

**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, October 24, 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: Council Proceedings of October 10, 2011 and Executive Session Minutes of May 9, 2011 and December 14, 2009

RECOMMENDATION: That the reading of the minutes of the previous Council Proceedings of October 10, 2011 and Executive Session Minutes of May 9, 2011 and December 14, 2009 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of October 10, 2011 and Executive Session Minutes of May 9, 2011 and December 14, 2009 have been reviewed and certified as correct and complete by the Chief Deputy City Clerk and City Clerk.

In compliance with the Open Meetings Act, Council Proceedings must be approved within thirty (30) days after the meeting or at the Council's second subsequent regular meeting whichever is later.

In accordance with the Open Meetings Act, Council Proceedings are made available for public inspection and posted to the City's web site within ten (10) days after Council approval.

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 Schmidt, seconded by Alderman Purcell that the reading of the minutes of the previous Council Meeting of October 10, 2011, and Executive Session Minutes of May 9, 2011 and December 14, 2009 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, October 20, 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:

Timothy Ervin
Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Schmidt, seconded by Alderman Purcell 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: Appointments to the Human Relations Commission

RECOMMENDATION: That the Appointments be approved.

BACKGROUND: The City's Human Relations Commission was established by Council on October 27, 1975 by Ordinance No. 1975-112.

I ask your concurrence in the following appointments to the Human Relations Commission:

Rhonda Meshelle Smith, 2 Rock Garden Court, Duplex #1. Her three (3) year term will begin October 24, 2011.

Donya Wills Flohr, 5207 Longfield Rd. Her three (3) year term will begin October 24, 2011.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Kathryn Buydos
Executive Assistant

Stephen F. Stockton
Mayor

Mayor Stockton introduced Donya Wills Flohr. Ms. Wills Flohr had recently returned to the City. She was employed by State Farm. Ms. Wills Flohr was one of two (1 of 2) appointees to the Human Relations Commission.

Motion by Alderman Schmidt, seconded by Alderman Purcell that the appointments be approved.

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 a Ford F250 for the Parks Division of the Parks, Recreation and Cultural Arts Department

RECOMMENDATION: That the purchase of a 2012 Ford F250 for the Parks Division of the Parks, Recreation and Cultural Arts Department from Marrow Brothers Ford Inc., Greenfield, IL, in the amount of \$21,355 using the Illinois Joint Purchasing Contract be approved, the Purchasing Agent be authorized to issue a Purchase Order for same and the Resolution adopted.

BACKGROUND: The Parks, Recreation and Cultural Arts Department has a 1996 GMC 2500 scheduled for replacement in FY 2012. It currently has over 90,000 miles, and the body is badly rusted. It will be declared surplus and sold at public auction.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: In FY 2012, \$27,500 has been budgeted in the Parks, Recreation and Cultural Arts Department account 14110D-72130 for the purchase of the replacement vehicle. The Ford F250 will cost \$21,355. *This vehicle will be financed through a five (5) year capital lease.*

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

Jim Karch
Director of Works

Timothy Ervin
Director of Finance

John Kennedy, Director of
Parks, Recreation & Cultural Arts

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2011 - 46

A RESOLUTION AUTHORIZING THE PURCHASE OF A 2012 FORD F250 FOR THE PARKS, RECREATION AND CULTURAL ARTS DEPARTMENT FROM MARROW BROTHERS FORD INC., GREENFIELD IL, USING THE ILLINOIS JOINT PURCHASING CONTRACT IN THE AMOUNT OF \$21,355

WHEREAS, According to 30ILCS 525/2 from CH. 85, pr. 1602 Sec. 2 (a) Any governmental unit may Purchase personal property, supplies and services jointly with one or more other governmental units. All such joint purchases shall be by competitive bids as provided in Section 4 of this Act; and

WHEREAS, the State of Illinois Joint Purchasing Contract is a competitive bidding process.

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

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

1. That the City's formal bidding process be waived and a 2012 Ford F250 be purchased for the Parks, Recreation and Cultural Arts Department from Marrow Brothers Ford Inc., Greenfield IL, in the amount of \$21,355 using the Illinois Joint Purchasing Contract.

ADOPTED this 24th day of October, 2011.

APPROVED this 25th day of October, 2011.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Schmidt, seconded by Alderman Purcell that a 2012 Ford F250 for the Parks, Recreation and Cultural Arts Department be purchased from Marrow Brothers Ford, Inc., Greenfield, IL, in the amount of \$21,355 using the Illinois Joint

Purchasing Contract, the Purchasing Agent 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: Purchase of a Ford F150 for the Water Department

RECOMMENDATION: That the purchase of a 2012 Ford F150 for the Water Department from Marrow Brothers Ford Inc., Greenfield IL, in the amount of \$17,950 using the Illinois Joint Purchasing Contract, be approved, the Purchasing Agent be authorized to issue a Purchase Order for same and the Resolution adopted.

BACKGROUND: The Water Transmission and Distribution Division of the Water Department has a 2002 four wheel drive Ford F350 scheduled for replacement in FY 2012. This vehicle currently has over 100,000 miles and is in need of major engine repairs. It will be declared surplus and sold at public auction. It will be replaced by a two wheel drive Ford F150 due to operational changes.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: In FY 2012, \$31,000 has been budgeted in account 50120D-72130 for the purchase of the replacement vehicle. The Ford F150 will cost \$17,950.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Jim Karch
Director of Public Works

Timothy Ervin
Director of Finance

David A. Hales
City Manager

RESOLUTION NO. 2011 - 47

A RESOLUTION AUTHORIZING THE PURCHASE A 2012 FORD F150 FOR THE WATER DEPARTMENT FROM MARROW BROTHERS FORD INC., GREENFIELD IL USING THE ILLINOIS JOINT PURCHASING CONTRACT IN THE AMOUNT OF \$17,950

WHEREAS, According to 30ILCS 525/2 from CH. 85, pr. 1602 Sec. 2 (a) Any governmental unit may Purchase personal property, supplies and services jointly with one or more other governmental units. All such joint purchases shall be by competitive bids as provided in Section 4 of this Act; and

WHEREAS, the State of Illinois Joint Purchasing Contract is a competitive bidding process.

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

1. That the City's formal bidding process be waived and one (1) 2012 Ford F150 for the Water Department be purchased from Marrow Brothers Ford Inc. from Greenfield IL in the amount of \$17,950 using the Illinois Joint Purchasing Contract.

ADOPTED this 24th day of October, 2011.

APPROVED this 25th day of October, 2011.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Schmidt, seconded by Alderman Purcell that a 2012 Ford F150 for the Water Department be purchased from Marrow Brothers Ford, Inc., Greenfield, IL, in the amount of \$17,950 using the Illinois Joint Purchasing Contract, the Purchasing Agent 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: Analysis of Bids for the Purchase of Two (2) 2012 International Navistar 4300 Medtec Additional Duty Type I Ambulances

RECOMMENDATION: That the purchase of two (2) 2012 International Navistar 4300 Medtec Additional Duty Type I Ambulances from Foster Coach, Sterling, IL, in the amount of \$390,636, be approved, and the Purchasing Agent be authorized to issue a Purchase Order for same.

BACKGROUND: The purchase of two (2) ambulances has been budgeted in FY 2012. These ambulances will replace two (2) current reserve ambulances. In 2010, the Fire Department responded to 9,452 calls for service; of those 7,414 plus (78%) were for emergency medical services (EMS). This type of call for service continues to increase. The current Ford E450 Super Duty Type III ambulances have had many mechanical troubles including blown engines and transmission issues. Exterior door and internal compartment latches are ongoing maintenance issues. The patient compartment layouts do not meet the needs of Advance Life Support (ALS) providers. These units also respond to fire calls to support operations. Crews assigned to these units must also carry protective wear including Self Contained Breathing Apparatus (SCBA) for firefighting duties. Present unit configurations are not conducive to this function.

The EMS working group was charged with gathering specifications for these ambulances. The guiding principle was to design an ALS ambulance that gave EMS personnel the ability to provide exceptional patient care and for response to multiple call types. Through extensive research into current ambulance types and designs, the EMS working group, along with Fleet Maintenance staff, concluded the most appropriate ambulance design would be Type I. Fleet Maintenance staff concluded that an ambulance built on an International 4300 chassis would be the best choice due to its reliability and familiarity with the vehicle.

The Fire Department's plan calls for the rotation of ambulances over an eight (8) year life span. An ambulance remains in front line service for the first six (6) years and moves to reserve for no more than two (2) years. According to staff research, this is a fairly standard practice throughout the fire service. There is currently no definitive standard for when a vehicle should be replaced. According to several studies completed at the National Fire Academy, age is the primary factor. Other factors such as mileage, and more important engine hours and maintenance costs are also considered. The replacement of a current reserve ambulance has been delayed by nearly two (2) years due the budgetary concerns.

Based on written specifications, staff sought and received competitive bids. Bids were opened Friday, September 30, 2011 at 11:00 and are as follows:

VENDOR	LOCATION	COST
Foster Coach Sales **	Sterling, IL	\$390,636.00
Emergency Services	St. Louis, MO	\$387,750.00
Fire Services, Inc.	St. John, IN	\$395,350.00
Horton Emergency Vehicles	Manteno, IL	\$431,823.38
North Central Ambulance Sales and Service	Plainfield, IL	\$439,006.00

****Recommended**

Foster Coach Sales is an authorized Medtec Ambulance dealer. This firm has provided the City with capable ambulances and superior service. Currently there are two (2) Medtec ambulances in reserve status. When these units served as frontline providers, they had far less mechanical problems than the current frontline ambulances. If a problem arose, Foster Coach provided outstanding service including the use of a loaner ambulance at no cost. Emergency Services, Inc. submitted the lowest bid, a difference of \$2,886. However, they failed to list a service facility as required by the bid specifications.

Staff recommends that the City remain consistent with vehicles already in use, consideration given to the proximity of a warranty repair facility, and the excellent level of service that has been received. Familiarity with the vehicles and overall satisfaction with the product and value led staff to select Medtec to provide the City's next two (2) ambulances.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: An Invitation to Bid was placed in the Pantagraph on August 24, 2011. The announcement was also posted on the City's web site. Seven (7) ambulance builders and/or dealerships were sent bid packages. Five (5) vendors responded.

Two (2) addendums were issued. All five (5) bidders responded to the first addendum. Only three (3) bidders responded to the second addendum. No bidders were disqualified for failure to acknowledge the addendums.

