

**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, August 22, 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.

The following was presented:

2011 Beautification Awards.

Mayor Stockton introduced this item. He noted that the Beautification Committee's annual awards recognized individuals and businesses that have enhanced the appearance of their properties exteriors which in turn beautified neighborhoods. He hoped their efforts and the City's recognition of same would inspire others.

Stan Cain, Beautification Committee Chair, addressed the Council. This year thirteen (13) residential and two (2) commercial properties would be recognized. Mr. Cain recognized the Beautification Committee members who were present at this evening's meeting: Tammi Winters, Martha Burk, Marti Dulac, Julie Morton, and Sue Floyd.

The following individuals were presented with residential awards: Lynn Quick, 34 Lone Oak Ct.; Ken & Carol Kashian, 510 E. Grove St.; Wyn & Valmere Knapp, 1401 E. Washington St.; Greg & Debby Ashby, 1309 N. Clinton Blvd.; Tom & Sally Jacob, 35 Sunset Rd.; Andy & Marie Streenz, 611 N. Lee St.; Beth Smith, 1305 N. Livingston St.; and Aleta Nord, 335 E. Lincoln St. All of these individuals were present to receive their awards. In addition residential awards were presented to the following individuals: Randy & Judy Stearns, 316 E. Locust St., Alderman Stearns accepted the award on their behalf; Dennis French & Hanne Heckmann, 1408 N. Clinton Blvd, not present; Jill Vernon & Edward Griffith, 2014 S. Morris Ave., Alderman Fazzini accepted the award on their behalf; Doug & Kim Baker, 35 Hayloft Rd., not present; Diana Krieg & Dawn Peters, 402 E. Grove St., Alderman Schmidt accepted the award on their behalf.

The Beautification Committee presented awards to the following commercial properties: Wendall Niepagen Greenhouses & Garden Center, 2010 Fox Creek Rd. Lee & Kathy Niepagen were present to receive their award. Dairy Queen Grill & Chill Restaurant, 411 N. Veterans Pkwy. Mr. & Mrs. Wendell Bradley were present to receive their award.

Mayor Stockton thanked the Beautification Committee for their service to the City. He also thanked the award recipients for their efforts to make the community more visually attractive. Mr. Cain thanked the Mayor and Council for their support of this committee. He noted the number of nominations and the fact that each year the process had become more competitive.

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 August 8, 2011, Work Session of May 23, 2011 and Executive Session Minutes from May 26, June 8, and June 22, 2009

RECOMMENDATION: That the reading of the minutes of the previous Council Proceedings of August 8, 2011, Work Session of May 23, 2011, and Executive Session Minutes from May 26, June 8, and June 22, 2009 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of August 8, 2011, Work Session of May 23, 2011, and Executive Session Minutes from May 26, June 8, and June 22, 2009 have been reviewed and certified as correct and complete by the 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 Fazzini, seconded by Alderman Anderson that the reading of the minutes of the previous Council Meeting of August 8, 2011, Work Session of May 23, 2011 and Executive Session Minutes from May 26, June 8, and June 22, 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.

FINANCIAL IMPACT: Total disbursements to be approved \$5,415,157.53, (Payroll total \$1,647,677.24, and Accounts Payable total \$3,767,480.29).

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 Fazzini, seconded by Alderman Anderson that the bills and payroll be allowed and 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 Planning Commission and to the Beautification Committee

RECOMMENDATION: That the Appointments be approved.

BACKGROUND: I ask your concurrence in the following appointments:

J. Alan Balmer, 16 Fountain Lake Court, to the Planning Commission as a representative for the southeast quadrant. His four (4) year term will begin August 22, 2011.

Josh Barnett, 2322A Rainbow Ave, to the Beautification Committee. His four (4) year term will begin August 22, 2011.

Marlene Gregor, 107 W. Market St, to the Beautification Committee. Her four (4) year term will begin August 22, 2011.

