of Bloomington has funds on hand available to pay such principal and interest.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the levy year 2011 payable in 2012 and on account of the aforesaid \$9,900,000 in bonds be and the same is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the \$740,114 in real estate taxes for levy 2011 payable in 2012.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

RESOLUTION NO. 2011 - 68**A RESOLUTION ABATING TAX LEVY FOR \$10,000,000 GENERAL OBLIGATION BONDS, SERIES 2007****ABATEMENT CERTIFICATE**

Pursuant to Ordinance No. 2007 - 70, AN ORDINANCE OF THE CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS, PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2007, PROVIDING THE DETAILS OF SUCH BONDS AND FOR A LEVY OF TAXES TO PAY THE PRINCIPAL OF AND INTEREST ON SUCH BONDS AND FOR CERTAIN REVENUE SOURCES TO PAY AND SECURE THE PRINCIPAL OF AND INTEREST ON SUCH BONDS, AND RELATED MATTERS, adopted by the City Council of the City of Bloomington, Illinois (the “**Issuer**”) on July 23, 2007 (as supplemented and amended, with respect to which undefined terms herein shall have the meanings therein, collectively, the “**Bond Ordinance**”), the undersigned, as Mayor and City Treasurer of the City of Bloomington, Illinois, hereby certify to the McLean County Clerk that it is appropriate to reduce by abatement the tax levies for the year 2011 (to be received in 2012 as provided in Section 9 of the Bond Ordinance (filed on August 16, 2007, with such County Clerk), as follows:

Tax Levy For the Year:	Amount Abated	New Levy Amount to Continue After Abatement A Tax Sufficient to Produce the Sum of:
2011	\$598,337.00	\$276,663.00 (instead of 875,000)

The County Clerk is hereby directed to abate taxes as set forth above and to ascertain the rate per cent required to produce the aggregate tax hereinabove provided to be levied in 2011, inclusive, as shown above to be levied, and to extend the same for collection on the tax books in connection with other taxes levied in such year, in and by the Issuer for general corporate purposes of the Issuer, and in such year levied and collected in like manner as taxes for general corporate purposes for such year is levied and collected and, when collected, such taxes shall be used solely for the purpose of paying the principal of and interest on the Bonds herein described as the same become due and payable. The tax levy shall be abated AND CONTINUED as shown above. Otherwise the Bond Ordinance shall be given effect according to its terms.

We certify compliance with the Bond Ordinance for this filing.

Douglas Ellsworth
City Treasurer

Stephen F. Stockton
Mayor

RESOLUTION NO. 2011 - 69

**A RESOLUTION ABATING TAX LEVY FOR \$2,840,000 GENERAL
OBLIGATION REFUNDING BONDS, SERIES 2009**

WHEREAS, the City of Bloomington is a home rule unit pursuant to the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, which Section authorizes home rule units to incur debt without referendum; and

WHEREAS, the City Council on November 9, 2009 passed Ordinance No. 2009 - 75, "An Ordinance Authorizing the Issuance of \$2,840,000 General Obligation Refunding Bonds, Series 2009 of the City of Bloomington"; and

WHEREAS, Section 8 of said Ordinance included a levy of taxes on all taxable real estate within the City of Bloomington corporate limits to pay principal and interest on the bonds issued thereby; and

WHEREAS, said Section 8 provided for the levy of \$118,400 in 2011 to pay off a portion of said principal and interest due in 2012, but the City of Bloomington has funds on hand available to pay such principal and interest.

NOW, THEREFORE, BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the levy year 2011 payable in 2012 and on account of the aforesaid \$2,840,000 in bonds be and the same is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the remaining \$73,400 in real estate taxes for levy 2011.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

RESOLUTION NO. 2011 – 70**A RESOLUTION ABATING THE TAX HERETO LEVIED FOR THE YEAR 2011 TO PAY THE PRINCIPAL OF AND INTEREST ON GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011, OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS**

WHEREAS, the City Council (the "*City Council*") of the City of Bloomington, McLean County, Illinois (the "*City*"), by Ordinance Number 2011 -27, adopted on the 23rd day of May, 2011 (the "*Ordinance*"), as supplemented by a Notification of Sale, dated May 31, 2011, and related to the Bonds, did provide for the issue of \$5,075,000 General Obligation Refunding Bonds, Series 2011 (the "*Bonds*"), and the levy of a direct annual tax sufficient to pay the principal of and interest on the Bonds; and

WHEREAS, the City Council has determined and does hereby determine that the City has funds on hand and lawfully available (the "*Available Funds*") to pay all of the interest on the Bonds on December 1, 2012, and the principal of and interest on the Bonds on June 1, 2013; and

WHEREAS, the City Council has determined and does hereby determine that it is necessary and in the best interests of the City to apply the Available Funds to the payment of the Bonds and abate all of the taxes heretofore levied for the year 2011 to pay such principal and interest on the Bonds; and

WHEREAS, the Available Funds have been deposited to the credit of the bond and interest fund of the City established pursuant to the Ordinance for the purpose of paying the principal of and interest on the Bonds; and

WHEREAS, it is necessary and in the best interests of the City that the tax heretofore levied for the year 2011 to pay the principal of and interest on the Bonds be abated; and

WHEREAS, Section 13 of said Ordinance 2011 – 27 included a levy of taxes on all taxable real estate within the City of Bloomington corporate limits to pay principal and interest on the bonds issued thereby; and

WHEREAS, said Section 13 provided for the levy of \$2,500,000.00 in 2011 to pay off a portion of said principal and interest due in 2012, but the City of Bloomington has funds on hand available to pay such principal and interest, and that \$1,672,150 has previously been abated leaving a remaining balance for the 2011 levy of \$875,850; and

NOW THEREFORE BE IT RESOLVED by the City of Bloomington, McLean County, Illinois, that the levy against taxable property in the City of Bloomington for the levy year 2011 payable in 2012 and on account of the aforesaid \$5,075,000 in bonds be and the same is hereby abated for said taxable year, and the County Clerk of McLean County, Illinois is authorized and directed not to extend the remaining \$827,850.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be delivered to the County Clerk of McLean County, Illinois under official seal of the Clerk of the City.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fruin, seconded by Alderman Anderson that the Resolutions be adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Adoption of Amendments to Chapter 45. Property Maintenance Code regarding the International Property Maintenance Code, 2009

RECOMMENDATION: That the Text Amendment to Chapter 45. Property Maintenance Code be approved and the Ordinance be passed.

BACKGROUND: This ordinance contains provisions of the City's Property Maintenance Code, (Chapter 45), presently in effect and clarifies that these provisions remain in effect following the Council's adoption of the International Property Maintenance Code, 2009 on December 12, 2011. This ordinance makes no substantive changes to existing law. It consists entirely of amendments to previous editions of the International Property Maintenance Code adopted by the City.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Since this ordinance simply clarifies language continuing existing law, no community groups/interested persons have been contacted. All of the amendments involved have been in effect in the City since at least 2007 and many have been in effect since 2002. The ordinance merely clears up any ambiguity as to whether these provisions remain in effect within the City.

FINANCIAL IMPACT: None.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

George D. Boyle
Asst. Corporation Counsel

David A. Hales
City Manager

ORDINANCE NO. 2011 - 64

AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 45

BE IT ORDAINED by the City Council of the City of Bloomington, Illinois:

SECTION 1. That Bloomington City Code Chapter 45, Article II shall be and the same is hereby amended to read as follows:

ARTICLE II

**AMENDMENTS, REVISIONS, ADDITIONS AND MODIFICATIONS
TO INTERNATIONAL PROPERTY MAINTENANCE CODE 2009**

SEC. 1. AMENDMENTS, REVISIONS, ADDITIONS AND MODIFICATIONS.

That the International Property Maintenance Code is amended and revised in the following respects:

SECTION 101
GENERAL

SEC. 101.1 TITLE.

These regulations shall be known as the Property Maintenance Code of the City of Bloomington, hereinafter referred to as “this Code”.

SECTION 102
APPLICABILITY

SEC. 102.5 WORKMANSHIP.

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer’s installation instructions. Materials used for repairs shall be of like or similar materials of the surrounding surface.

SECTION 103
DEPARTMENT OF PROPERTY
MAINTENANCE INSPECTION

Insert the following two sections at the end of the paragraph:

SEC. 103.5 FEES.