FINANCIAL IMPACT: Funds are available from Line 72130 to fund this project. Ambulances will be financed through the five (5) year capital lease.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial review by:

Eric Vaughn
Training Officer

Mike Kimmerling
Fire Chief

Timothy Ervin
Director of Finance

Recommended by:

David A. Hales
City Manager

Motion by Alderman Schmidt, seconded by Alderman Purcell that two (2) 2012 International Navistar 4300 Medtec Additional Duty Type I Ambulances be purchased from Foster Coach, Sterling, IL, in the amount of \$390,636, and the Purchasing Agent be authorized to issue a Purchase Order for same.

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: Change Order to the Contract with A & R Mechanical Contractors, Inc. for the Replacement of Damaged Lime Fill Lines at the Water Treatment Plant

RECOMMENDATION: That the Change Order to the contract with A & R Mechanical Contractors, Inc. for the replacement of a damaged lime fill lines at the Water Treatment Plant in the amount of \$18,912 be approved, and the Resolution be adopted.

BACKGROUND: The Water Treatment Plant uses lime to reduce the hardness of the water it delivers to the customers. Lime is unloaded several times a week through the lime fill lines. The lime fill lines take pebble lime from trucks in bulk form, (generally 50,000 pounds of pebble lime per truckload) and deliver it pneumatically to the lime storage bins located at the top of the Water Treatment Plant. Lime. It is very abrasive and over time will erode the metal from the fill lines.

Due to the nature of the construction of the lime lines, (running vertical from near ground level some fifty feet (50') to the top of the lime bins), it is difficult to determine if the lines are damaged. While preparing for the dust collection system replacement, it was discovered that the lime fill lines were damaged.

This work was not anticipated. Since the contractor will have scaffolding set up and will have pipefitters on hand, it would be beneficial to include this work with the dust collection replacement project. Time is of the essence. The additional work is in line with the existing bid

totals for labor and scaffolding. To save on contractor mark up, the City will supply the materials for this work.

Staff, in consultation with the contractor and the design engineers for the dust collection system replacement project, respectfully recommends the replacement of the lime fill lines, while the replacement lime dust collection system is being installed. Staff recommends that Council approve this change order in the amount of \$18,912.

The lime dust collection system replacement project was competitively bid and awarded to A & R Mechanical Contractors, Inc. on April 11, 2011 for \$107,000.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: A & R Mechanical Contractors.

FINANCIAL IMPACT: This change order will require the payment of an additional \$18,912 from the Water Department depreciation fund, X50200-72540. That fund has a positive balance. This change order will have little impact on the Water Department’s overall budget.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Craig M. Cummings
Director of Water

Timothy Ervin
Director of Finance

David A. Hales
City Manager

RESOLUTION NO. 2011 - 48

A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$18,912 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND A & R MECHANICAL CONTRACTORS, INC. FOR THE REPLACEMENT OF A DAMAGED LIME FILL LINES AT THE WATER TREATMENT PLANT

WHEREAS, the City of Bloomington has previously entered into a contract with A & R Mechanical Contractors, Inc. for the replacement of a lime dust collection system at the Water Treatment Plant; and

WHEREAS, for the reasons set forth in a staff report dated October 24, 2011 it was necessary to replace damaged lime fill lines at the Water Treatment Plant; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the October 24, 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 change order in the amount of \$18,912 in the contract between the City of Bloomington and A & R Mechanical Contractors, Inc. for the replacement of a damaged lime fill lines at the Water Treatment Plant be approved.

ADOPTED this 24th day of October, 2011.

APPROVED this 25th day of October, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Schmidt, seconded by Alderman Purcell that the Change Order with A & R Mechanical Contractors, Inc., for the replacement of damaged lime fill lines at the Water Treatment Plant, in the amount of \$18,912, be approved, 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: Intergovernmental Agreement Booking Services

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

BACKGROUND: For several years an intergovernmental agreement has been in effect between the City and McLean County Sheriff’s Department for detention, mug shots, booking, and fingerprinting. This has proven to be an efficient and cost effective procedure which has reduced the City’s liability because incarcerated subjects are rarely detained at the City’s facility.

The cost of the agreement for one (1) year is \$23,406 (\$1,950.50 per month), a three percent (3%) increase for 2012. The term of the agreement is January 1, 2012 to December 31, 2012, renewable on a year to year basis. Staff respectfully requests permission to enter into an intergovernmental agreement with McLean County Sheriff’s Department for booking services.

The Town of Normal also has an agreement with the County for booking services. These agreements supplement the costs of the high number of custodies that are delivered to the County’s facility. The City is by far the largest contributor to custodies entering into the County Jail. The cost incurred to provide intake documentation, fingerprinting, mug pictures, and booking records have been born by the County since the City closed its detainment and booking facility in the old Police Department back in the early 1990’s.

In 1993, the City began using these services while the Police Department was being remodeled. In 1994, the County in collaboration with the City and the Town implemented centralized booking services. This service reduced the City’s liability while decreasing staff duties and the need for a facility. The dollar amount paid exceeds the cost of providing booking services and a detainment facility. The cost of managing, securing, housing, feeding, booking, and releasing custodies saves the City thousands of dollars each month in facility and related employee costs.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Funds have been budgeted in line item G15110-70990 for this service.

Respectfully submitted for Council consideration.

Prepared by:	Reviewed as to legal sufficiency	Recommended by:
Randall D. McKinley Police Chief	J. Todd Greenburg Corporation Counsel	David A. Hales City Manager

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE COUNTY OF McLEAN AND THE CITY OF BLOOMINGTON**

Whereas, the City of Bloomington has requested the County of McLean to provide booking services:

And

Whereas, the County of McLean has booking facilities:

And

Whereas, the Constitution of the State of Illinois, Article VII, Section 10 and 5 ILCS 220 et seq. permits and encourages intergovernmental cooperation and agreements;

Now therefore, the parties hereto agree as follows:

1. The County of McLean will perform booking services for the City of Bloomington which services shall include but not be limited to the following: completing all booking forms, finger-printing, taking mug shots, bonding, releasing and transferring persons in custody.
2. The City of Bloomington Police Department shall deliver any individuals taken into custody to the McLean County Detention Facility for booking. The City may bring individuals to the facility twenty-four (24) hours a day, seven (7) days a week, including holidays. The City will complete the necessary paperwork for each person delivered for booking. The County will not accept any individuals needing or asking for medical care. The City will obtain medical care for any individual apparently in need of such care prior to transferring that person to the facility for booking. The City of Bloomington shall have no responsibility for any individuals once they have been transferred to the County for booking, beyond that which may be required by statute.
3. The County shall have full responsibility for all individuals delivered for booking by the City of Bloomington. This responsibility shall include the cost of any medical care administered during the booking process. The County will indemnify and hold the City harmless from all causes of action, whether judicial or administrative, and the costs of defending any such actions arising out of any intentional or negligent act performed by the County, its employees and/or agents during the course of booking any individual for the City of Bloomington pursuant to this agreement. Such actions shall include, but are not limited to, civil rights actions, property damage actions, personal injury actions, or any actions seeking recovery of money or other remedies.
4. The City of Bloomington will indemnify and hold harmless the County of McLean from all causes of action, whether judicial or administrative, and the costs of defending any such actions arising out of any intentional or negligent acts performed by the City, its employees or agents prior to transferring an individual to the County for booking. Such action shall include but are not limited to civil rights actions, property damage actions, personal injury actions, or any actions seeking recovery of money or other remedies.
5. The City will pay the County at an annual rate of Twenty Three Thousand Four Hundred and Six Dollars (\$23,406) per year for booking services. The City will pay this fee regardless of whether it uses the County's booking services during any particular month and regardless of the number of individuals it delivers to the County for booking.
6. Total amount due herein shall be paid in twelve (12) equal monthly payments of One Thousand Nine Hundred and Fifty Dollars and ~~no~~ Fifty Cents (\$1,950.50) at the first of each month.

7. The County may terminate this agreement at any time when payments required hereunder have not been paid. The County is relying on this agreement to hire personnel to satisfy its responsibilities under this agreement accordingly the City of Bloomington may not terminate this agreement without giving the County six (6) months' notice of its intent to terminate.
8. This agreement shall be in effect from January 1, 2012 through December 31, 2012. Thereafter this agreement may be renewable on a year to year basis subject to adjustments in the amount charged for the services provided.
9. All notices required herein shall be in writing and shall be sent via registered or certified mail return requested or by an overnight courier service to the persons listed below. A notice shall be deemed to have been given when received by the party at the address set forth below.

Notices to Bloomington Police Department shall be sent to:

Randy McKinley, Chief of Police
Bloomington Police Department
305 S. East
Bloomington, IL 61701

Notices to County of McLean shall be sent to:

Russell Thomas, Chief Deputy
McLean County Sheriff's Department
104 West Front Street
P.O. Box 2400
Bloomington, IL 61702-2400

10. Both parties agree to comply with all applicable federal and state nondiscrimination, equal opportunity and affirmative action laws, orders and regulations.
11. This Agreement is to be governed and construed in accordance with the laws of the State of Illinois.
12. The relationship of each party to the other under this Agreement shall be that of Independent Contractor.
13. The failure of either party at any time to enforce any provision of this Agreement shall in no way be construed to be a waiver of such provisions or affect the validity of this Agreement or any part thereof, or the right of either party thereafter to enforce each and every position in accordance with the terms of this Agreement.

14. In the event that any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.
15. This Agreement may not be assigned by either party without the prior written consent of the other party.
16. This Agreement shall constitute the entire Agreement between the parties with respect to the subject matter herein supersedes all prior communications and writings with respect to the content of said Agreement.
17. This Agreement may not be modified by either party unless such modification is mutually acceptable to both parties, is reduced to writing and signed by both parties.

The persons signing this Agreement represent and warrant that they have authority to bind their respective parties.