Patricia Morin, 1405 N. Clinton Blvd, to the Beautification Committee. Her four (4) year term will begin August 22, 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 J. Balmer. Mr. Balmer would be appointed to the Planning Commission to represent the City's southeast quadrant. Mr. Balmer had been a City resident for nineteen (19) years. He had a unique skill set, (management experience, past service on various boards, and the desire to make the City a better place).

Mayor Stockton introduced Josh Barnett. Mr. Barnett would be appointed to the Beautification Committee. Mr. Barnett had resided in the City for three (3) years. He lived in Ward 3. Mr. Barnett believed in community involvement. It was noted that the 2011 Beautification Awards had been presented at this evening's meeting.

Mayor Stockton introduced Patricia Morin. Ms. Morin would also be appointed to the Beautification Committee. Ms. Morin had served on other boards and brought that experience to the Beautification Committee. She was pleased to have the opportunity to serve the City.

Mayor Stockton noted that Marlene Gregor would also be appointed to the Beautification Committee but was unable to attend this evening's meeting

Motion by Alderman Fazzini, seconded by Alderman Anderson 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: Emergency Repairs to the Engine on Crash Rescue Truck 1 for the Fire Department

RECOMMENDATION: That the payment in the amount of \$19,536.38 for the emergency engine repair to the Engine on Crash Rescue Truck 1 to Central Illinois Trucks Inc. be approved and the Purchasing Agent be authorized to issue a Purchase Order for same.

BACKGROUND: During routine maintenance, Fire Department Unit CR-1 (2002 Oshkosh Striker Crash Rescue Unit) stationed at the airport, was found to be losing engine coolant out of the radiator overflow. Testing found engine combustion gas getting in to the cooling system from a blown head gasket. Federal regulations require that there be one (1) crash rescue truck in operation at the airport at all times. Knowing the complexity of this unit, the time, and the tools necessary, (these tools are unavailable in the Fleet Division) staff requested that Central Illinois Trucks, Inc. perform the repairs.

The cylinder head and cylinder liner heights were removed and found to be out of specification. This was caused by movement of the cylinder lines from head gasket being blown. Two (2) of the six (6) cylinder packs and cylinder head had to be replaced, the cylinder block had to have

the counter bores cut, and shims installed under the liners. This repair puts the cylinder heights at the same level in order to provide even clamping load of the new head gasket.

The unit is not scheduled by Central Illinois Regional Airport to be replaced for two (2) more years. Upon completion of the repairs a Fleet Technician inspected the work and checked operation of the unit before it was put back into service.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public Works Fleet Division and Central Illinois Trucks, Inc.

FINANCIAL IMPACT: The repair of this engine was not budgeted. The payment will be made from the Fire Department Maintenance line item #15210-70520.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed By:

Financial review by:

Jim Karch
Director of Public Works

Mike Kimmerling
Fire Chief

Timothy Ervin
Director of Finance

Recommended by:

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Fazzini that the payment to Central Illinois Trucks for the emergency repair to the engine on Crash Rescue Truck 1 in the amount of \$19,536.38 be approved and the Purchasing Agent 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: Purchase of One (1) Chevrolet Tahoe and one (1) new Police Patrol Car for the Police Department

RECOMMENDATION: That one (1) 2012 Chevrolet Tahoe be purchased from Currie Motors, Forest Park, IL using the Suburban Purchasing Cooperative Contract, plus necessary equipment for a total amount of \$35,848; and one (1) patrol car be purchased from Green Chevrolet, Jacksonville, using the State of Illinois Joint Purchasing Contract, plus necessary equipment for a total amount of \$25,704.16, the Purchasing Agent be authorized to issue Purchase Orders for same, and the Resolution adopted.