(a) Reinspection Fee. If a contractor/owner notifies the Code Official that a project is ready for final inspection and, upon inspection the Code Official finds the project not complete, then the Contractor/Owner shall pay a fee of Twenty-five Dollars (\$25.00) per inspector for each reinspection required. The fee shall be paid prior to the reinspection.

(b) Inspection Fee for Code Compliance. If requested, an inspection/ investigation of an existing building/facility for Code compliance may be done by the Code Official or employee charged with enforcement of this code with authorization from the owner. A fee of Ten Dollars (\$10.00) per inspector shall be charged for said inspection/investigation.

SECTION 106 **VIOLATIONS**

SEC. 106.4 VIOLATION PENALTIES.

Any person who shall violate a provision of this Code or fail to comply therewith shall, upon conviction thereof, be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

SECTION 108 **UNSAFE STRUCTURES AND EQUIPMENT**

SEC. 108.2.2 CLOSING STANDARDS.

Structures shall be closed with uniform materials, cut to fit in a workmanlike manner, securely attached and painted to match the surrounding surfaces.

SEC. 108.8 ADMINISTRATIVE FEE FOR OWNING CONDEMNED PROPERTY.

(a) Any person who owns a structure condemned under this Code and who fails to bring the structure into compliance with this code within one (1) year of the order to condemn shall be assessed a fee of five hundred dollars (\$500.00).

(b) If the same structure in paragraph (a) is not in compliance with this code within eighteen (18) months of the order to condemn, the owner shall be fined an additional seven hundred and fifty dollars (\$750.00).

(c) If the same structure in paragraph (a) is not in compliance with this code within two (2) years of the order to condemn, the owner shall be fined an additional two thousand dollars (\$2,000.00) for the second year and two thousand dollars for each additional year thereafter in which that structure is not in compliance with this Code.

(d) Any person who owns a structure already condemned under this Code and who has a second structure condemned shall be assessed an additional fine of (\$2,000.00) for each year the second

structure remains on the condemned list. The fine shall be \$2,000.00 per year even if the first structure is taken off the condemned list.

(e) Any person who owns two (2) structures condemned under this Code and who has a third or more structures condemned shall be assessed a fine of five thousand dollars (\$5,000.00) per structure for every year they remain on the condemned list. The fine shall be five thousand dollars (\$5,000.00) per structure per year even if the first and second structures are removed from the condemned list.

The administrative fees authorized by this Section shall be a lien on any real estate owned by such person. In addition to filing a lien upon such real estate, the City shall have the authority to collect such fee by filing a personal collection action against the owner in court.

SEC. 108.7 NOTICE TO BUYERS OF CONDEMNED STRUCTURE.

(a)Code Enforcement Division to Publish List. The Department of Planning and Code Enforcement, Code Enforcement Division, shall each month compile and publish a list of all structures which have been condemned and any Code violations existing in any structure on the list shall be public information and shall be disclosed to any person making inquiry. In addition, the Division shall disclose to any person making inquiry the location of any other structure condemned since the publication of the most recent list of condemned structures. A copy of the monthly list of condemned structures shall be sent to the Bloomington-Normal Board of Realtors to be made available to any members thereof. When any structure is condemned, notification of condemnation along with a copy of the inspection sheet with regard to said property shall be forwarded to the Bloomington-Normal Board of Realtors.

(b)Contents of Notice. The notices provided for in this Section shall contain the following information:

- (1) the common street address of the property;
- (2) the legal description or real estate index number of the property;
- (3) the fact that the structure on the property has been “Condemned”;
- (4) the Code deficiencies found to exist on the property (which may be in the form of an attached inspection sheet) and the fact that occupancy of the structure is prohibited until necessary repairs are made, and if known, an approximate cost estimate of the cost of making sufficient repairs to permit occupancy of the structure.

(c) Real Estate Agent Must Give Notice of Defects. It shall be unlawful for any real estate agent to permit a person to execute a formal offer to purchase any property on which a condemned structure is located without furnishing said person a copy of the notice required by this Section and obtaining written receipt of such notice. The original of said notice and receipt shall be forwarded to the Code Enforcement Division.

SECTION 110 **DEMOLITION**

SEC. 110.1.1 UNREASONABLE REPAIRS.

Whenever the Code Official determines that the cost of such repairs would exceed 100% of the current value of such structure, such repairs shall be presumed unreasonable and it shall be presumed for the purpose of this Section that such structure is a public nuisance which shall be ordered razed.

SECTION 202 **GENERAL DEFINITIONS**

CARPORT. A structure, attached or detached, intended for the parking of motor vehicles; open on at least two (2) sides, or with the aggregate areas of all walls not less than 50% open. Carports not meeting this definition shall be considered a garage.

DORMITORY. A space in a building where group sleeping accommodations are provided for persons not members of the same family group in one (1) room or in a series of closely associated rooms.

EFFICIENCY UNIT. A dwelling unit consisting of one (1) principal room together with bathroom, kitchen, hallway, closets, and/or dining alcove directly off the principal room provided such dining alcove does not exceed one hundred twenty-five (125) square feet in area.

GARAGE, ACCESSORY. An accessory building or an accessory portion of the principal building which is intended for and used for storing passenger motor vehicles owned and used by the occupants of the building to which it is accessory or attached. An accessory garage shall be provided with operable vehicle access doors. See also "Carport" and "Shed".

GRAFFITI. Graffiti shall mean any drawing, inscription, writing, figure or mark made upon a wall or other exposed surface, including but not limited to any house, garage, rock, bridge, fence, gate, tree, monument, motor vehicle, sidewalk, street, lamp post, street sign, underpass or retaining wall, whether publicly or privately owned, with paint, chalk, dye, ink, pencil, wax or other similar substance or by etching, scratching, cutting, burning or carving without the express consent of the owner of said wall or other exposed surface.

HOTEL. (Motel, Motor Hotel): Any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

ONE-FAMILY DWELLING. (a.k.a. Single-family dwelling) A dwelling, containing one (1) dwelling unit.

TWO-FAMILY DWELLING. A dwelling containing two dwelling units.

FAMILY. One (1) or more persons, each related to the other by blood, adoption or marriage, living in a dwelling unit. One (1) or more persons each related to the other by blood, adoption or marriage and not more than two (2) other persons not related by blood, adoption or marriage living in a dwelling unit shall also be deemed to constitute a family. Any child living in a “Foster Family Home” as defined in this Code shall also be deemed to be part of a family. However, in no case shall more than two (2) persons not related by blood, adoption or marriage occupy any efficiency unit or a one (1) bedroom dwelling unit as defined in this Code.

FOSTER FAMILY HOME. Means a facility for child care in residences of families who receive no more than eight (8) children unrelated to them, unless all the children are of common parentage, for the purposes of providing family care and training for children on a full-time basis. The family’s own children under eighteen (18) years of age shall be included in determining the maximum number of children served. The term “Foster Family Home” includes homes receiving children from any state-operated institution for child care; or from any agency established by a municipality or other political subdivision of the State of Illinois authorized to provide care for children outside their own homes -- but excludes therefrom any “Agency-Operated Family Home”, “Agency-Operated Group Home” or “Agency-Supervised Home” as defined in Bloomington City Code, Chapter 44, Zoning Code. The types of foster family homes are defined as follows:

(a)“BOARDING HOME” means a Foster Family Home which receives payment for regular full-time care of a child or children.

(b) “FREE HOME” means a Foster Family Home, other than an adoptive home, which does not receive payments for the care of a child or children.

(c)“WORK-WAGE HOME” means a Foster Family Home which receives a child or children who pay part or all of their board by rendering some services to the family not prohibited by the Child Labor Law or by standards or regulations of the Illinois Department of Children and Family Services prescribed under the Illinois Child Care Act of 1969, as amended. The child or children may receive a wage in connection with the services rendered the foster family; and

(d)“INDEPENDENT HOME” means a Foster Family Home, other than an adoptive home, which receives no more than four (4) children, unless of common parentage, directly from parents, or other legally responsible persons, by independent arrangement and which is not subject to direct and regular supervision of a specified agency except as such supervision pertains to licensing by the Illinois Department of Children and Family Services.