APPROVED:

Stephen F. Stockton
Mayor, City of Bloomington

October 25, 2011

Randy McKinley
Chief of Police, City of Bloomington

October 25, 2011

ATTEST:

Tracey Covert
City Clerk, City of Bloomington

October 25, 2011

APPROVED:

Matt Sorensen
Chairman, McLean County Board

September 20, 2011

Mike Emery
Sheriff of McLean County

September 23, 2011

ATTEST:

Kathy Michael
Clerk of the County Board of McLean County, IL

September 20, 2011

Motion by Alderman Schmidt, seconded by Alderman Purcell that the Agreement 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: Professional Services Contracts for the Bloomington Center for Performing Arts (BCPA)

RECOMMENDATION: That the contract with the Agency Group, Ltd. in the amount of \$15,000 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: The Agency Group, Ltd. to perform services in the BCPA on dates agreed by staff. Contract expenses for the contract will be \$15,000. The contract price covers the performing artist fees for a musical performance coming to the BCPA later this month. For proprietary and competitive advantage reasons staff does 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 2011-12 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:

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

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

(CONTRACT ON FILE IN CLERK'S OFFICE)

Motion by Alderman Schmidt, seconded by Alderman Purcell that the contract with the Agency Group, Ltd. in the amount of \$15,000 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: Professional Services Contracts for the Bloomington Center for Performing Arts (BCPA)

RECOMMENDATION: That the contract with Creative Artists Agency in the amount of \$40,000 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 Creative Artists Agency to perform services in the 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 December. For proprietary and competitive advantage reasons staff does 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 2011-12 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:

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

Reviewed by:

Barbara J. Adkins
Deputy City Manager

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

(CONTRACT ON FILE IN CLERK'S OFFICE)

Motion by Alderman Schmidt, seconded by Alderman Purcell that the contract with Creative Artists Agency 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: Suspension of Ordinances to Allow Consumption of Alcohol at Lake Bloomington's Davis Lodge on December 10, 2011

RECOMMENDATION: That the Ordinance suspending Section 26(d) of Chapter 6 and Section 701 of Chapter 31 to allow the suspension and consumption of alcohol at the Lake Bloomington Davis Lodge on December 10, 2011 be passed.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of the Elliot Sedgwick and Kara Armstrong to allow moderate consumption of alcohol at their wedding reception on December 10, 2011 to be held at Davis Lodge at Lake Bloomington from 6:30 p.m. until 12:00 a.m., (midnight). Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen and Geoffrey Tompkins; Clay Wheeler, Asst. Police Chief; and Renee Gooderham, Chief Deputy Clerk.

Absent: Commissioner Mark Gibson and Tracey Covert, City Clerk.

Commission Stockton opened the liquor hearing. The Commission had agreed to allow moderate consumption of alcohol at the Davis Lodge on a trial basis. Elliot Sedgwick and Kara Armstrong, requestors, addressed the Commission. They had hired Times Past Inn, located at 1216 Towanda Ave., to cater their wedding. They hoped to offer beer and wine to the estimated 125 guests. The eight (8) children attending as ushers and ring bearers would also be accompanied by their parents.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Agenda for the October 11, 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.

Respectfully,

Reviewed by:

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Craig Cummings
Director of Water

Randall D. McKinley
Police Chief

Recommended by:

David A. Hales
City Manager

ORDINANCE NO. 2011 - 46

AN ORDINANCE SUSPENDING PORTIONS OF SECTION 701 OF CHAPTER 31 AND SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE FOR A WEDDING RECEPTION AT THE LAKE BLOOMINGTON DAVIS LODGE

WHEREAS, Elliot Sedgwick and Kara Armstrong are planning to hold their wedding reception at the Lake Bloomington Davis Lodge from 6:30 p.m. to 12:00 a.m. (midnight) on December 10, 2011; and

WHEREAS, Elliot Sedgwick and Kara Armstrong have requested permission from the City to serve beer and wine during this event; and

WHEREAS, in order to legally possess alcohol in a City Park, Section 701(a), (b) and (c) of Chapter 31 of the Bloomington City Code, which prohibits the drinking, selling and possessing alcohol beverages with the City parks and Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits possession of open alcohol on public property must be suspended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS;

Section 1: That Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, are suspended for the duration of the wedding reception at the Lake Bloomington Davis Lodge on December 10, 2011 under the conditions set forth in the rental agreement.

Section 2: Except for the date of date set forth in Section 1 of this Ordinance, Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, shall remain in full force and effect. Nothing in this Ordinance shall be interpreted as repealing said Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6.

Section 3: This Ordinance shall be effective on the date of its passage and approval.

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1960 Illinois Constitution.

PASSED this 24th day of October, 2011.

APPROVED this 25th day of October, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Schmidt, seconded by Alderman Purcell that the Ordinance suspending Section 26(d) of Chapter 6 and Section 701 of Chapter 31 to allow the suspension and consumption of alcohol at the Lake Bloomington Davis Lodge on December 10, 2011 be 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: Ordinance Amending Section 63 of Chapter 2 of the Bloomington City Code, Regarding the Number of Firefighter Candidates to be Interviewed in Establishing an Eligibility List

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: The Board of Fire and Police Commissioners hire entry level firefighters for the City. State law permits an “interim” list to be established, from which candidates are interviewed prior to the establishment of a final eligibility list. The final list is the one used to actually hire firefighters. The current procedure is for a physical agility test and a written test to be administered to establish the interim eligibility list. The current Ordinance requires the Board of Fire and Police Commissioners to interview the top fifty (50) candidates on the interim list to establish the final eligibility list. The Board is requesting that the Ordinance be amended to permit the Board to interview the top twenty-five (25) candidates rather than the top fifty (50). Staff believes that this is a reasonable request and respectfully recommends that the Ordinance be passed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Board of Police & Fire Commissioners.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

October 24, 2011

657

Prepared by:

Reviewed by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

Emily Bell
Director of Human Resources

David A. Hales
City Manager

ORDINANCE NUMBER 2011 - 47**AN ORDINANCE AMENDING SECTION 63 OF CHAPTER 2 OF THE
BLOOMINGTON CITY CODE BY
DECREASING THE NUMBER OF FIREFIGHTER CANDIDATES INTERVIEWED****BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF BLOOMINGTON, ILLINOIS:**

Section One: That Section 63(d) (1) of Chapter 2 of the Bloomington City Code, 1960, as amended, shall be further amended as follows: (additions are indicated by underlines; deletions are indicated by strikeouts):

(d) Rules. Such Board of Commissioners shall make such rules and make such appointments and removals except those herein reserved to the City Manager in the Illinois Municipal Code (65 ILCS 5/1-1-1, et seq.), as amended. The Board is authorized to prepare an interim Register of Eligibles of candidates for original appointment to the Police and Fire Departments. Except as otherwise set forth in this Section, the Board shall continue to follow the procedures for original appointments to the Fire and Police Departments set forth in the Illinois Municipal Code.

(1) The interim Register of Eligibles for the Fire Department will distinguish between the ~~50~~ 25 candidates who meet all of the requirements for initial appointment and have obtained the highest combined scores for all tests administered by the Board prior to background investigation and oral interviews, and all other candidates. The Board shall then proceed to conduct background investigations and oral interviews with such ~~50~~ 25 candidates and prepare a Register of Eligibles placing such ~~50~~ 25 candidates in rank order. If less than 25 candidates meet all of the requirements for initial appointment, the Board shall conduct background investigations on and shall interview all such candidates. Any time after the completion of the initial Register of Eligibles an insufficient number of names remain on the Register to meet the hiring needs of the Fire Department, as indicated to the Board by the Fire Chief, the Board shall conduct background investigations and oral interviews with such additional candidates which meet all of the requirements for initial appointment and shall prepare a new Register of Eligibles based on such additional testing. The rank order of the new Register of Eligibles shall not give priority to those candidates on the first Register unless the total combined scores of such candidates justify such priority. The procedure shall continue to be followed after every 20 appointments until no candidates remain to be hired from a Register of Eligibles or until the expiration of two years from the date the original Register of Eligibles was approved by the Board, whichever occurs first.

Section Two: Except as provided for herein, the Bloomington City Code, 1960, as amended, shall remain in full force and effect.

Section Three: The City Clerk is authorized to publish this ordinance in pamphlet form as provided by law.

Section Four: This ordinance shall be effective immediately upon passage and approval.

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

PASSED this 24th day of October, 2011.

APPROVED this 25th day of October, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Schmidt, seconded by Alderman Purcell that the Ordinance be 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: Client Agreement with Blue Cross/Blue Shield of Illinois (Blue Cross) for Third Party Administrator (TPA) Services and Individual Stop Loss (ISL) Insurance for the Employee and Retiree Preferred Provider Organization (PPO) Health Plans; Client Agreement with Health Alliance Medical Plans (HAMP) for Employee and Retiree Health Maintenance Organization (HMO) Plan Option; Client Agreement with Blue Cross and for TPA Services for the Employee and Retiree Dental Plan; and an Agreement with Clemens and Associates to perform Broker Services

RECOMMENDATION: That the Client Agreements and Broker Services Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The City provides health and dental options to its employees and retirees. Employees and retirees have a choice between two (2) City provided health plans; a PPO plan and an HMO plan. Sworn police personnel have the option of choosing these plans or their union plan. The police union plan is not controlled by the City and is not discussed in this Council memorandum.

The PPO plan is self insured by the City whereas the HMO plan is fully insured. The PPO plan elements consist of medical and pharmacy claims, administrative fees and individual stop loss. The pharmacy portion of the plan is administered by a separate entity; CatalystRx (previously Walgreens Health Initiative). In August of 2010, Council approved a two (2) year contract for pharmacy benefit management.

Blue Cross PPO Administration: The City utilizes Blue Cross as its TPA to administer its employee and retiree PPO health plans. Through the Administrative Services Only arrangement (ASO) the City has access to the Blue Cross provider network, provider discounts and a variety of services for members and administrative staff. Blue Cross rate is increasing 4.4% for the ASO contract to \$42.77 per employee per month (PEMP).

Blue Cross also charges an Illinois Facility Access Fee enabling them to develop and maintain an extensive discounted provider network. The Illinois Facility Access Fee is based on Illinois inpatient hospital claims and is a percentage of the savings resulting from the Blue Cross discounting arrangements with the providers. There is no change (0%) to the Facility Fee for 2012.

Individual Stop Loss (ISL) for PPO Plans: Individual stop loss, or reinsurance, insures the City in the event that any member of its PPO health plan incurs catastrophic claims during the plan year in excess of a certain dollar amount known as the “deductible”. Currently, the ISL deductible is set at \$145,000. Phil Sauder, Clemens and Associates brokerage, and Blue Cross have analyzed the specifics of the City’s PPO claims and recommend that the City increase its ISL deductible for the 2012 plan year from \$145,000 to \$155,000.

Staff requested that Mr. Sauder take quotations for the City’s ISL. Blue Cross is currently providing the ISL for the City’s PPO plans. Mr. Sauder received twelve (12) quotes. The least expensive one was received from Blue Cross. That rate is \$39.94 per employee per month which is an increase of 11% over the 2011 rate.