BACKGROUND: The Police Department has a 2002 Ford Excursion Four Wheel Drive that is scheduled for replacement in FY 2012. The unit is a vital piece of equipment during snow and ice events. The Police Department FY 2012 Budget G14110-72130 contains \$198,450 for replacement of seven (7) marked units. This year \$128,520 has been spent for five (5) patrol cars leaving a balance of \$69,930. The purchase price of the Tahoe using the Suburban Purchasing Cooperative Contract is \$33,699. The equipment to be installed in the unit will cost \$2,149 for a total of \$35,848. The Suburban Purchasing Cooperative is a cooperative of 150 municipalities in the six (6) county areas of Northern Illinois. Every municipality and government agency in the State are authorized to participate in this program.

After this purchase, a balance of \$34,082 remains in this line item which will be used to replace one (1) patrol car at a cost \$20,874.76. The equipment to be installed in this unit will cost \$4,829.40 for a total of \$25,704.16 using the State of Illinois Joint Purchasing Contract. The City has successfully used this Cooperative and Joint Purchasing Contract in the past. The units that are being replaced will be declared surplus and sold at public auction.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The Police Department's FY 2012 Budget G14110-72130 has \$198,450 budgeted for replacement of seven (7) marked units. This year \$128,520 has been spent for five (5) patrol cars leaving a balance of \$69,930. The purchase price of the Tahoe is \$33,699. The equipment to be installed in the unit will cost \$2,149 for a total of \$35,848.

After this purchase, a balance of \$34,082 remains in this line item which will be used to replace one (1) patrol car at a cost \$20,874.76. The equipment to be installed in this unit will cost \$4,829.40 for a total of \$25,704.16. These vehicles will be financed through a five (5) year capital lease.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial reviewed by:

Jim Karch
Director of Public Works

Randall McKinley
Police Chief

Timothy Ervin
Director of Finance

Recommended by:

David Hales
City Manager

RESOLUTION NO. 2011 - 36

A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND AUTHORIZING THE PURCHASE OF ONE (1) 2012 CHEVROLET TAHOE FROM CURRIE MOTORS, FOREST PARK, IL USING THE SUBURBAN PURCHASING COOPERATIVE CONTRACT, PLUS NECESSARY EQUIPMENT FOR A TOTAL AMOUNT OF \$35,848; AND ONE (1) PATROL CAR FROM GREEN CHEVROLET, JACKSONVILLE, USING THE STATE OF ILLINOIS JOINT PURCHASING CONTRACT, PLUS NECESSARY EQUIPMENT FOR A TOTAL AMOUNT OF \$25,704.16

WHEREAS, the Suburban Purchasing Cooperative (SPC) is a joint purchasing program sponsored by the Northwest Municipal Conference (NWMC), DuPage Mayors & Managers Conference (DMMC) South Suburban Mayors and Managers Association (SSMMA), and Will County Governmental League (WCGL). Together the SPC represents one hundred fifty (150) municipalities and townships in the Chicagoland Region; and

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.

THEREFORE, be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and the Purchasing Agent be authorized to Purchase one (1) 2012 Chevrolet Tahoe from Currie Motors, Forest Park, IL using the Suburban Purchasing Cooperative Contract, plus necessary equipment for a total amount of \$35,848; and one (1) Patrol Car from Green Chevrolet, Jacksonville, using the State of Illinois Joint Purchasing Contract, plus necessary equipment for a total amount of \$25,704.16.

ADOPTED this 22nd day of August, 2011.

APPROVED this 23rd day of August, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

Motion by Alderman Fazzini, seconded by Alderman Anderson that one (1) 2012 Chevrolet Tahoe be purchased from Currie Motors, Forest Park, IL using the Suburban Purchasing Cooperative Contract, plus necessary equipment for a total amount of \$35,848; and one (1) patrol car be purchased from Green Chevrolet, Jacksonville, using the State of Illinois Joint Purchasing Contract, plus necessary equipment for a total amount of \$25,704.16, the Purchasing Agent be authorized to issue Purchase Orders 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 Four (4) Automated Side Loading Recycle Trucks for the Public Works Solid Waste Division

RECOMMENDATION: That the bid be awarded to Cumberland Service Center Inc. Arlington Heights, IL., for four (4) 2012 Crane Carrier LDT-2-26 Chassis with Labrie Expert (t) 2000 Helping Hand Body installed in the amount of \$1,161,584 and the Purchasing Agent be authorized to issue a Purchase Order for same.