ROOMING HOUSE. Any building, or any part thereof, containing one (1) or more rooming units, in which space is let by the owner or operator to more than four (4) persons.

SHED. A completely enclosed accessory structure, not intended for the storage of motor vehicles. Access doors on a shed shall be maintained in an operable condition. See also, “Carport” and “Garage”.

SECTION 302
EXTERIOR PROPERTY AREAS

SEC. 302.1 SANITATION.

All exterior property and premises shall be maintained in a clean, safe and sanitary condition and free from any accumulation of rubbish. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

SEC. 302.4 WEEDS.

All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight (8) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. (Ordinance No. 2003-81)

SEC. 302.7.1 ACCESSORY STRUCTURE DOORS MAINTAINED.

Vehicle and man doors on accessory structures shall be free and maintained in an operable condition. (Ordinance No. 2003-81)

SEC. 302.8.1 REMOVAL.

The Code Official may direct the vehicles to be removed as provided in Chapter 29, Sections 193 and 194 of the Bloomington City Code.

SECTION 304
EXTERIOR STRUCTURE

SEC. 304.14 INSECT SCREENS.

During the period from April 15th through October 31st, every door, window and other outside opening utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

EXCEPTION: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans are employed.

SEC. 304.3 PREMISES IDENTIFICATION.

Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their

background. Address numbers shall be Arabic numerals. Numbers shall not be printed or in script. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of 1/2 inch.

SEC. 304.3.1 SUITES OR UNITS.

All suite or units shall be marked at the front of each suite or unit. Style shall be consistent with all suites or units in the building.

SEC. 304.3.2 MULTIPLE BUILDINGS.

Multiple buildings in a complex shall be individually marked and visible from the street or parking lot. Only Arabic numerals or letters shall be used.

SEC. 304.6 EXTERIOR WALLS.

All exterior walls shall be free from holes, breaks and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration. Surface coatings shall be consistent with surrounding areas of the exterior wall.

SECTION 305 **INTERIOR STRUCTURE**

SEC. 305.3 INTERIOR SURFACES.

All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected. For the purposes of this section, raw or unfinished drywall is not considered clean or sanitary.

SEC. 305.6 INTERIOR DOORS.

Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware. Doors containing cracks, breaks, holes, or otherwise damage shall be replaced or repaired in a workmanlike manner.

SECTION 308 **RUBBISH AND GARBAGE**

SEC. 308.4 APPROVED REFUSE CONTAINER.

- (1) A can made of galvanized iron or lined with galvanized iron, of not more than thirty/thirty-three (30-33) gallon capacity, which is watertight, has a tight fitting cover and two (2) handles; or

- (2) a heavy duty durable plastic container of not more than thirty/thirty-three (30-33) gallon capacity, which is watertight, has a tight fitting cover and has two (2) handles; or
- (3) plastic refuse bags meeting specifications established by the Director of Public Service and approved by the City Manager.

SECTION 602
HEATING FACILITIES

SEC. 602.2 RESIDENTIAL OCCUPANCIES.

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality. Cooking appliance and/or portable space heating appliances shall not be used to provide space heating to meet the requirements of this section.

SEC. 602.3 HEAT SUPPLY.

Insert the following dates into the locations:

“...from October 1st. to May 31st. to maintain...”
(Ordinance No. 2005-26)

SEC. 602.4 OCCUPIABLE WORK SPACES.

Insert the following dates into the locations:

“...from October 1st. to May 31st. to maintain...”

SECTION 2. That except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 5. This Ordinance shall take effect ten (10) days after passage and approval.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fruin, seconded by Alderman Anderson that the Text Amendment to Chapter 45. Property Maintenance Code be approved and the Ordinance passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Professional Services Agreement with Buxton Company for Retail Recruitment and Retail Retention Analysis Services

RECOMMENDATION: That a professional services agreement with Buxton Company in the amount of \$45,000 be approved, the Mayor and City Clerk be authorized to execute the necessary documents and the Resolution be adopted.

BACKGROUND: On November 9, 2010, City staff along with several Aldermen received a presentation from Buxton Company, Fort Worth, TX, on services and programs provided to municipalities and retail corporations. In the Fiscal Year (FY) 2012 Budget, the City allocated \$75,000 for the purpose of procuring contractual services for commercial retail recruitment and retention analytics to support the City's economic development initiative. Buxton, through the SCOUT program, provides municipalities and organizations with market retail demographics for consumers within specified ranges of commercial areas. The data, analytics and information generated by this program will provide the City with valuable resources to develop and drive strategies for retail recruitment and business retention and expansion.

Buxton holds the largest repository of household level information in the United States. It has worked with over five hundred (500) municipalities in forty-two (42) states in retail recruitment and retail retention analysis services. Some of the municipalities served are Cupertino, CA (population 50,479), North Miami, FL (population 59,782) and McKinney, TX (population 131,117). Illinois based clients include Plainfield (population 39,581), Rochelle (population 9,574), Palos Hills (population 17,500) and Salem (population 7,485). City staff contacted every Illinois based reference provided, all of which gave excellent reviews of Buxton's services. Brian Murphy, Plainfield City Manager and Buxton customer for over two (2) years, stated that Buxton's services have been "Excellent. The data and information they are able to provide is an indispensable resource for the City. Lately, we have been utilizing their information to target the restaurant market to bring in more attractive options for our citizens." Buxton's municipal clients have utilized their analytic services to develop retail strategies that have resulted in the recruitment of more than 35 million square feet of retail space, resulting in more than \$5 billion in annual sales.

The information provided by Buxton will serve as a tool for City management and the soon to be filled position of Economic Development Coordinator, to develop and enhance the City's efforts toward fostering sustainable economic growth and development. Most recently, as a demonstration of the SCOUT program's capabilities, Buxton provided City staff valuable information on a potential business seeking to locate within our corporate limits. The data sets provided City staff with information such as, how well comparable retail needs are being met within the specified area, the current unmet demand and possible opportunities for the retail business, the strengths and weaknesses of the local retail sector and potential retail sales. This breadth of information will strengthen the City's abilities to wisely target and invest in the types of businesses that will thrive in the community and help grow the local economy.

With the end of the year approaching, the City is in a unique position to capitalize on some cost savings associated with Buxton's fees. In January 2010, Buxton issued the City a quotation of \$67,500 for a one (1) year subscription to the SCOUT program with a \$30,000 annual renewal fee, if the City should wish to continue to receive the service. The proposal provided reduces the first annual subscription fee to \$45,000 with a \$15,000 annual renewal option, representing a cost savings of \$22,500 for the first year of service and an additional \$15,000 savings for an optional second year for service.

Buxton has designed the services to address specific retail economic development needs. Highlights of the proposed scope of services for this professional services agreement include the following:

Buxton would construct a Retail Matching Model (RMM) for the City. It would be deployed within SCOUT, (Buxton's web-based client specific analytic portal). RMM provides the ability to benchmark trade area of any point within the City to determine best concept match. Marketing and recruitment packages, in electronic format, are designed to match concepts of analyzed trade area. Packages explain opportunity and methodology used. Packages are presentation ready for retailer's real estate executives as well as development community.

SCOUT has the ability to generate a variety of reports addressing demographics, psychographic profiles, retail supply and demand estimates, consumer propensities, and custom reports.

A complete listing of needs and services provided is contained in Buxton's Identifying Customers, Bloomington, IL, Scope of Services.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This professional services agreement will require the payment of \$45,000 from the Economic Development Department, Fund, 10019170-70220. This agreement is for one (1) year ("Basic Term") of service and is eligible for termination by either party upon completion of the Basic Term of service with three (3) months advanced notice.

Cost Breakdown	Fee
Initial Deposit Execution of Contract	\$20,000
Payment SCOUT Launch Retail Matching Model	\$10,000
Total	\$45,000

The FY 2012 Budget has \$75,000 for Economic Development. There would be \$30,000 left in this line item.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Alex McElroy
Technical Assistant

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

(CONTRACT ON FILE IN CLERK'S OFFICE)

RESOLUTION NO. 2011 - 60

A RESOLUTION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH BUXTON COMPANY FOR RETAIL RECRUITMENT AND RETAIL RETENTION ANALYSIS SERVICES AT A COST NOT TO EXCEED \$45,000

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and the Mayor and City Clerk be authorized to execute the necessary documents for a one (1) year contract for retail recruitment and retail retention analysis services at a cost not to exceed \$45,000.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Mayor Stockton introduced this item.