PPO Total Costs:

The following shows the total projected plan totals for calendar 2011 and 2012. The medical and prescription drug claims figures are developed by actuaries at Blue Cross and CatalystRx respectively.

	2011 Plan Year	2012 Plan Year	Percent Change
Projected Enrollees	532	485	-8.8%
Projected Net Paid Medical Claims	\$3,990,950	\$3,826,427	11.0%
Projected Paid Prescription Claims	\$1,111,985	\$1,318,316	18.6%
Administration Fee	\$ 273,044	\$ 262,249	-4.0%
Illinois Facility Access Fee	\$ 43,344	\$ 43,746	0.9%
Individual Stop Loss	\$ 254,277	\$ 258,001	1.5%
Broker fee	\$ 9,500	\$ 9,500	0.0%
Recommended Change in Reserves*	<u>\$ 32,870</u>	<u>\$ 18,555</u>	-43.6%
 Projected PPO Plan total	 \$5,715,970	 \$5,755,127	 0.4%

Plan premiums are currently being calculated. They are anticipated to increase between seven percent (7%) and ten percent (10%) due to the higher cost per enrollee. The City shares this cost with employees based on an average split of seventy-five percent (75%) City and twenty-five percent (25%) Employee. Retirees pay the full premium.

*The most recently audited figures (CAFR April 2010) show a balance of \$771,107 in the Employee and Retiree Health Insurance Fund. This fund includes health and dental coverage.

Health Alliance Medical Plan (HAMP) HMO: The City utilizes HAMP to provide an HMO health plan option to its employees and retirees. This is a fully insured product. The City administers two (2) levels of HMO plans. Currently, one option is provided to union employees and another option, with higher out-of-pocket costs, is offered to classified employees.

The Health Alliance Medical Plan premiums are increasing 8.5% for 2012 over those for 2011. Based on ninety-five (95) enrollees, the estimated total cost for the calendar 2012 plan year is \$1,350,012.

Dental Plan: The City utilizes Blue Cross/Blue Shield of Illinois as its TPA to administer its employee and retiree dental plan. Under the TPA contract the City has access to a small local and nationwide provider network and discounts which Blue Cross negotiates with its network of providers.

The dental premiums are comprised of an administrative fee and an actuarial projection of claim costs for plan participants.

Blue Cross is requesting an increase of 5.1% for the administrative fee for a projected annual cost of \$ 30,467.

Blue Cross' actuaries have projected the City's calendar 2012 claims to total \$473,407. Blue Cross developed the following total projected costs for the City's dental plan costs:

	2011 Plan Year	2012 Plan Year	Percent Change
Projected Enrollees	666	651	-2.2%
Projected Net Paid Claims	\$475,364	\$473,407	-0.4%
Administration Fee	\$ 29,650	\$ 30,467	2.8%
Recommended Change in Reserves*	<u>\$ 2,713</u>	<u>\$ 3,249</u>	<u>19.8%</u>
 Projected Dental Plan Total	 \$507,727	 \$507,150	 -0.1%

*The most recently audited figures (CAFR April 2010) show a balance of \$771,107 in the Employee and Retiree Health Insurance Fund. This fund includes health and dental coverage.

Due to the slightly higher per enrollee costs, dental premiums will increase .6% for 2012 over 2011. The City equally divides the cost of this plan with its employees. Retirees pay full premium costs.

Broker Services: Staff has worked with Phil Sauder, Clemens and Associates, since 2009 for broker and other services to the plans described above. In addition to obtaining the plans and quotations, Mr. Sauder and Clemens staff provide expert insurance related and strategic advice. They help staff with day to day operational and larger scale issues with the insurance plans; assist in communicating information to employees and retirees, and assists with open enrollments. Staff often relies on Mr. Sauder and Clemens staff to resolve the more complex claim issues that plan members sometimes have. Plan participants can call their office for assistance if they choose. Mr. Sauder provides staff with reports and updates on local provider issues.

As part of the RFP submitted by Mr. Sauder to the City in 2008, Mr. Sauder quoted the City an annual flat fee of \$9,500 per year for the above described work. His fee has not changed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: None.

FINANCIAL IMPACT: The total amounts cited above represent the anticipated full cost to provide health and dental insurance for employees, retirees, and Township employees. The Township reimburses the City for their benefit costs. Once premiums and reimbursements from all sources are factored in, the City pays for approximately sixty percent (60%) of the total health insurance costs and about forty percent (40%) of the dental costs. Due to an overall decrease in enrollments, change in City's contribution toward these plans is expected to be minimal.

The Fiscal Year (FY) 2012 budget includes \$4,194,521 for the City's contribution toward health insurance (PPO plans and HMO plans) and \$289,398 for the dental plan.

Based on the above projections, amounts to be budgeted for FY 2013 for the PPO and HMO plans together would be anticipated to increase by about two percent (2%) to \$4,276,000 or \$81,478. The amount budgeted for the City contribution toward dental insurance is not expected to increase. These figures will be fine tuned during budget preparation and after open enrollment. The changes in the health plan options provided to several unions beginning in 2012

and recent changes to the premium structures for other groups are also expected to hold City increases to a minimum.

Blue Cross PPO Administration: Approximately forty percent (40%) of the expense would come from FY 2012 budgeted expense in 6020-60210-70990 and 6028-60210-70990 and approximately sixty percent (60%) would come from these line items to be budgeted for FY 2013 depending on the number of enrollees and hospital claims in each fiscal year.

PPO Claims: Approximately forty percent (40%) of the expense would come from FY 2012 budgeted expense in 6020-60210-70717 and 6028-60210-70717 and approximately sixty percent (60%) would come from these line items to be budgeted for FY 2013 depending on the number of enrollees and hospital claims in each fiscal year. Pharmacy claims are also budgeted in the same line items and in the same manner.

Individual Stop Loss: Approximately one third (33.3%) of the expense would come from FY 2012 budgeted expense in 6020-60210-70716 and 6028-60210-70716 and approximately two thirds (66.6%) would come from funds to be budgeted in these line items for FY 2012/13 depending on the number of enrollees in each fiscal year.

Health Alliance Medical Plans HMO: Approximately one third (33.3%) of the expense would come from FY 2011/12 budgeted expense in 6020-60232-70719 and 6028-60232-70719 and approximately two thirds (66.6%) would come from these line items to be budgeted for FY 2013 depending on the number of enrollees in each fiscal year.

Dental Claims and Administration: Approximately one third (33.3%) of the expense would come from FY 2012 budgeted expense in 6020-60240-70717 and 6028-60240-70717 and approximately two thirds (66.6%) would come from these same line items to be budgeted for FY 2013 depending on the number of enrollees in each fiscal year.

Broker Services: Approximately one third (33.3%) of the expense would come from FY 2012 budgeted expense in 6020-60210-70990 and 6028-60210-70990 and approximately two thirds (66.6%) would come from these line items to be budgeted for FY 2013.

Respectfully submitted for Council consideration.

Prepared by:

Laurie Wollrab, MBA, PHR
Compensation and Benefit Manager

Reviewed as to legal sufficiency:

Rosalee Dodson
Asst. Corporation Counsel

Reviewed by:

Emily Bell, IPMA – CP
Director of Human Resources

Financial review:

Timothy Ervin
Performance Auditor

Recommended by:

David A. Hales
City Manager

(AGREEMENTS ON FILE IN CLERK'S OFFICE)

Motion by Alderman Schmidt, seconded by Alderman Purcell that the Client Agreements and Broker Services Agreement 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: Central Illinois Regional Broadband (CIRBN) Project Participant and Collocation Agreements

RECOMMENDATION: That the CIRBN Participant and Collocation Agreements be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the payment up to \$15,000 be approved.

BACKGROUND: On March 22, 2010, Council approved participation in the CIRBN project and a total budget of \$30,000, (the City's matching costs for the federal grant) to be spread over two (2) fiscal years. Also included in the City's matching cost was the use of certain facilities and any right of way for the installation of fiber cabling between facilities needed to support the CIRBN network.

The CIRBN project has been awarded grant funding and is now in design and implementation phases. As such, the City has received a request to sign and fully execute the *Participant Agreements* and *Collocation Agreements* from Illinois State University (ISU). There are actually three (3) sets of these documents. One is for facilities owned by the City. The other two (2) are for locations in which the City is a tenant. These locations include the Government Center (owned by the Public Building Commission) and Fire Stations 3 and 6 (owned by Central Illinois Regional Airport). After execution of these agreements, the City will receive the invoice for the first \$15,000 matching fund payment. The second \$15,000 payment will be due prior to June 1, 2012, and will also require Council approval.

A participant site is a site that is connected to the CIRBN network. A collocation site is a site used as a hub to connect other participant sites. These sites will house more electronics for connecting and managing the network. The collocation sites will have more extensive environmental requirements than the participant sites due to the extra electronics. Under the agreement, the City is responsible for providing right of way, easements and any permits necessary for the installation of the fiber cabling. For collocation sites, the City is also responsible for providing adequate space and environmental controls (heating/cooling) as required by the more extensive electronic equipment necessary.

Staff has worked with ISU representatives and has determined that only one (1) of the City's collocation sites, Fire Station 4 will need to be improved. A cooling unit will need to be installed in the room that will house the networking equipment. The PACE Department's Facilities Division has estimated these improvements at \$4,000.

The City will also have ongoing monthly costs associated with the local and Internet connectivity associated with the CIRBN project. The actual monthly costs will not be set until the network build out is complete. Staff understands that, once the build out is completed; a limited liability corporation will be created to manage the ongoing concerns of the network. Currently, an estimate of \$5 per full time employee (FTE) per month has been provided. At the City's current FTE (500), estimated monthly costs would be \$2,500.

After analysis based on the estimated monthly cost, staff believes the CIRBN network connection is a high value for the City and all of the other participating agencies. The City facilities identified for CIRBN network connections will be replacing existing wide area connections which total approximately \$1,500 per month. Although costs are expected to rise approximately \$1,000 per month, the increase in network speed and robustness for these locations will improve staff productivity and facilitate the growth of more applications at these locations. For example, wireless connectivity at these locations could provide mobile connectivity to the City's internal network for enterprise applications or surveillance cameras.

The CIRBN project will bring high speed connectivity between the public/private partners within the network, along with access to low cost Internet bandwidth. Although the actual cost of the Internet bandwidth is yet to be determined, the high volume generated by the multitude of partner organizations, and cost sharing between the partners, should result in lower costs than each organization could obtain individually.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The current request for Council is for approval of the CIRBN *Participant Agreements*, the *Collocation Agreements* and for approval to pay the first \$15,000 payment once the invoice is received. Cooling improvements will also be necessary at Fire Station 4 at an estimated \$4,000.