BACKGROUND: The Public Works Department's Solid Waste Division has four (4) 2001 International 4700 with G-S Products Bodies. As City finances were being addressed in the last few years, vehicle replacement of was pushed back several years. These units were scheduled for replacement in FY 2008. Replacement of these units has been delayed for an additional three (3) years. This resulted in increased life cycle cost to these units of \$159,273. Life cycle cost of maintenance equals the maintenance cost from the time the vehicle is purchased to when it is taken out of service. This additional life cycle cost is prohibitive since the estimated resale value of all four (4) existing trucks is approximately \$20,000.

In May 2010, the City went to a single stream recycling system which allowed for greater ease of recycling for citizens, increased truck compaction efficiency, fuel efficiency, and positioned the City for automated collection when purchasing new recycle trucks. Converting to automated

collection reduces the City's exposure to workman's compensation injuries and increased collection efficiencies.

On July 22, 2011 at 11:00 a.m. bids were opened and read. A total of ten (10) bids were received. Four (4) of the bids received were no bids, and one (1) bid was disqualified as it was only a partial bid. The five (5) qualifying bids are as follows:

Vendor	Side Loading Recycle Trucks
McNeilus	\$1,082,800.00
Cumberland Service Center**	\$1,161,584.00
R.N.O.W.	\$1,093,775.00
JX Peterbilt	\$1,062,708.00
JX Peterbilt	\$999,980.00

**Recommended

The 2012 Crane Carrier LDT-2-26 Chassis with Labrie Expert (t) 2000 Helping Hand Body is recommended for the following reasons:

1. The Town of Normal has had great success with the Labrie Helping Hand system over many years and has changed over to the Crane Carrier Chassis because of concerns over previously used chassis systems.
2. There is potential for intergovernmental cooperation and sharing of parts as needed with the Town if the City's equipment was the same.
3. The Crane Carrier Chassis does not have to be modified thereby nullifying the warranty to fit the Labrie Helping Hand body. The other chassis would have to be cut to fit the Labrie Helping Hand body.
4. This piece of equipment has been demonstrated successfully for staff.

Staff respectfully requests to accept the bid from Cumberland Service Center Inc. Arlington Heights, IL. The current units will be declared surplus and be sold at public auction. It will take approximately four to five (4 - 5) months to receive the new vehicles once they are ordered. Staff anticipates ordering new containers to be used with these vehicles in early 2012. The target date for providing service with the new containers and vehicles is May 2012.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the bid was published in the Pantagraph on July 5, 2011. Eleven (11) bid packages were provided. A total of ten (10) bids were received.

The City's legal department staff reviewed the purchase of these trucks in light of the potential for managed competition in the area of solid waste services provided by the City. Staff does not believe that this purchase will prohibit the City from moving forward with managed competition.

FINANCIAL IMPACT: FY 2012 had \$1,000,000 budgeted for replacement of the four (4) units. The total cost to purchase the Side Loading Recycle Trucks is \$1,161,584, which will be paid from the Public Works Department's Solid Waste Division 50700D-72130. The vehicles

will be financed through a five (5) year capital lease. The additional funds for this equipment will be added to the capital lease.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Jim Karch
Director of Public Works

Timothy Ervin
Director of Finance

Recommended by:

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Anderson that the bid for four (4) 2012 Crane Carrier LDT-2-26 Chassis with Labrie Expert (t) 2000 Helping Hand Body installed be awarded to Cumberland Service Center Inc., Arlington Heights, IL, in the amount of \$1,161,584 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: Analysis of Bids for Printing Services for the Bloomington Center for the Performing Arts (BCPA)

RECOMMENDATION: That the bid be awarded to Martin Graphics for printing the 2011-2012 BCPA season playbills in the amount of \$17,806, and the Purchasing Agent be authorized to issue a Purchase Order for same.