Alderman Fazzini questioned a couple of items. He noted that Buxton had visited the City and made a presentation. He questioned who was present at same. He added that the Council had received information from Austin Farmer with Retail Coach. He questioned staff's recommendation to enter into a contract with Buxton.

David Hales, City Manager, addressed the Council. He believed that all Council members were invited to the presentation. He believed that Aldermen Sage, Stearns and Purcell attended same. Mr. Hales noted that Chip Rogers, Buxton, was present at this evening's meeting. There was a PowerPoint presentation regarding the SCOUT program. City staff explored a company that could assist the City.

Alex McElroy, Technical Asst., addressed the Council. He had assisted with this project. Buxton had a unique model. He noted the company's experience in Illinois. Buxton had visited the City in November 2010. He was impressed with the company's capabilities. He reviewed the client's numbers in the retail and government sector. He had also verified the firm's Illinois references.

Mr. Hales noted that Retail Coach was a smaller company. They would not reveal their retail clients. Buxton assisted their retail clients. Buxton was active in Illinois. He noted Buxton's data and involvement. Buxton was a paramount vendor.

Alderman Fazzini read from an email he received from Retail Coach. He believed that there were refuting comments.

Alderman Sage questioned the Economic Development Coordinator position and how this individual would work together with Buxton. Mr. Hales stressed that the Economic Development Council's (EDC) focus was not retail. The City's Economic Development Coordinator would focus on retail. The individual would be assisted by Buxton. The EDC's focus was on commercial and industrial business. The City's personnel would provide assistance to the EDC. He cited the EDC's vacant land project.

Marty Vanags, EDC's Chief Executive Officer, would participate in the Economic Development Coordinator interviews. The City would assist the EDC not duplicate its efforts.

Alderman Purcell read from Buxton's contract regarding City services. Buxton provided information gathering. He questioned who would implement and put in place this information. Mr. Hales cited the City's new Economic Development Coordinator would provide the staffing. Alderman Purcell restated the Buxton had a lot of data.

Alderman Fazzini noted that this contract was for a good sum of money. City staff had recommended Buxton. The Economic Development Coordinator would work with same.

Motion by Alderman Fazzini, seconded by Alderman Mwilambwe that a professional services agreement with Buxton Company in the amount of \$45,000 be approved, the Mayor and City Clerk be authorized to execute the necessary documents and the Resolution adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

Presentation by Art Tepfer, Tepfer Consulting Group, Ltd., (actuarial firm for Police and Fire Pension Funds.)

David Hales, City Manager, introduced Art Tepfer, Tepfer Consulting Group, Ltd. Mr. Tepfer was the City's outside actuary. He had also addressed the Council last year. He cited recent changes to pension law.

Art Tepfer, Tepfer Consulting Group, Ltd., addressed the Council. He thanked the Council for the opportunity to address them. An actuarial report is a statement of where the funds were at a given point in time. He described state statute as the system and the demographics for each pension fund were uniformed and unique. As the actuary, he made actuarial assumptions. Valuations were performed based upon 1.) accumulated reserves; 2.) budget (contributions) levels; and 3.) a belief that the current generation should pay for. He presented his simple formula: $C + I = B$, (Contributions plus Investments equals Benefits). This formula was fundamental and must work. The problem was that the present situation represented the middle. The City knew the value of C, I and B; they are the assets. The problem is that the future C, I and B were unknown. An actuary was a

licensed estimator. The actuarial funding method should use reasonable estimates. Budgeting patterns were used to determine contributions. The contribution amount should be included in the budgeting approach. He noted the state's mandated formula. Illinois had the worst funded pensions. He recommended that in the public sector the entry age, normal cost method be used. It was designed to result in level contributions. The state has adopted the Project Unit Credit (PUC) method. He described the PUC method as the increasing funding method. He cited life insurance as an example by comparing whole versus term life.

Mr. Tepfer had participated in the bargaining for the new law. The PUC method was designed to increase pension funding. He believed that in eight (8) years the state would have another pension crisis as the liabilities would continue to increase. He noted that the IRS (Internal Revenue Service) forbids the use of the PUC method. He described the PUC method as bad. He provided additional information regarding why this method was not a good approach. The PUC method built up reserves slowly, contributions would be level, and results in passing the costs off to future generations.

Mr. Tepfer noted the attention being made to the percentage funded. This percentage was not important and should not be of concern. He restated that the PUC method would not help the pension funds. He noted that the Council did not take his recommendation last year. He noted that I (Interest) equaled sixty-four percent (64%) He had seen the numbers. The assumptions were reasonable. He noted his experience with analysis. He cited two (2) key issues: unfunded liability and expected liability. The assumptions worked together in aggregate. He noted the efforts of the Pension Boards' Trustees over the past year. The investments had performed well.

Mayor Stockton noted the impact of the recession upon the funds' investments. He cited the stock market and interest rates.

Mr. Tepfer reminded the Council of the time horizon. He must consider the youngest participant and this person's last payment. He noted the sixty (60) year time period. He stated that a 6.5 - 7.5% return on investments was a reasonable assumption. He noted the pension funds' Investment Policy allowed forty-five percent (45%) equities but no individual stock holdings. In 1983, the pension fund trustees selected a 7.5% return on investments. The recent recession was viewed as a temporary period of time. The pension fund trustees were doing a good job. His firm had worked with the City since 2003. He restated his comfort level with the 6.5 - 7.5% return on investment for the long term.

Mayor Stockton noted that 2008 was a bad year for investments. He expressed his concern that the funds' principal would erode.

Mr. Tepfer stated that his calculations do not use market value. He noted the actuarial smoothing method. He looked for trends. The state's new method used a five (5) year rolling average. The state required twenty percent (20%) funding as of March 30,

2011. At the current rate of return which ranged from four to five percent (4 – 5%), a large contribution would be required.

Alderman Stearns questioned the draw on the funds and an adequate reserve being left to invest. Mr. Tepfer noted the three (3) sources of income, 1.) employee contributions; 2.) City contributions; and 3.) investments. The draw for Police and Fire was \$3 – 4 million. The funds were growing. He cited figures for the Police Pension Fund. He addressed future projections. The report included a chart which addressed retirements, disability and death. He directed the Council to review the payouts which were growing. He noted that with proper contributions there would be not be any problems. He restated that the change to the funding method would diminish the pension funds. If the funds remain under funded, then the City would be unable to pay the pensions due. He noted that there were other issues/questions such as cash flow analysis. He noted the number of eligible participants to retire in the next five (5) years equaled twenty percent (20%). He restated the impact of the current economy.

Alderman Stearns questioned a look to the future. She questioned what future contributions should be. Mr. Tepfer noted that pension funds were meant to have unfunded liabilities. The Council should not be caught up in percentages. He added that a key question to consider was when would the pension fund end. The City must build up adequate reserves. The City should adopt a manageable budgetary approach. The City needed to pay current costs today.

Mr. Tepfer compared the state's approach to refinancing a mortgage from level dollar to predatory. By 2008, the money was not there. Amortizing pensions was a liability.

Alderman Purcell noted the Actuarial Reports for the Police, (Exhibit 3 – A. Development of Recommended Minimum City Contribution and Exhibit 3 – B. Development of Statutorily Required City Contribution, see page 13/14) and Fire, (Exhibit 3 – A. Development of Recommended Minimum City Contribution and Exhibit 3 – B. Development of Statutorily Required City Contribution, see page 13/14). He noted Mr. Tepfer's recommendations for the Fire Pension (\$3.9 million) and Police Pension (\$4 million). The City's contribution to these funds would result in more dollars being available for investment. In turn, this would allow the funds' investments to reach their goal. Mr. Tepfer stated that the design for pension funding was sixty-three percent (63%) from investments. He stressed the importance of the recommended contributions and the flat dollar cost method. The ninety percent (90%) funding level had been extended to 2040. There was the possibility that the money would not be there. He noted the current tax levy and the fact that more control would be needed in the future. The PUC method was designed to rely upon increased contributions.