Respectfully submitted for Council consideration.

Prepared by: Financial review by: Reviewed as to legal sufficiency:

Scott A. Sprouls
Director of Info. Services

Timothy Ervin
Director of Finance

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

(AGREEMENTS ON FILE IN CLERK'S OFFICE)

Motion by Alderman Schmidt, seconded by Alderman Purcell that the CIRBN Participant and Collocation Agreements be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the payment up to \$15,000 be approved.

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: Authorization to Seek Requests for Proposals (RFP) from Electric Energy Brokers for a Possible Energy Aggregation Program

RECOMMENDATION: That staff be allowed to release an RFP to develop a possible energy aggregation program.

BACKGROUND: Several years ago, with the deregulation of the electric power companies, state law was passed allowing large commercial electricity users and municipalities to purchase electrical power directly from electrical producers on the open market. Larger companies (including the City) have been buying their electricity on the open market for some time. Aggregation of municipalities for residential use has recently come to the forefront.

As presented to Council on September 26, 2011, the primary advantage of municipal aggregation is to provide cost savings for City residents currently being served by Ameren Illinois. Corn Belt Energy is not eligible as it is a cooperative. By bringing all of the citizens in to one buying

group the City is able to shop for the group rather than the individual. Before staff can move forward with an actual aggregation, a referendum will have to be passed allowing the City to move forward. Staff recommends that an RFP be released to identify an energy aggregation company that can help guide the process.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: This concept was presented to Council at their September 27, 2011 meeting.

FINANCIAL IMPACT: While there is no direct cost to the City, the consultant is paid by a commission on power sales. This action could result in substantial savings to the City's residents.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Mark R. Huber
Director of PACE

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Motion by Alderman Schmidt, seconded by Alderman Purcell that staff be allowed to release an RFP to develop a possible energy aggregation program.

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:

Memo to: Mayor and City Council

From: Todd Greenburg, Corporation Counsel

Re: Impact of Recent Supreme Court Decision on Home Rule Authority

Date: October 23, 2011

As a result of a recent Illinois Supreme Court decision, I cannot confirm that any ordinance regulating interest rates on payday title loans and payday installment loans would be found to be an issue involving "local government and affairs", which is the prerequisite for any valid regulation by a home rule municipality.

In *City of Chicago v. Stubhub!, Inc.* the Supreme Court unanimously ruled on October 6, 2011 that the City of Chicago exceeded its home rule authority by enacting an ordinance which requires Internet auction sites which permit its customers to buy and sell amusement tickets at more than face value to pay an amusement tax to Chicago on the increased value of the tickets. A recent state law, the Ticket Sale and Resale Act, requires Internet auction sites to give its customers a notice stating that the transactions on its site may be subject to local amusement taxes, but does not require the Internet business itself to pay the local amusement taxes so long as the required notice is given to its customers.

The *Stubhub* court applied a three-part test to determine whether Chicago had exceeded its home rule authority: it evaluated (1) the nature and extent of the problem; (2) it determined the unit of government with the most vital interest in the problem; and (3) it looked at the unit of government with the traditional role in solving the problem.

The Supreme Court acknowledged that municipal taxes were a matter of local government and concern. However, the Court also reviewed the comprehensive nature of the state regulation of Internet auction sites and consumer protection.

The Court concluded that the State has a greater interest than any municipality in regulating this emerging business model and in protecting consumers, and that the State has traditionally played a greater role in addressing the problems in this area. The Court concluded that Chicago's ordinance exceeded the City's home rule authority because it did not pertain to its own government and affairs, and had instead attempted to regulate a matter of statewide concern that was best left to the General Assembly to regulate.

The Court also cited with apparent approval a committee report from the drafters of the 1970 Illinois Constitution which stated that a home rule ordinance regulating interest rates on mortgages or other loans would be invalid "because of the extensive federal and state regulation of credit institutions." It also noted that in the legislative debates prior to enactment of the Ticket Sale and Resale Act the legislature had approved the business model used by Stubhub and other Internet auction sites and upholding the Chicago ordinance would require a change in a business model which had been approved by the legislature.

The *Stubhub* ruling was a surprise to attorneys representing home rule municipalities in Illinois because it revived an issue which was thought to be resolved by previous Supreme Court decisions. In a 1998 case titled *City of Chicago v. Roman*, the Illinois Supreme Court had ruled that the existence of a comprehensive statewide scheme of regulation did not, by implication, preempt home rule authority to regulate in the same area.

The *Roman* court cited previous court rulings that "[i]t is not enough that the State comprehensively regulates an area which otherwise would fall into home rule power... 'comprehensive scheme' preemption is 'no longer the law of this state'... The General Assembly cannot express intent to exercise exclusive control over a subject through coincidental comprehensive regulation." It also noted that the General Assembly knew how to enact legislation which expressly preempted home rule authority in areas of concurrent regulatory authority and gave an extensive list of examples in which the legislature had done so. It also cited a previous Supreme Court ruling which stated that "the Illinois approach [to home rule

power] places almost exclusive reliance on the legislature rather than the courts to keep home rule units in line.”

In its *Stubhub* ruling, the Illinois Supreme Court did not mention the *Roman* ruling at all, and it is difficult if not impossible to reconcile the Court’s ruling in the *Stubhub* case with its previous approach in the *Roman* case.

The City’s Legal Department has received detailed legal analysis from both sides in the payday loan ordinance debate. Understandably, one of the law firms representing the payday installment loan industry (Varga Berger Ledsky Hayes & Casey of Chicago) argues that the *Stubhub* ruling confirms its earlier position that regulation of consumer loans is not a matter of local government and affairs.

Conversely, the Sargent Shriver National Center on Poverty Law argues that the *Stubhub* case does not foreclose local interest rate caps on payday loans. It argues that there are differences between Internet auction business models and the payday loan industry. The Shriver Center argues that an ordinance which articulates the local effects of the interest rates permitted by current state regulation (e.g., the local economic drain, increased local crime rates, decreased property values, and impaired neighborhood aesthetics) may strengthen an argument that local interest caps on payday loans may withstand a challenge even after the *Stubhub* ruling. It also cites the *lack* of uniformity of payday loan interest rates permitted under state legislation as proof that the legislature did not intend to require uniformity of interest rates on a statewide basis.

In my opinion, the Shriver Center’s arguments are interesting, but as a legal advisor to the City I cannot endorse those arguments as compelling.

The City Council has several options, including the following:

1. It may indefinitely suspend any further discussion on possible regulation of interest rates on payday loans.
2. It may pass a motion or resolution requesting the General Assembly to regulate interest rates on payday title and installment loans in a manner consistent with the draft ordinance previously tendered to the City Council by Illinois People’s Action.
3. It may decide to take the position that regulation of interest rates on payday loans is a matter of local government and concern and direct staff to draft an ordinance consistent with the approach suggested by the Shriver Center.

Mayor Stockton introduced this item. David Hales, City Manager, addressed the Council. This item was placed on the Council’s meeting agenda for further consideration and direction. He cited a recent Illinois Supreme Court ruling and Todd Greenburg’s, Corporation Counsel, memorandum regarding same.

Todd Greenburg, Corporation Counsel, addressed the Council. His memorandum on this subject was included in an addendum. He cited a recent Illinois Supreme Court ruling. He could not endorse a belief that the City had the authority to legislate. He had attended the IML, (Illinois Municipal League) Home Rule Attorney Committee meeting in

Chicago on Friday, October 21, 2011. Prior to the Stub Hub ruling, there was a belief that home rule cities could take action. There were thirty (30) attorneys present and there was no support for action. He noted that Stub Hub is owned by ebay. Stub Hub provided ticket resale via the Internet. He compared it to an auction. There was a disclaimer that if the ticket was sold for a higher value than the face value then an amusement tax needed to be paid. There was agreement with state law. The City of Chicago amended its ordinance to apply a municipal tax. Chicago was taken to court. The Supreme Court changed law and its review impacted home rule authority. It revived the doctrine of exclusion by implication. If the matter involved a statewide concern, then it would be state regulated. The Supreme Court referenced a 1970 Constitutional Committee. Interest rates would be regulated by the state. All home rule attorneys were surprised by the broad ground ruling which eliminated thirteen (13) years of case law.

Mr. Greenburg substantially questioned the City's ability to take action. All of the pertinent information was contained in his memorandum.

Alderman Stearns questioned Mr. Greenburg's opinion. Mr. Greenburg noted that the Supreme Court's decision was unanimous. Alderman Stearns questioned if the City anticipated a legal challenge if an ordinance was passed. Mr. Greenburg responded affirmatively. He added the cost to retain outside counsel at \$50,000.

Alderman Anderson had reviewed Mr. Greenburg's latest conclusions. Mr. Greenburg restated his belief that the City did not have the authority to pass an ordinance. He recommended that the Council pass a resolution requesting that the General Assembly take action. The Council could also indefinitely suspend further discussion regarding this issue.

Mayor Stockton recommended that the Council take the most effective action.

Alderman Anderson stated that this was not an easy decision. He had been contacted by individuals from outside of the City. The City needed to utilize its resources efficiently. He noted that there was little chance of success. He expressed support for directing City staff to draft a Resolution. He hoped that the Council would adopt same and forward it on to the General Assembly. The City might be able to address an educational effort regarding the payday loan industry.

Mayor Stockton questioned verbage. Alderman Anderson requested that the interest rate equal that for military personnel. He noted that military personnel had been protected by the law. Mayor Stockton directed City staff to prepare a resolution which would address the concerns raised by the Council and the public. Alderman Anderson added that an educational component was important. He cited mandatory notification as an example. Mayor Stockton added that payday lenders be required to provide warnings/education at the time of application addressing the dangers.

Mr. Hales added that a Resolution could be placed on the Council's November 14, 2011 meeting agenda.

Alderman Fazzini questioned City liability and the City's ability to defend same. Mayor Stockton noted that the Council would be expressing its opinion to the General Assembly.

Alderman Stearns noted that City staff would prepare a resolution. She had contacted individuals at the state level of government. She noted the time and resources devoted to this issue. Those involved believed that a good piece of legislation had been passed. The City had the authority to comment on same. She cautioned that the Council had failed to recognize the effort made at the state level.

Alderman Schmidt stated that regardless of the time spent, the Council had the right to express its opinion. She requested that at the Council Work Session with state legislators that this item be added as a discussion item.