BACKGROUND: The BCPA prints unique playbills for each of its main stage events. The bids reflect the total cost for printing 15,000 program covers; an optional 5,000 additional program covers as needed; up to 1,000 playbills for each of twenty-four (24) performances with a maximum of twenty-eight (28) pages, and any associated delivery costs.

On August 9, 2011 at 11:00 a.m., bids were opened and read aloud. The results were as follows:

FIRM	Cover I	Cover II	Interior Pages	Delivery	Total
Martin Graphics*	\$1,348	\$738	\$15,720	\$0	\$17,806
Premier Print Group	\$1,050	\$539	\$24,192	\$1,200	\$26,981
AlphaGraphics	\$1,815	\$1,050	\$26,376	\$0	\$29,241
Bloomington Offset Process, Inc.	\$1,395	\$1,128	\$47,184	\$0	\$49,707
PIP Printing					No Bid

*Recommended

The BCPA has worked with Martin Graphics the past two (2) seasons and have been satisfied with their performance.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public Notice was published in the Pantagraph on July 28, 2011 and posted on the City's website. Bid packages were provided to eighteen (18) vendors. Five (5) bids were received, with one (1) company responding with a no bid.

FINANCIAL IMPACT: Total projected cost for this printing is not to exceed \$17,806. Funding is budgeted in account X21100-70740 for FY 2011 - 12. All costs will be offset by the sale of playbill advertising, reflected in account X21100-57390. Expected playbill advertising revenue is \$35,000.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

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

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Anderson that the bid be awarded to Martin Graphics for printing the 2011 - 2012 BCPA Season Playbills in the amount of \$17,806, 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: Analysis of Request for Proposals (RFP) for 2011 Streets, Alleys & Sidewalk Maintenance Contract (City Wide)

RECOMMENDATION: That the technicality be waived, the RFP prices for 2011 Streets, Alleys & Sidewalk Maintenance Contract submitted by Mclean County Asphalt Company, Inc., be accepted, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: To date, maintenance of City infrastructure that is beyond the capability of City crews was performed by a select group of contractors. The contractors were chosen by Public Works Department staff based upon the type of work, site conditions, contractor's experience and availability and other factors. Pursuant to the Council's request to bid this work, an RFP was released. Proposals for 2011 Streets, Alleys & Sidewalk Maintenance Contract were received until 10:00 a.m. Wednesday, July 6, 2011 in the office of the City Clerk. Four (4) proposals were received.

The RFP required that interested contractors submit a Statement of Qualifications which included their equipment, material suppliers, previously completed projects with references and relevant certifications or registrations. Some contractors did not submit the requested Statement of Qualifications. As recommended, staff believes this technicality should be waived. The contractor proposals were evaluated based upon various labor trade rates, material mark up and contractor qualifications. The labor trade rates were evaluated based upon total cost and previously completed maintenance work. The selected contractor was chosen based primarily upon the labor rate evaluation. The contractor proposal evaluation provided information about the contractor's resources and past experience with similar work.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: An RFP was advertised in The Pantagraph on June 22 and 29, 2011. Thirteen (13) RFP's were provided. A pre-proposal meeting was held at 10:00 a.m. on June 27, 2011 in the Public Works Department's conference room. Four (4) proposals were received.

FINANCIAL IMPACT: Although this project was not included in the FY 2012 Budget, funding for streets, alleys, & sidewalk maintenance was included in various fund budgets. The following funds and amounts will be encumbered for this work: \$50,000 in Water Transmission & Distribution Funds (5010-50120-70550); and \$50,000 in Street Maintenance Funds (1001-16120-70550).