Mayor Stockton stated that the City would stay with the state law requirement. It would be prudent of the City to pay additional amounts if able. Mr. Tepfer restated that the City would be unable to reach the ninety percent (90%) level under the PUC method. In 1993, a level dollar approach was adopted which was based upon a percentage of

payroll. Practically this method also does not work. The number one reason for his firm's recommendation was budgetary control. State law would force the City to pay the minimum.

Alderman Sage believed that the Council needed to be smarter than Springfield.

Alderman Stearns stated that Mr. Tepfer had recommended that the City's contribution be \$1 million more for each pension fund, (Police and Fire). Mr. Tepfer noted that this amount was not required. He thanked the Council for the time to address them.

Mayor Stockton questioned if Mr. Hales had any comments. He restated that the City would allocate additional funds when able. Mr. Hales noted that if the City had unlimited resources than it would fund all of the City's needs, (pensions, infrastructure, etc.). He cited the City's payments to IMRF (Illinois Municipal Retirement Fund) for the ERI (Early Retirement Incentive) Program. Once the City fulfills this obligation, there will be \$2 million dollars available. He listed the City's needs, (streets, sewers, etc.). Pensions cannot be place above all else. It was a balancing act. The City would contribute an additional \$250,000 to each pension fund (Police and Fire). He hoped that the City's revenue streams would grow. The City needed to develop a long term financial plan. This plan would help to address all of the City's needs. This plan would also address quality of life. It would take a holistic approach. The first step would be to pay off the City's ERI obligation.

The following was presented:

SUBJECT: Review of the Record of Action by the Zoning Board of Appeals (ZBA) denied a variance to allow an increase in the maximum allowed height and the construction of a garage as an accessory building for the property located at 1112 S. Hinshaw St. Zoned R - 1C, Single-Family Residential District

RECOMMENDATION: That the Appeal be denied and the recommendation of the Zoning Board of Appeals be upheld.

BACKGROUND: This case was reviewed by the ZBA on November 16, 2011. The petitioner is requesting to increase the garage height to incorporate garage door openers, lighting and storage. Staff explained there was no hardship for the variance and that the lighting and garage door openers could be accommodated without a variance. The petitioner desired additional storage. This was not a true hardship created by a physical feature of the property. Staff and the ZBA discussed how the ten foot (10') garage door, garage door openers, lighting and storage could still be achieved without a variance. No one from the public spoke in support of the petition. Two (2) people spoke in opposition. One stated that a shop of this size was not compatible with the neighborhood. There needed to be limits on the maximum structure height. The ZBA needed to maintain current zoning regulations. Another resident expressed his opinion that the garage was big enough.

The ZBA found that the petitioner had not demonstrated a hardship justifying the increase in height for the garage. The garage was existing but recently damaged in a storm. Along with the repairs, the owner desired to increase the allowable height to sixteen feet (16'). The code limits the height to fourteen feet (14') for detached garages. The overwhelming majority of garages in the neighborhood are in compliance with the height limitations. The few that exceed such were constructed under county zoning and are legal nonconforming or grandfathered. The intent of the code is to bring them into compliance when they are damaged or reconstructed. The petitioner's garage was currently in compliance. If the variance was granted, it would encourage these nonconforming garages to also obtain height variances. It would also encourage variances for conforming garages or their replacements.

The Board vote on the petition was two (2) to two (2). Zoning ordinance requires four (4) or more affirmative votes by the ZBA to approve the petition. The petitioner has now exercised his right to have Council review the record in this case.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. In accordance with the Code, courtesy copies of the Public Notice were mailed to 137 property owners within at least 500 feet.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Mark Woolard
City Planner

Mark R. Huber
Director, PACE

Barbara J. Adkins
Deputy City Manager

Recommended by:

David Hales
City Manager

Mayor Stockton introduced this item.

Todd Greenburg, Corporation Counsel, summarized his memorandum which addressed administrative review procedure. The Council would review the Zoning Board of Appeals (ZBA) record. The ZBA held a public hearing and evidence had been presented. The Council would decide to support or oppose the ZBA's recommendation.

Mayor Stockton compared the Council's action to that of an appellate court. Mr. Greenburg responded affirmatively. No new evidence would be introduced. A judge would review the ZBA's records. He added that the ZBA's vote was less than majority.

David Hales, City Manager, addressed the Council. He noted City staff's recommendation. In addition, there were two (2) vacancies on the ZBA.

Alderman Sage acknowledged that no new evidence would be presented. However, the Code allowed an individual five (5) minutes to address the Council.

Motion by Alderman Sage, seconded by Alderman Stearns to suspend the rules to allow the Petitioner five (5) minutes to address the Council.

Ayes: Aldermen Sage, Mwilambwe, Stearns, McDade and Schmidt.

Nays: Aldermen Purcell, Fazzini, Fruin and Anderson.

Motion failed.

Mayor Stockton questioned further discussion.

Alderman Fruin stated that no new information would be presented. Based upon the information at hand, he planned to support staff's recommendation.

Alderman Sage noted that he had spoken to the Petitioner prior to the Council meeting.

Motion by Alderman Fazzini, seconded by Alderman Anderson that the Appeal be denied and the recommendation of the Zoning Board of Appeals be upheld.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Approval of an Ordinance providing for the Submission to the Electors of the City of Bloomington, McLean County, the Question Whether the City of Bloomington should have the Authority under Public Act 096-0176 to arrange for the Supply of Electricity for its Residential and Small Commercial Retail Customers who have not opted out of such program

RECOMMENDATION: That the Ordinance be approved and staff directed to place referendum on the March 20, 2012 City of Bloomington Election Ballot.

BACKGROUND: Illinois legislation permits municipalities to propose a referendum which, if approved, entitles municipal authorities to put their residential electricity load out to bid to Certified Alternative Retail Electric Suppliers (ARES) for the purpose of cost savings. The municipal aggregation falls under the Illinois Power Act. Under the Act, if the City seeks to operate an electricity aggregation program, residential and small commercial customers have the ability to “opt out” of the program if they choose to do so. For customers who do not opt out of the program, they will purchase electricity from the supplier that is selected by the City. This type of program generally yields a reduced cost over their current electricity supplier. Enrollment rates in this type of program are generally around eighty-five (85%).

In order for the referendum to be placed on the March 20, 2012 ballot, the Ordinance must be passed and submitted to the City of Bloomington Election Commission, no later than January 2, 2011.

State law requires that municipalities seek the approval of their citizens via a referendum to engage in an electricity aggregation program. By aggregating the electricity load from the residential and small commercial customers, it is possible to gain significantly better prices from an alternative supplier. It is generally accepted within the industry that customers can save as much as twenty-five percent (25%) on the cost by participating in an electricity aggregation bidding process.

Many states, over the past several years have deregulated electricity markets in order to increase competition and benefit the consumer. Some states that deregulated electricity markets also approved “opt out” legislation. Illinois is one of those states.

This program would only be available to Ameren/IP customers of the City that uses less than 15,000 Kilowatt hours (Kwhs) per year. The average residence uses 12,000 Kwhs. At this time, Corn Belt Energy customers would not be eligible to participant in the program, because Corn Belt Energy is not a public utility.

On September 26, 2011, the City Manager presented this concept to the Council and introduced Keith Goerss, Ameren Energy Marketing’s Managing Supervisor to provide the highlight of aggregation.

At that time, staff had not made a specific recommendation to Council. The goal at that time was to make Council aware of the opportunity and note that this item would appear on a future Council Meeting Agenda.

Approval of the attached Ordinance would place the following question on the March 20, 2012 primary election ballot within the City.

“Shall the City of Bloomington have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such a program?”
Yes/No

If the majority of voters vote yes to this question, the City would join with other communities within the Ameren service territory to bundle all residential and small commercial electricity service. The purpose of bidding out the service to large electricity supply companies is expected to result in a substantial savings to all participating customers. As of the writing of this Council report, the following communities serviced by Ameren have adopted Ordinances or Resolutions to place this question on the March election ballot:

Peoria, East Peoria, Morton, Pekin, Peoria Heights, Roanoke, Bartonville, Collinsville, Columbia, Creve Coeur, Delavan, Eureka, Granite City, Hanna City, Kappa, Metamora, Washington, Peoria County, Stark County and Tazewell County.

In addition to these, the elected bodies of the Town of Normal and the City of El Paso will be considering the same Ordinance or Resolution at their meeting on December 19, 2011.