Alderman Mwilambwe expressed his interest in something more tangible. People were suffering.

Mayor Stockton welcomed additional public input on this item. He restated that a resolution would appear on the Council's November 14, 2011 meeting agenda.

Motion by Alderman Anderson, seconded by Alderman Fruin that City staff draft a Resolution addressed to the Illinois General Assembly requesting consideration for additional controls to be placed upon payday loans.

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

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

Nays: Aldermen Stearns and Sage.

Motion carried.

Alderman Mwilambwe expressed his opinion that a payday loan resolution would be a good thing. The problem would not go away. It would reappear. The City needed to think outside of the box.

Alderman Anderson echoed Alderman Mwilambwe's comments. He had spoken with Illinois Peoples Action. He had agreed to provide assistance. Action may be taken at the federal and/or state level of government.

The following was presented:

SUBJECT: Petition submitted by Ryan Scritchlow requesting the Rezoning from R - 1C Single Family Residential District, to B - 2, General Business District for the property commonly located at 1906 S. Morris Avenue

RECOMMENDATION: That the Rezoning be approved and the Ordinance passed.

BACKGROUND: The petitioner desires to rezone this property to B - 2, General Business District zoning in order to establish a landscaping business at the site. The site currently has a residence, outbuildings, and scattered trees.

A public hearing on this petition was held by the Planning Commission on September 14, 2011. The petitioner handed out a twelve (12) page document in support of his request which included letters from neighbors stating they are in favor of his petition. No one from the public spoke opposition.

The proposed use will not create any substantial nuisance for the nearby properties. There are manufacturing and business zoning adjacent to or across the street. The business use of the property should not be highly incompatible with nearby uses. The neighbors have signed letters of support. This use should be less intrusive and somewhat of a buffer from the more intense M - 1 Restricted Manufacturing District. The Commission voted 5 - 0 to recommend approval of the petition.

This item appeared on the October 10, 2011, Council agenda. At the request of Alderman Anderson, this item was laid over until the Council meeting of October 24, 2011.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph on August 30, 2011. Courtesy copies of the Public Notice were mailed to sixty-two (62) property owners within 500 feet. In addition, a public notice/identification sign was posted on the property.

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 A. Hales
City Manager

Alderman Anderson informed the Council that he had met with the Petitioner. There were concerns in the area. He specifically cited the residents of the Blooming Grove Subdivision. A public informational meeting would be held prior to the Thanksgiving

holiday. City staff would provide notice of same. He requested that this item be laid over until the Council's December 12, 2011 meeting.

Motion by Alderman Anderson, seconded by Alderman Sage that this item be laid over until the Council's December 12, 2011 meeting.

Motion carried, (viva voce).

David Hales, City Manager, noted that City staff would plan the public informational meeting.

The following was presented:

2011 Estimated Property Tax Levy: 1. Presentation – Tim Ervin, Performance Auditor & Budget Manager; 2. Presentation by Bill Wetzels, Library Board member; and 3. Council Discussion.

Mayor Stockton introduced this item. David Hales, City Manager, noted that the Council had been provided with a draft of this presentation on Friday, October 21, 2011. It was updated this date. No action would be taken this evening. The Tax Levy proceeded the budget. The Council would be provided with an early budget preview and challenges. He cited the slow economic recovery.

Tim Ervin, Performance Auditor & Budget Manager, had prepared a PowerPoint presentation. He planned to address the highlights. He directed the Council to the Definitions of Commonly Used Terms. He noted that the City was a small percentage of each property tax dollar, (approximately .14 per \$1.00 – see Allocation of Total Tax Levy Dollar Chart). The Public Library equaled approximately .03 per \$1.00 for a total of .17 per \$1.00. The majority of property taxes went to the public schools, approximately .60 per \$1.00.

Mr. Ervin addressed the Allocation of Property Tax Levy by activity. He noted that there were seven (7) activities: 1.) General Corporate; 2.) Library; 3.) Police Pension; 4.) Fire Pension; 5.) Illinois Municipal Retirement Funds; 6.) Social Security and 7.) Bond & Interest Fund. The dollar assigned must be used as delineated. A pie chart of this data had also been provided, (see Percentage Allocation of Property Tax Levy).

Mr. Ervin addressed the EAV (Equalized Assessed Value) from 2000 through 2010. He cited the eleven (11) year average change in same at 5.49%. He noted that in recent years (since 2008) the percentage of change has been lower. A line chart had been provided which addressed the Property Tax Rate. This chart addressed the tax levy in terms of dollars received. Although the rate has been flat, the actual dollars received have increased due to the growth in EAV. He addressed the Dollar Chart which documented the allocation of the total property tax levy.

Mr. Ervin had prepared a sample property tax bill divided by activities, (see Example of Impact of Tax Levy).

Mr. Ervin noted the City's diversified revenue sources, (Home Rule Sales Tax, Sales Tax, Income Tax, Utility Tax). The Property Tax was the perfect tax as the Council sets the dollar amount. The other taxes cited were elastic. He added that most of the City's revenue sources were flat. He cautioned the Council that revenues and expenditures were not in balance.

Mr. Hales addressed the City's revenue outlook. Revenue was stagnant and/or declining. There was little to no growth in same. He cautioned that the General Assembly may go after LGDF (Local Government Distribution Funds) in its veto session. He restated that major revenue sources were flat. There were no new revenue dollars. The state has delayed its income tax payments to the City. Currently, the state was four (4) months behind. Total dollars owed equaled \$2 million.

Mr. Ervin had prepared a pie chart entitled Total Tax Revenue – Top Five Revenue Sources of the General Fund, (Sales Tax, Home Rule Sales Tax, Property Taxes, Income Tax, and Utility Taxes). This chart represented sixty-three percent (63%) of total revenue.

The tax levy process represented a significant action by the Council. He addressed the elements of the tax levy, (General Corporate, Library, Police and Fire Pensions). He also cited budget challenges in Fiscal Year 2013, (infrastructure projects, i.e. road resurfacing, major road projects and city facilities; vehicle and equipment replacement, i.e. fire trucks, refuse trucks; early retirement incentive payout; annual salary increase; and Bloomington Center for the Performing Arts funding).

Mr. Hales directed the Council to a handout which addressed street resurfacing. He recommended that the City double its annual expenditure on same.

Mr. Ervin addressed Pension Funding, (Challenges in FY 2012). The Governor had signed the bill which extended the amortization period for the unfunded portion for the police and fire pensions from 2033 to 2040. He recommended that the tax levy for same remain constant or be increased. He cited recent data regarding these pension funds. The funded ratio had improved slightly. He directed the Council to three (3) bar charts, (Contribution Allocation Police Pension Fund; Funding Percentage for Suburban and Downstate Police Pensions; and Funding Percentage for Suburban and Downstate Fire Pensions). The first chart documented the three (3) funding sources for these pension funds: Employee Contributions, Employer Contributions and Investment Income. The largest funding source was from Investment Income. He noted that investments fell in 2008. The following two (2) charts had been prepared by the Illinois Municipal League. These charts documented the funding percentage.

In closing Mr. Ervin addressed policy questions for the Council. He presented the Council with options regarding the tax levy. He also addressed long term financial planning.

Mr. Hales recommended that the Council kept the tax levy flat. The City also needed to maintain its pension contributions.

Bill Wetzel, Library Board member, addressed the Council. He was accompanied this evening by Georgia Bouda, Library Executive Director, and various Library Board members. He noted that there was an ad hoc committee in place. This group needed to schedule another meeting. The Library hoped to expand its facilities. Such action would require the Council's assistance and support. The Library budget included a modest salary increase. The Library would repay the City's loan for the building's addition and remodeling. The Library was developing a capital fund. He hoped that the Library would retain the Council's support.

He complimented the Library's staff. He noted the volume of business. There had been little turnover. He acknowledged their commitment. He welcomed the Council's questions. He noted that the Library's budget had been approved by the Board. He believed that a good strong full service library was important to the City. The Library provided a variety of services. It offered a good product. He restated the need for the Council's support of the Library.

Mayor Stockton opened the floor for Council discussion/questions.

Alderman Fruin questioned if there was a calendar for detailed discussions. Mr. Hales informed the Council that there would be a Work Session on November 14, 2011. The estimated tax levy would be adopted that evening. He restated his recommendation to leave the tax levy flat. He welcomed the Council's feedback. The November 14, 2011 Work Session would allow time for Council discussion.

Alderman Fazzini noted the ad hoc committee regarding the Library. Mayor Stockton stated that there would be additional meetings. Alderman Sage suggested that the next meeting be held prior to the November 14, 2011 Work Session. Mr. Wetzel cited that attempts were underway to schedule same.

Alderman Schmidt questioned the option of a flat tax levy. She noted rising pension costs. She questioned absorption of pension costs upon other revenue sources. Mr. Hales stated that the General Fund would absorb these costs. He added his belief that these costs would be declining. The City would retain pension funding at its current level.

Alderman Mwilambwe noted various deficits in the City's Enterprise Funds. He questioned if there were plans to address same. Mr. Hales noted the importance of a future long term financial plan. The sewer rate would increase over the next couple of years. The Sewer Fund should end up in the black. He noted the need for Master Plans, (sewer, storm water, etc.). These plans would address a rate study, operating and maintenance (O & M) costs, etc. These funds should be self supporting through fees charged. He recommended that the parking fund be returned to the General Fund. Fees do not cover O & M and capital costs. This is a subsidized service.

Mr. Ervin addressed insurance and actuarial studies for IBNR (Incurred But Not Reported). Losses have been higher than anticipated. He cited an annual transfer of \$250,000 from the General Fund.

Mr. Hales addressed the new self insured model. The City continued to work with its third party administrator.

Alderman Sage cited the impact of unfunded mandates from the federal and state levels of governments. He also addressed Enterprise Funds. It appeared that expenses exceeded income. The City needed to set priorities. The public was tapped out.

Mayor Stockton noted that there were expenses beyond the City's control. He also cited unfunded mandates.

Alderman Stearns echoed Alderman Sage's comments. She cited the City's cost of living. She specifically cited sewer and water. She questioned an expansion of infrastructure funding with a flat tax levy. There would have to be budget reductions.