It is the intent of all of these parties to bundle together their collective electricity customers, estimated to be some 250,000 households, in order to attract the best possible price through a bulk electricity bid purchase process.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: City Council. Approval of this Ordinance will give citizens, (Ameren/IP customers), a direct opportunity to voice their opinion regarding this issue. If the Ordinance is passed, then the majority of eligible citizens of the City will have an opportunity to vote to allow the City to arrange for the supply of electricity for its residential and small commercial retail customers. There will be other actions required of the City in order to participate in a regional electricity aggregation bidding process. If the residents of the City vote no, then there is no further action required and the City will not be able to participate in the regional electricity aggregation program.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Barbara J. Adkins
Deputy City Manager

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

ORDINANCE NO. 2011 – 65

AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, THE QUESTION WHETHER THE CITY OF BLOOMINGTON SHOULD HAVE THE AUTHORITY UNDER PUBLIC ACT 096-0176 TO ARRANGE FOR THE SUPPLY OF ELECTRICITY FOR ITS RESIDENTIAL AND SMALL COMMERCIAL RETAIL CUSTOMERS WHO HAVE NOT OPTED OUT OF SUCH PROGRAM

WHEREAS, recently, the Illinois Power Agency Act, Chapter 20, Illinois Compiled Statutes, Act 3855, added Section 1-92 entitled Aggregation of Electrical Load by Municipalities and Counties. (Hereinafter referred to as the “Act”); and

WHEREAS, under the Act if the City seeks to operate the aggregation program under the Act as an opt-out program for residential and small commercial retail customers, that prior to an adoption of an ordinance to establish a program, the City must first submit a referendum to its residents to determine whether or not the aggregation program shall operate as an opt-out aggregation program for residential and small commercial retail customers; and

WHEREAS, the City Council hereby finds that it is in the best interest of the City of Bloomington to operate the aggregation program under the Act as an opt-out program and to submit the questions to the electors in a referendum pursuant to the Act.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS, as follows:

Section One: The City Council of the City of Bloomington finds that the recitals set forth above are true and correct and includes the recitals in the Preamble.

Section Two: The City Council finds and determines that it is in the best interests of the City of Bloomington to operate the aggregation program under the Act as an opt-out program.

Section Three: In the event such question is approved by a majority of the electors voting on the questions at the regular election on March 20, 2012, the City Council may implement an opt-out aggregation program and if the City Council adopts the program the City shall comply with all the terms and provisions of the Act.

Section Four: The City Clerk is directed to certify and submit on or before January 2, 2012, the following question to the McLean County Clerks to be placed on the ballot for the general election to be held on March 20, 2012, in the following form:

“Shall the City of Bloomington have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such a program?”
YES/NO

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

David Hales, City Manager, introduced this item. He noted prior discussions regarding municipal aggregation, (see September 26, 2011 Council Proceedings). The state has allowed municipalities the opportunity to work with public utilities to consolidate services with the goal of lowering rates. This was the second year of municipal aggregation and a number of cities were taking advantage of the opportunity to lower rates.

Barb Adkins, Deputy City Manager, addressed the Council. The final decision would be made by the customer. The Council would have to pass an ordinance which would place a referendum on the ballot. The goal was better rates for electric supply. This referendum would only apply to Ameren customers. The referendum would appear on the March 20, 2012 ballot. The City would take action on the citizens' behalf and electricity would be purchased in bulk. She cited three (3) additional communities within the County (Stanford, Danvers and McLean), that were also considering municipal aggregation.

Mayor Stockton questioned the City's obligation if passed. He noted that citizens would be required to participate. Ms. Adkins stated that the ordinance would be filed with the City Election Commission. Citizens would have the opportunity to vote on same. The next opportunity would be the November 2012 election. Mayor Stockton noted that the voters could turn it down. He questioned citizens' action if approved. Ms. Adkins noted that citizens could opt out. The City would work with Good Energy if this item is approved. In an effort to make citizens comfortable with municipal aggregation two (2) public meetings would be held. In addition, there would be a public outreach and marketing plan.

Mr. Hales wanted the Council to understand that Ameren IP was the distributor. He noted deregulation. The City would act as broker for the purchase of electricity. He noted that the Chicago area had seen a significant reduction.

Alderman Anderson noted his familiarity with municipal aggregation. It becomes a government controlled energy contract, (commodity). Citizens can opt in or opt out. He expressed his concern regarding the number of citizens who read their water bills. He

added his concern that citizens would not read the information. He hoped that City staff was ready to review all contracts to insure that the City did not go down the wrong road.

Mr. Hales noted that an opt in program would not be as successful. The City planned to collaborate with the Town of Normal. The second step would be to enter into a contract with Good Energy, this firm would act as the broker. The process would be open and transparent. Citizen involvement would be key. He noted that service agreement representatives were present.

Alderman Anderson questioned the contract's term limits. He was concerned that this agreement may not be good for citizens. Mr. Hales noted that a citizen would be able to go back. He believed that Ameren IP would aggressively purchase electricity in order to compete with the broker. Alderman Anderson noted that there was limited risk with a public utility. The contract term would be for three (3) years.

Mr. Greenburg acknowledged that City staff would perform additional research. Mr. Hales added that Good Energy would be an extension of City staff. He informed the Council that Phillip Carr, Good Energy's Business Development Director for Electricity and Natural Gas, was present at this evening's meeting. It was noted that there would not be contract unless there were real savings. At the end of the contract, the City would be able to revert back to Ameren IP. There was an early termination fee, (\$25 for citizens).

Alderman Anderson restated that the City had an obligation to educate its citizens. Citizens needed to make an educated choice about what was in their best interest.

Alderman Fazzini questioned if there was an opt in percentage, (the percentage willing to make this change). Mr. Hales restated that it would be an opt out plan. This would be a pure opt out program. The estimated number of eligible households was 200,000. The volume would create the savings. The Central Illinois group could be the largest in the state. Generally, the percentage of participation was ninety-five percent (95%).

Alderman Fazzini noted his attendance at the IML (Illinois Municipal League) Conference. He believed the National League of Cities had also looked into municipal aggregation. Mr. Hales believed the issue addressed by these two (2) groups was water/sewer lateral insurance.

Alderman Sage stated that there was no individual mandate to participate. He added that there would be no financial impact beyond staff time. He noted that this item was not part of the City's Action Plan. Mr. Hales cited his concern regarding the fact that the Town of Normal planned to go forward with municipal aggregation due to the potential citizen savings. If the City did not take action and there were cost savings to citizens, this factor should be enough to motivate Council action. The next item on the Council agenda was the contract with Good Energy.

Alderman Sage expressed his interest in understanding the competitive disadvantage. Mr. Hales acknowledged that City staff would have to make an adjustment. He believed that municipal aggregation should be a high priority. Alderman Sage did not want this item to impact the 2012 Action Agenda. Mr. Hales restated that there would be some project adjustment.

Alderman Anderson stated that he would support this item as long as there is a component which would educate the citizens.

Alderman Purcell noted that the public will vote on this issue. The citizens will make the decision. A citizen would be able to opt out.

Alderman Mwilambwe noted the early termination fee. It was restated that the early termination fee would be \$25. The standard fee was \$50. Large companies would be interested due to the group's size, (200,000 accounts). This figure would be part of the bid/contract.

Alderman Fazzini noted that local media was present. It was noted that if 150,000 households enrolled or seventy-five percent (75%) of those eligible, this would represent \$3 million in savings.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Ordinance be passed and staff directed to place referendum on the March 20, 2012 City of Bloomington Election Ballot.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Professional Services Agreement with Good Energy, LP for Professional Energy Consulting

RECOMMENDATION: That a professional services agreement with Good Energy, LP for professional energy consulting be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution be adopted.

BACKGROUND: Staff had prepared this request on the assumption that the Municipal Electrical Aggregation Referendum Ordinance will be approved by the Council. It would be

appropriate for the Council to consider an agreement for energy consulting services. It is necessary for the City to engage a professional energy consulting company to assist the City in all of the facets of this electricity aggregation initiative. It would be the responsibility of the selected consultant to coordinate all efforts with this program including, but not limited, the following activities:

- Ensuring compliance by the City with all statutory requirements associated with the electricity aggregation program;
- Coordinating all necessary activities with the Illinois Commerce Commission;
- Developing and marketing a public awareness campaign for the program in advance of the March 20, 2012 election;
- Attending all public hearings with the City associated with this electricity aggregation initiative;
- Coordinating the bid process and executing that process with multiple electricity suppliers;
- Negotiating fees in conjunction with the City with the winning suppliers in an amount equal to or greater than the rate negotiated with Good Energy, LP; and
- Ensuring final purchase of the program delivery and ongoing daily monitoring.