Mr. Hales recommended that the Council focus on the Enterprise Funds. Fees must cover O & M plus capital. These funds should not be subsidized by the General Fund. For the City to maintain its integrity, it should not defer O & M and capital needs. He cited the solid waste management fee which only covered half the cost of this program. He cited the importance of performance excellence/managed competition. The City needed to provide good value. He noted the status of the City's infrastructure. He acknowledged the lack of funding. The Council needed to set priorities. The City needed to develop a financial plan. The focus must be on the City's core services. The City needed to refine its long term financial plans. In addition, the City needed to address its long term capital costs.

Mayor Stockton stated that every year there simply was not enough funds. The Council needed to set priorities and subsidy levels. He thanked the Library board members for attending this evening's meeting.

The following was presented:

SUBJECT: An Ordinance Providing for Demolition Permit Schedules and Remedies

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: Protracted demolitions are often unsightly, may at times pose a danger to public health and safety, and can have a negative effect on the economics and aesthetics of the surrounding community. This Ordinance aims at reducing the number and length of protracted demolitions by requiring that each demolition permit have a specific deadline for completion based upon factors enumerated in the Ordinance relating to the size, location and composition of the structure being demolished.

A contractor or owner may obtain an extension of the demolition permit deadline based upon good cause. Any extension needs to be in writing, with the reasons for the extension stated and must contain a specific date for performance. The Ordinance also requires demolition contractors to obtain a performance bond or irrevocable letter of credit naming the City as obligee, in the event the project is not completed in a timely fashion. Waivers are available for smaller demolition projects where the contract for demolition is valued at less than \$25,000. Funds from these guarantees will allow the City, after having obtained consent from the property owner or the appropriate court order, to complete the project.

In addition to the deadline and performance bond requirements, the Ordinance imposes fines from \$200 to \$1,000 per day against the contractor, owner or both, for each day that the demolition remains incomplete past expiration of the permit. This provision is intended to encourage compliance with permit deadlines. In the event the deadline cannot be met, it will encourage contractors, through the process of applying for an extension, to keep the City informed as to the reasons a demolition is delayed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: No specific community groups have been consulted in any formal sense. Research has been conducted into ways other municipalities encourage timely completion of demolitions. Staff intends to solicit input and, if necessary, make changes to the Ordinance if needed.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

George D. Boyle
Assistant Corporation Counsel

Mark Huber
Director of PACE

David A. Hales
City Manager

ORDINANCE NO. 2011 - 48**AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 10**

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

SECTION 1. That a portion of Bloomington City Code Chapter 10 be amended to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

SEC. 105.10 DEMOLITION PERMITS ~~DEMOLITION WORK BOND.~~

(a) — ~~Requirement. Before any permit required by this Article is issued granting authority to demolish a building or structure, the person engaged in the work of demolishing the same shall file with the Planning and Code Enforcement (PACE) Department a copy of a performance bond with a surety company as surety naming the person for whom the work is done as obligee to guarantee faithful performance of the terms and conditions of the permit and all applicable federal, state or local regulations and to correct or complete a demolition operation when the demolition contractor fails or is unable to do the same upon written notice from the City. Such bond may be written for one or more demolition projects and shall be in an amount of not less than 100% of the amount of the demolition contract. (Ordinance No. 2008-63)~~

(b) — ~~Permit. No permit shall be issued for any demolition work until such bond is filed. Upon the filing of such bond and certificate of insurance, as provided in Section 110.5, the person engaged in the work of demolition such buildings and other structures shall obtain permits for such demolition operations as are authorized under the bond, provided, however, that in case of an accident or casualty in the progress of any demolition operations carried on under any permit so issued or the happening of any circumstances which might, in the opinion of the Director of Planning and Code Enforcement, render such bond inadequate, the Director may in his discretion require such additional bond as he may deem necessary to fully insure satisfactory completion of the project before he allows the work to proceed or before any additional permits are issued by him. In lieu of a bond required under this subsection, a certified or cashier's check in the amount of the bond payable to the City of Bloomington shall be deposited with the City at the time of application for the demolition permit. Such amount of said check as is not required for satisfactory completion of the project will be refunded to the applicant upon completion. (Ordinance No. 2000-41)~~

(c) — ~~Waiver. The foregoing requirement of bond may be waived at the discretion of the Code Official/Building Official where:~~

(1) — ~~the estimated cost of demolition of a structure, including removal of the debris and clearing the site, is less than Twenty Five Thousand Dollars (\$25,000.00);~~

(2) — ~~no extra hazardous conditions exist; and~~

(3) — ~~the demolition permit is being sought by the owner of the structure. (Ordinance No. 2008-63)~~

SEC. 105.10.1 PURPOSE AND SCOPE.

The City Council finds that prolonged demolition operations can be unsafe, unsightly and can have a deleterious effect on surrounding areas and neighborhoods. The Council therefore finds that it is in the public interest that ordinances be enacted providing for demolitions to be accomplished in a safe and expeditious manner. To accomplish this goal, the City Council finds it is necessary to require demolition permits establishing timelines for completion of demolition operations and remedies in the event deadlines are not met.

SEC. 105.10.2 DEMOLITION PERMIT REQUIRED.

A demolition permit shall be required before any person proceeds with any of the following work:

- (a) Demolition or removal of 50% or more of the floor area of any building (or buildings on the same lot); or
- (b) Demolition or removal of 50% or more of the structural elements or the walls or façade of a building (or buildings on the same lot).

SEC. 105.10.3 APPLICATION FOR PERMIT; SCHEDULE FOR DEMOLITION REQUIRED.

(1) Every application for a demolition permit shall contain a proposed schedule for demolition indicating, at a minimum, the date upon which demolition activities will commence and a date by which the demolition will be completed. Said schedule shall be reviewed by the Director of Planning and Code Enforcement, who may approve, reject or propose modifications thereto. The Director's determination shall be in writing and, in the event the schedule is rejected or modifications are proposed, shall state the reasons for the determination. No permit for demolition shall issue without containing a schedule for demolition approved by the Director of Planning and Code Enforcement and the signature of the demolition contractor or an authorized representative agreeing to perform the demolition in accordance with the dates stated in the schedule.

(2) In determining an appropriate schedule for demolition, the following factors shall be considered:

- (a) The composition and size of the structure or structures to be demolished;
- (b) The location of the demolition site;
- (c) The presence of site contaminants, such as asbestos, lead-based paint or stored underground fuel;
- (d) Environmental considerations involved in the demolition or disposal of wastes therefrom, including efforts made to recycle materials;

- (e) The effect demolition, or an extended period of demolition, will have on the surrounding area.

(3) Extension of time. For good cause shown, and with consideration of the factors specified in paragraph 2 of this Section, the Director of Planning and Code Enforcement may extend the demolition permit. All permit extensions shall be in writing, shall state the reason or reasons for the extension, shall specify a date by which the demolition will be completed and the permit will expire, and shall bear the signatures of the Director of Planning and Code Enforcement and the demolition contractor or an authorized representative thereof.

SEC. 105.10.4 DEMOLITION WORK BOND.

(1) Requirement. Before any permit required by this Article is issued granting authority to demolish a building or structure, the demolition contractor or the owner of the property shall file with the Department of Planning and Code Enforcement (PACE) a copy of a performance bond or an irrevocable letter of credit naming the City of Bloomington as obligee, guaranteeing faithful and timely performance of the terms and conditions of the permit, as well as compliance with all applicable federal, state and local laws and providing for the paying of the amount of said bond or irrevocable letter of credit to the City of Bloomington in the event the demolition is not completed within the time specified in the demolition permit, or any extension of said permit allowed by the Director of Planning and Code Enforcement. Such bond or irrevocable letter of credit shall be in an amount of not less than 100% of the amount of the demolition contract.

(2) Permit. No permit shall be issued for any demolition work until such bond or irrevocable letter of credit is filed. Upon the filing of such bond or irrevocable letter of credit and certificate of insurance, as provided in Section 110.5 of this Chapter, the person engaged in the work of demolition of such buildings and other structures shall obtain permits for such demolition operations as are authorized under the bond or irrevocable letter of credit. In case of an accident or casualty in the progress of any demolition operations carried on under any permit issued or the happening of any circumstances which might, in the opinion of the Director of Planning and Code Enforcement, render such bond or irrevocable letter of credit inadequate, the Director may in his discretion require such additional bond or irrevocable letter of credit as he may deem necessary to fully insure satisfactory completion of the project before he allows the work to proceed or before any additional permits are issued by him.

(3) Waiver. The foregoing requirement of bond may be waived at the discretion of the Code Official/Building Official where:

- (a) the estimated cost of demolition of a structure, including removal of the debris and clearing the site, is less than Twenty Five Thousand Dollars (\$25,000.00);
- (b) no extra hazardous conditions exist; and
- (c) the demolition permit is being sought by the owner of the structure.

(4) Certified or cashier's check. In lieu of the a bond or irrevocable letter of credit required under this section, a certified or cashier's check in the amount of the required bond or irrevocable letter of credit payable to the City of Bloomington may be deposited with the City at the time of application for the demolition permit. Such amount of said check as is not required for satisfactory completion of the project will be refunded to the applicant upon completion.

SEC. 105.10.5 UNFINISHED DEMOLITION; PENALTIES.

(1) Whenever the Director of Planning and Code Enforcement determines that a demolition remains incomplete following expiration of a demolition permit, or any extension thereof, he shall send notice by first class mail to the demolition contractor, the owner of the property and any surety for the performance of the demolition that said permit has expired and that the demolition is incomplete. Said notice shall briefly describe the parts of the demolition that remain unfinished and shall give the contractor and the owner of the property 21 days from the date of the notice to complete the demolition, including all site cleanup. The notice shall further advise that if the demolition remains unfinished 21 days after the date of said notice, the City of Bloomington shall declare a failure of performance and shall seek funds from any surety holding a performance or irrevocable letter of credit.

(2) If the demolition remains uncompleted after 21 days from the date of the notice required in paragraph 1 of this section, the contractor and/or property owner may be fined in the amount of no less than \$250.00 and no greater than \$1,000.00 for each day the demolition remains unfinished. After expiration of the period stated in said notice, the Director of Planning and Code Enforcement shall declare a failure of performance and shall seek funds from any surety holding a performance or irrevocable letter of credit necessary to complete the demolition project. The Legal Department shall file an action in Circuit Court seeking an Order requiring the owner of the property to complete demolition or allowing the City to complete demolition and place a lien upon the premises for the costs of said demolition as provided by law, in the event said costs exceed those provided by any surety or a performance bond or irrevocable letter of credit.

SECTION 2. 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 10 days after date of passage and approval.

PASSED this 24th day of October, 2011.

APPROVED this 25th day of October, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Mayor Stockton introduced this item. David Hales, City Manager, added that this ordinance was drafted at the Council's request. The City Code currently did not include deadlines. In addition, the City would require security as a remedy to be drawn upon if necessary. New elements addressed a demolition schedule. He also noted the moratorium's deadline.

George Boyle, Asst. Corporation Counsel, addressed the Council. The moratorium deadline was November 9, 2011. He addressed the proposed ordinance. It included specific deadlines. Factors contained in the ordinance included location, size, composition, etc. The aim of the proposed ordinance was to reduce protracted demolitions. There were concerns expressed regarding appearance and safety. The City would be listed as obligee on the performance bond. There can be fines assessed. The City would also have the ability to hire a contractor to complete the work.

Alderman Sage questioned applications for extensions. Mr. Boyle noted that good cause must be shown. The request must be in writing. Factors must be referenced. The proposed ordinance would impact a variety of projects. It also provided flexibility. Alderman Sage noted the City's efforts to promote recycling. This must be done in a reasonable manner. Mr. Boyle noted that recycling was encouraged and can also delay the process.

Alderman Purcell read from the proposed ordinance. He believed that the City would be in the forefront on this issue. He noted time limits and fines. He questioned if there were a number of problem properties. Mr. Hales noted one (1) bad incident. He cited that national recession. The City had a number of older buildings. He believed that this was a growing trend. He also cited residential neighborhoods. He expressed his support for time limits. This was a safety issue. Demolitions needed to be completed in a timely manner. There were individuals present who wanted to address the Council.

Alderman Fazzini noted that the City was going where the private sector already was. Mr. Boyle stated that the proposed ordinance would tighten up the City's existing code. The contractor had the ability to request an extension in writing. The City has heard concerns from the public.

Alderman Fruin recommended that the Council suspend the rules to provide Tom Kirk with the ability to address the Council. He read from the Council memorandum. He added that Mr. Kirk be granted five (5) minutes to address the Council.

Motion by Alderman Fruin, seconded by Alderman Stearns to suspend the rules to allow someone to speak.

Motion carried.

Tom Kirk, Kirk C & D, 705 N. East St., addressed the Council. He cited the Verizon building located at 1312 E. Empire St. This project was not the same as a bid project. The proposed ordinance commenced the process with the City's PACE (Planning & Code Enforcement) Department. He questioned the process if there was a disagreement between the contractor and PACE staff. He noted that his firm would approach the next large building demolition differently. He added that the time line should commence when the structural work began.

Alderman Sage addressed project duration and path escalation. Mr. Kirk expressed his belief that the issues with the Verizon building had to do with the property's ownership. His firm has never missed a third party demolition deadline. Alderman Sage questioned Mr. Kirk's comfort level with the process. He recommended that the private demolition companies meet with City staff to make any necessary adjustments.

Motion by Alderman McDade, seconded by Alderman Schmidt to return to order.

Motion carried.

Mr. Hales noted that if there was a disagreement the demolition company would meet with the Director of PACE. Mr. Boyle added that there was nothing specific in the proposed ordinance. The written request must address factors, there would be a discussion and hopefully an agreement reached. The PACE Director is not required to issue a permit. He added that demolitions were needed.

Alderman McDade represented Ward 5. There were numerous buildings in process for demolition. She also noted the number of vacant buildings. The City needed to answer the public. The City needed to set expectations. She had spoken with District 87's school officials. She noted the moratorium. She cited her concerns regarding demolitions. She believed this issue stood in the way of revitalization.

Alderman Sage cited a line of sight. City staff needed to solicit input from public and private companies.

Motion by Alderman McDade, seconded by Alderman Fazzini that the Ordinance be 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:

Introduction to Residential Fire Sprinkler System – Presentation by Mark Huber, Director of PACE and Mike Kimmerling, Fire Chief.

David Hales, City Manager, introduced this item. He cited upcoming meeting dates.

Mark Huber, Director – PACE, reviewed the history. In the 1970's, the City started with the national building code. It then moved to BOCA. Today, the City operated under the International Code. Generally, these codes were adopted as written. He also cited the City's strong relationship with the Town of Normal. The goal was a level playing field between the two (2) communities. Sprinkler systems were first introduced into commercial buildings. Sprinkler systems address building and life safety. Residential single family buildings would be the last step. It is included in the 2009 International Code with an effective date of January 1, 2011. Eighty-nine percent (89%) of fire deaths occur in homes. People are injured and/or die every year. He cited the loss of property. He noted the packet of information provided to the Council. He cited two (2) reports regarding municipal areas, (Scottsdale, AZ and Prince George County, MD), with residential sprinkler codes. He cautioned the Council that there would be opposition to same. He believed that a number of issues would be raised. He acknowledged that smoke detectors can accidentally discharge. He cited home owners' insurance savings. The Council was shown a three (3) minute video, Old and New Building Construction by galiean251 found on YouTube.

Mike Kimmerling, Fire Chief, addressed the Council. He noted today's lightweight construction used in newer homes. He cited economic issues. These construction standards were more dangerous for the public and firefighters. Sprinkler systems would provide more time. He addressed response times, (three to six minutes). At six (6) minute response time, three (3) firefighters would be on scene. The next company, (three firefighters) would not arrive for an additional four (4) minutes. The City does not have redundant staff.

Alderman Anderson anticipated resistance. There had not been a single fatality in a newly constructed home. He questioned the value of same. He believed that the home builders had the expertise. Chief Kimmerling addressed the issue of fire deaths. He cited the death of two (2) children in a garage fire. At the time, gas fired appliances were allowed in garages. Cities have allowed a number of construction changes. He did not support waiting to adopt the 2009 International Code.

Alderman Anderson believed that the City of Champaign adopted this code without residential sprinklers. Mr. Huber could not confirm same. He added that the state fire code might require residential sprinklers. He believed that the state had no one to enforce same.

Alderman Anderson questioned making residential sprinklers systems mandatory. Sprinkler systems could be offered with the owner making the final decision. Chief Kimmerling restated that sprinkler systems were a life safety issue. He noted that two (2) means of egress and smoke detectors are required today. These items have been put into the code.

Alderman Anderson cited contact from realtors, home builders, homeowners, etc.

Alderman Stearns questioned inspection fees and taxes. Mr. Huber noted that testing was required in commercial buildings. A company must be hired to perform same. PACE staff performs inspections. The City's Water Department provided the water supply. There was no fee for the fire inspection.

Alderman Stearns restated that a professional firm would have to be hired to inspect. She questioned publication and notification regarding the various meetings. Mr. Huber stated that notice was published in the Pantagraph. A post card mailing was done. There would be two (2) public meetings on Thursday, October 27, 2011 (10:00 a.m. and 6:00 p.m.). There would be a live fire demonstration at each of these meetings in a City parking lot. The Construction Board of Appeals would hold a Public Hearing on the International Building Code on Monday, November 7, 2011 at 3:00 p.m. This board would make its recommendation to the Council.

Alderman Fazzini believed the entire Council had been invited to meet with the home builders association. Residential sprinklers were a life safety issue.

Alderman Purcell questioned residential additions. Mr. Huber restated that residential sprinklers applied to new construction only.

Mayor Stockton informed the Council that his home has a residential sprinkler system. It is inspected annually. The charge was minimal. He cited his concern regarding an accidental release. He added the peace of mind knowing that a fire will not spread. He noted the price of a human life. He questioned if a system went off who would be responsible to deactivate same.

Mr. Huber encouraged the Council to review the packet of information provided. The Council will need to separate fact from fiction.

Alderman Mwilambwe questioned fact/fiction regarding insurance rates. Mr. Huber restated the possible reduction in the cost for home owners insurance. The City needed to keep up with the latest International Code. Failure to do so could impact the City's ISO rating which in turn would result in insurance rate increases.

Alderman Sage expressed his interest in a complete summary. This summary should address the impacts of residential sprinkler systems, (financial and home owners). Mr. Huber cited the cost of a residential fire: \$3,000 - \$5,000 with a sprinkler system and \$10,000 without one. Alderman Sage noted that staff was quoting national figures. (Packet included Fire Loss in the US during 2010 and US Experience with Sprinklers, May 2011, National Fire Protection Association.) He was interested in the City's experience. He cited individual homeowner's property rights. Mr. Huber restated that this requirement was contained in the International Code. The City was not in a bubble. It was a question of when. Chief Kimmerling addressed response times. These times were critical in an emergency. The City would have the ability to increase response times due to residential sprinkler systems. In addition, smaller crews would be able to address a residential fire. He cited Normal's experience with two (2) major residential fires in new homes. These homes did not fair well.

Alderman Fruin commented on his interest in more objective information from the insurance industry. He cited safety issues.

Alderman Fazzini added that no one has to install a sprinkler system in an existing home.

Alderman McDade did not believe that residential sprinklers were a property rights issue. City firefighters respond to residential fires. These individuals were City personnel. These can be life and death situations.

Mayor Stockton restated the various meetings/opportunities to become more informed.

MAYOR'S DISCUSSION: Mayor Stockton commented on the Council's informal new rules for conducting meetings. He believed they were worth trying. The goal was to shorten the meeting's length.

He informed the Council that the Liquor Commission would hold a Work Session on Tuesday, October 25, 2011 at 4:00 p.m. in the Police Department's Osborn Room. The topic was the Downtown Entertainment Task Force (DETF) report.

CITY MANAGER'S DISCUSSION: None.

ALDERMEN'S DISCUSSION: Alderman Fruin congratulated the Mayor on keeping the meeting moving. The Consent Agenda was quickly addressed. He believed that the Council would learn from one another.

He informed the Council that his health insurance deductible would be increased to \$1,500 in 2012. He cited the difference between private versus public sector benefits.

He also recognized the media release regarding recent armed robberies. The suspect was recognized through public involvement.

Alderman Fazzini cited his attendance at two (2) summits, the College Town Summit and TransSummit. The College Town Summit addressed alcohol consumption issues in college towns. The TransSummit was hosted by the EDC (Economic Development Council) and addressed various transportation issues within the McLean County Community.

He informed the Council that he had visited the Downtown Bars on Friday night with Liquor Commissioners Buchanan and Tompkins.

Alderman McDade thanked the Mayor for his leadership. She also thanked the Council and City staff. She expressed her hope for continued reasonable meeting length.

Alderman Mwilambwe echoed Alderman McDade's comments.

Motion by Alderman Anderson, seconded by Alderman Purcell, that the meeting be adjourned. Time: 9:44 p.m.

Motion carried.

**Tracey Covert
City Clerk**

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