Essentially, the consultant will handle all aspects of this program for the City and will be paid for their services through a negotiated process with the selected electricity supplier. The City will not be obligated to make any payments to the consultant.

The City of Peoria undertook an extensive evaluation process of several electricity consulting companies. At the conclusion of that process, the Peoria City Council chose Good Energy as their exclusive energy consultant. Staff has talked with a few other companies that provide similar services. Staff agreed with the City of Peoria that this firm seemed to be the best equipped to provide the services needed. Also, the fact that they have signed agreements with nearly all of the other Ameren communities and counties that are participating in this program gives them the best opportunity to maximize cost savings via the bulk electricity bidding process. Good Energy has strong relationships with most of the large national electricity supply companies and has also been through this process a number of times.

Staff will be a part of a committee, along with staff members from other communities within the bidding group. This committee will oversee the work of Good Energy and also analyze the electricity bids once they are received which is expected to occur sometime in April or May 2012. Staff will also be involved in overseeing the public awareness campaign that is going to be coordinated by Good Energy in advance of the March 20th election.

Town of Normal and City of El Paso staffs are also recommending the retention of Good Energy as their municipality's energy consulting provider. Good Energy will be handling the bulk bidding process for all of those communities if the agreement is approved.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: City Council. Approval of this Ordinance will give citizens, (Ameren/IP customers), a direct opportunity to voice their opinion regarding this issue. If the Ordinance is passed, then the majority of eligible citizens of the City will have an opportunity to vote to allow the City to arrange for the supply of electricity for its residential and small commercial retail customers. There will be other actions

required of the City in order to participate in a regional electricity aggregation bidding process. If the residents of the City vote no, then there is no further action required and the City will not be able to participate in the regional electricity aggregation program.

FINANCIAL IMPACT: There is no direct financial impact. Municipal electrical aggregation will have indirect costs, such as staff time.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Barbara J. Adkins
Deputy City Manager

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2011 - 71

A RESOLUTION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH GOOD ENERGY, LP FOR PROFESSIONAL ENERGY CONSULTING

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and the Mayor and City Clerk be authorized to execute the necessary documents for a Professional Energy Consulting Services Agreement related to Municipal Electrical Aggregation.

ADOPTED this 19th day of December, 2011.

APPROVED this 20th day of December, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

SERVICES AGREEMENT

Professional Energy Consulting Services

This Services Agreement (“Agreement”) is made and entered into and effective on this 1st day of December, 2011 (“Effective Date”) by and between the City of Bloomington, Illinois (“Bloomington”), an Illinois Municipal Corporation, with offices located at 109 E. Olive St., Bloomington, IL 61701, and **Good Energy, L.P** (“Service Provider”), with an office and principal place of business located at 232 Madison Avenue, Suite 405, New York, NY 10016.

Recitals

WHEREAS, Bloomington desires to engage Service Provider to perform electricity consultancy services and procurement for Bloomington residential and small commercial electric accounts.

WHEREAS, Services Provider desires to perform the Services and desires to be so engaged.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements herein contained, the parties, intending to be legally bound, agree as follows:

Provisions

I. Performance of the Services. Provider shall:

- A. Provide the following services:
 - 1. Electricity Residential opt-out consulting services
 - 2. Marketing services for opt-out electricity aggregation program and associates costs to perform awareness campaign
 - 3. Coordinating efforts with the Illinois Commerce Commission
 - 4. Attending public hearings with the City and other municipal partners
 - 5. Bid creation and execution with multiple electricity suppliers with final selection of an electric supplier being decided by Bloomington
 - 6. Negotiating fees for the City with winning suppliers in an amount equal to or greater than the rate negotiated for Good Energy, L.P.
 - 7. After purchase program delivery and on-going daily monitoring,
- B. Give prompt notice to Bloomington should the Service Provider observe or otherwise become aware of any fault or deficit in the project or any nonconformance with the electricity sale & purchase agreement.
- C. Remit to Bloomington after the termination of this Agreement, all files and documents pertaining to the project that have been obtained or produced including, but not limited to, permits, licenses, applications, codes, drawings, site plans, photographs and similar materials.

- D. Comply with all statutes, ordinances, laws, rules and regulations which may be applicable to the services provided hereunder.

II. Obligations of Bloomington. Bloomington shall:

- A. Assist the Service Provider by placing at its disposal all public information pertinent to the services for the project, upon reasonable request.
- B. Use reasonable efforts to secure release of other data applicable to the project held by others.
- C. Give prompt notice to the Service Provider should Bloomington observe or otherwise become aware of any fault or deficit in the project or any nonconformance with the Agreement.
- D. Consider an ordinance to put the opt out referendum on the ballot on the next election

III. Term and Termination. The Agreement shall commence on the 1st day of December, 2011 and shall terminate on the 1st day of December, 2014, or as otherwise mutually agreed to by Bloomington and the Service Provider. Bloomington may terminate this Agreement at any time by giving Service Provider thirty (30) days advance written notice. In the event this Agreement is terminated by Bloomington prior to its natural expiration, Service Provider shall be paid the term of electricity purchased through the residential small commercial opt-out contract by the current alternative supplier.

IV. Payment. Bloomington agrees that Good Energy fees will be paid by the selected electricity supplier per kWh (volumetrically) for electricity purchased for the duration of the municipal contract. Such fees will be consistent with those fees paid for other nearby municipalities.

V. Relationship of the Parties. The parties acknowledge and agree that Service Provider is an independent contractor and is not an agent or employee of Bloomington. Nothing in this Agreement shall be construed to create a relationship between Service Provider and Bloomington of a partnership, association, or joint venture.

VI. Indemnification.

- A. **Professional Liability.** Relative to any and all claims, losses, damages, liability and cost, the Service Provider agrees to indemnify and save Bloomington, its officers, officials, and employees harmless from and against any and all suits, actions or claims for property losses, damages or personal injury claimed to arise from a negligent act, error or omission by the Service Provider or its employees.
- B. **Non-Professional Liability (General Liability).** To the fullest extent permitted by law, the Service Provider shall indemnify, defend and hold harmless

Bloomington, its officers, officials, employees or any combination thereof, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of the acts or omissions of the Service Provider, provided that such claim, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused to in whole or in part by the acts or omissions of the Service Provider, any subconsultant(s) of the Service Provider, its against, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim damage, loss or expense is caused in part by a party indemnified hereunder. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

VII. Insurance.

- A. The Service Provider shall secure and maintain, at his/her/its own expense, errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim/annual aggregate to protect himself from any claim arising out of the performance of professional services and caused by negligent acts, omissions or negligent acts for which the Service Provider may be legally negligent. The Service Provider shall maintain said coverage for the entire contract period and for a minimum of one year after completion of the work under the contract.
- B. In addition to errors and omissions insurance, the Service Provider shall also secure and maintain, at his/her own expense, insurance for protection from claims under Worker's Compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and any other insurance prescribed by laws, rules, regulations, ordinances, codes or orders.
- C. The Service Provider shall secure and maintain, at his/her own expense, General Liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.
- D. The Service Provider shall secure and maintain, at his/her/its own expense, Property insurance for protection from claims or damages because of damage to or destruction of property including loss of use resulting therefrom in an amount not less than Five Hundred Thousand Dollars (\$500,000.00). Bloomington shall be held harmless for any damage to the Service Provider's property and/or equipment during the course of performance under the Contract.

- E. The above referenced insurance shall be maintained in full force and effect during the life of this Contract and for one year beyond, where specified. Certificates showing that the Service Provider is carrying the above referenced insurance in at least the above specified minimum amounts shall be furnished to, and approved by, Bloomington prior to the start of work on the project and before Bloomington is obligated to make any payments to the Service Provider for the work performed under the provision of this contract. All such Certificates, with the exception of those for Worker's Compensation and Errors & Omissions coverage, shall clearly reflect that the Bloomington is an "Additional Insured".

VIII. Right to Audit

- A. Service Provider guarantees that the individuals employed by the Service Provider in any capacity, including but not limited to, employees, subcontractors and independent contractors, are authorized to work in the United States. The Service Provider represents that it has completed the I-9 verification process for all individuals the Service Provider has performing services for Bloomington. Bloomington maintains the right to audit the Form I-9s for all individuals the Service Provider has performing services for Bloomington every six (6) months. Bloomington will provide the Service Provider with five (5) days advanced written notice of its intent to perform a Form I-9 audit. In response to Bloomington's audit request, the Service Provider shall provide copies of all Form I-9s and any supporting documentation for all individuals who the Service Provider had performing services for Bloomington at any time subsequent to the date upon which Bloomington gave notice of the preceding Form I-9 audit.
- B. The Service Provider agrees to indemnify Bloomington in accordance with Section VI of the Agreement for any issue arising out of the Service Provider's hiring or retention of any individual who is not authorized to work in the United States.

IX. Taxes.

Service Provider has the following identification number for income tax purposes: **43-2003973**.

Service Provider is subject to and responsible for all applicable federal, state, and local taxes.

Bloomington represents that it is a tax-exempt entity and evidence of this tax-exempt status shall be provided to Service Provider upon written request. Service Provider hereby further agrees to withhold all municipal income taxes due or payable under the provisions of the Codified Ordinances of Bloomington, Illinois, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such municipal income taxes due under such chapter for Services performed under this

Agreement.

- X. Assignment.** Neither party may assign this Agreement without obtaining express, written consent from the other party prior to assignment.
- XI. Entire Agreement/Amendment.** This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the parties hereto. It is understood and agreed that this Agreement may not be changed, modified, or altered except by an instrument, in writing, signed by both parties in accordance with the laws of the State of Illinois.
- XII. Discrimination.**
- A. No discrimination for reason of race, religion, sex, age or country of national origin shall be permitted or authorized by Bloomington and/or Service Provider in connection with the Services.
 - B. Nothing in this Agreement shall require the commission of any act contrary to any law or any rules or regulations of any union, guild, or similar body having jurisdiction over the Services of Service Provider.
- XIII. Governing Law/Venue.** Any controversy or claim, whether based upon contract, statute, tort, fraud, misrepresentation or other legal theory, related directly or indirectly to this Agreement, whether between the parties, or of any of the parties' employees, agents or affiliated businesses, will be resolved under the laws of the State of Illinois, in any court of competent jurisdiction in Mclean County, Illinois.
- XIV. Severability.** If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid, mutually agreeable and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.
- XV. Paragraph Headings.** Paragraph headings are inserted in this Agreement for convenience only and are not to be used in interpreting this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day of _____, 2011.

CITY OF BLOOMINGTON, ILLINOIS

BY: Stephen F. Stockton
Mayor

GOOD ENERGY, L.P.

BY: Charles C. de Casteja
Managing Partner

David Hales, City Manager, introduced this item. Good Energy would also be working with the Town of Normal and the City. There were other Central Illinois cities that were also working with Good Energy.

Barb Adkins, Deputy City Manager, addressed the Council. If the referendum passed, then Good Energy would present a number of communities. There would be a lot of work to do. There would be public outreach and a mailing to all Ameren IP customers. There would be two (2) public hearings. A number of Central Illinois communities would form a committee and participate in the bid process. Good Energy would prepare and mail the bid specifications to the suppliers. The rates would be competitive and the best prices should be available. The new supplier should be identified in 2012 and implemented in July 2012.

Alderman McDade questioned who would pay Good Energy. Mr. Hales cited that there would be a commission paid by the supplier. There would be no cash payment from the City.

Alderman Purcell questioned payment for the mailing expenses and any up front costs. Mr. Hales responded affirmatively. There would also be staff time involved.

Motion by Alderman Anderson, seconded by Alderman McDade that the Agreement be approved, the Mayor and City Clerk be authorized to execute the necessary documents and the Resolution adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Anderson, Fazzini, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

MAYOR'S DISCUSSION: Mayor Stockton noted that the Council's next meeting would be on January 9, 2012 at 7:00 p.m. 2011 had been a good year for the City. He offered his congratulations to the Council and City staff. He hoped 2012 would be as good. He wished all happy holidays.

CITY MANAGER'S DISCUSSION: David Hales, City Manager, addressed the number of vacancies on the City's Boards and Commissions. There were nineteen (19) vacancies and thirty (30) applications.

He reminded the Council of the January 9, 2012 Work Session at 5:00 p.m. with the state legislators. City staff would develop a packet for this meeting. He hoped to improve upon last year's meeting. The City needed assistance from the state.

He thanked Barb Adkins, Deputy City Manager, and the City's department heads from their timely response to the Council's questions on Council meeting dates.

He also thanked Tracey Covert, City Clerk, and her staff for their tremendous efforts to put out two (2) Council packets in two (2) weeks.

He wished all present happy holidays.

ALDERMAN'S DISCUSSION: Alderman Fruin echoed Mayor Stockton's comments. He noted three (3) things about the Zoning Board of Appeals issue: 1.) citizens were frustrated regarding how to communicate with City Hall; 2.) ZBA attendance and the two (2) vacancies on the Board; (he also cited the 3:00 p.m. meeting start time and recommended that it be changed to 4:00 p.m.); and 3.) complimented Todd Greenburg, Corporation Counsel, on his memorandum regarding appeals. This was the type of information which needed to be passed on to new Council members. He described it as a critical document.

Mayor Stockton recommended that the City Manager's Office build a file.

Alderman Fazzini stated that he would leave City Hall this evening with a sense of pride. He cited the collaboration with the Town of Normal and the potential for \$3 million in savings.

He noted the City's various Boards and Commissions. He questioned the number of applicants.

He informed the Council that he had visited a number of Central Illinois cities' council meetings. He noted the meeting dates and times for the following cities: Urbana, Decatur and Springfield. He planned to visit these cities also.

Alderman Purcell wished all present a Merry Christmas and a Happy New Year. He added his hope that all had safe holidays.

He reviewed the time spent on the various agenda items.

Alderman Schmidt noted that in 2012 there would be Illinois State University (2) and Illinois Wesleyan University (4) student interns working with the City. These would be great projects, (recycling, firing range, etc.). The students would also attend the Council's meetings.

Aldermen Schmidt and McDade wished all a Merry Christmas and a Happy New Year.

Alderman McDade thanked the Council and City staff for their efforts during the past year.

She cited the Miller Park Zoo's Wild Lights program. She also noted the Holiday Spectacular which was held at the Bloomington Center for the Performing Arts.

She noted the letter found in each Alderman's mail box regarding postal service changes. A public meeting will be held at the Doubletree Hotel on December 28, 2011 at 7:00 p.m. It was noted that written input would be allowed.

Mayor Stockton recommended that this meeting be listed on the City web site's calendar. Mr. Hales responded affirmatively.

Alderman Stearns questioned the street lights on Tanner St. She believed that there were fourteen (14) lights. She also questioned the design and cost. The design did not match the adjacent neighborhood. Mr. Hales believed that the street lighting was part of the contract. City staff would report back to the Council. Mayor Stockton requested that the report address the brightness.

Alderman Mwilambwe agreed that 2011 was a great year. He was proud to be a Council member. He noted the progress made. He was excited about 2012 and potential economic development. He wished all happy holidays.

Alderman Sage extended Merry Christmas and Happy New Year to the Council, City staff and citizenry.

He noted that Forbes magazine ranked the City as one of the Best Small Places for Business & Careers, (the City ranked 22 out of 100). (Forbes also ranked the City for the Cost of Doing Business – 75 out of 100; Job Growth – 51 out of 100; and Education – 6 out of 100.) The City needed to brand this type of recognition.

He also cited Barb Adkins', Deputy City Manager, work with the state regarding the Governor's Award.

Alderman Anderson wished the Council and City staff Merry Christmas and Happy New Year.

He expressed his opinion that Morris and Tanner St. looked great. The project was completed on time. It was a compliment to the City.

Motion by Alderman Fazzini, seconded by Alderman Purcell, that the meeting be adjourned. Time: 9:43 p.m.

Motion carried.

**Tracey Covert
City Clerk**

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