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

Jim Karch, PE CFM
Director of Public Works

Timothy Ervin
Director of Finance

Craig Cummings
Director of Water

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporate Counsel

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Anderson that the technicality be waived, the RFP prices for 2011 Streets, Alleys & Sidewalk Maintenance submitted by McLean County Asphalt Company, Inc. be accepted, 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: Analysis of Request for Proposals (RFP) for 2011 Utility Maintenance Contract (City Wide)

RECOMMENDATION: That the technicality be waived, the RFP prices for 2011 Utility Maintenance Contract submitted by Hoerr Construction be accepted, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: To date, maintenance of City utilities that is beyond the capability of City crews was performed by a select group of contractors. The contractors were chosen by Public Works Department staff based upon the type of work, site conditions, contractor's experience and availability and other factors. Pursuant to the Council's request to bid this work, an RFP was released. Proposals for 2011 Utility Maintenance Contract were received until 10:00 a.m. Wednesday, July 6, 2011 in the office of the City Clerk. Four (4) proposals were received.

The RFP required that interested contractors submit a Statement of Qualifications which included their equipment, material suppliers, previously completed projects with references, and relevant certifications or registrations. Some contractors did not submit the requested Statement of Qualifications. As recommended, staff believes this technicality should be waived. The contractor proposals were evaluated based upon various labor trade rates, material mark up and contractor qualifications. The labor trade rates were evaluated based upon total cost and previously completed maintenance work. The selected contractor was chosen based primarily upon the labor rate evaluation. The contractor proposal evaluation provided information about the contractor's resources and past experience with similar work.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: An RFP was advertised in The Pantagraph on June 22 and 29, 2011. Thirteen (13) RFP's were provided. A pre-proposal meeting was held at 10:00 a.m. on June 27, 2011 in the Public Works Department's conference room. Four (4) proposals were received.

FINANCIAL IMPACT: Funding for this work was included in the FY 2012 Budget as follows: \$50,000 in Water Transmission & Distribution; \$150,000 in Sewer Maintenance & Operation; and \$130,000 in Storm Water Management. Since some expenditures have already occurred from these funds, the following amounts will be encumbered for this contract: \$50,000 in Water Transmission & Distribution Funds (5010-50120-70550); \$50,000 in Sewer Maintenance & Operation Funds (5210-52100-70551); and \$70,000 in Storm Water Management Funds (5510-55100-70552). The April 30, 2010 net asset balance for the Sewer Fund is (\$4,458,208). The April 30, 2010 net asset balance for the Storm Water Fund is \$199,109 not including the \$11,341,614 BNWRD/City IEPA Loan. Once the FY 2011 financials are released we will switch to these net assets.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

Jim Karch, PE CFM
Director of Public Works

Timothy Ervin
Director of Finance

Craig Cummings
Director of Water

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporate Counsel

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Anderson that the technicality be waived, the RFP prices for 2011 Utility Maintenance submitted by Hoerr Construction be accepted, 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: Analysis of Request for Proposals (RFP) for 2011 Grading & Seeding Contract (City Wide)

RECOMMENDATION: That the technicality be waived, the RFP prices for 2011 Grading & Seeding Contract submitted by Rowe Construction be accepted, and that the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: To date, maintenance of City infrastructure that is beyond the capability of City crews was performed by a select group of contractors. The contractors were chosen by Public Works Department staff based upon the type of work, site conditions, contractor's experience and availability and other factors. Pursuant to the Council's request to bid this work, an RFP was released. Proposals for 2011 Grading & Seeding Contract were received until 10:00 a.m. Wednesday, July 6, 2011 in the office of the City Clerk. Two (2) proposals were received.

The RFP required that interested contractors submit a Statement of Qualifications which included their equipment, material suppliers, previously completed projects with references and relevant certifications or registrations. Some contractors did not submit the requested Statement of Qualifications. As recommended, staff believes this technicality should be waived. The contractor proposals were evaluated based upon various labor trade rates, material mark up and contractor qualifications. The labor trade rates were evaluated based upon total cost and previously completed maintenance work. The selected contractor was chosen based primarily upon the labor rate evaluation. The contractor proposal evaluation provided information about the contractor's resources and past experience with similar work.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: An RFP was advertised in The Pantagraph on June 22 and 29, 2011. Eleven (11) RFP's were provided. A pre-proposal meeting was held at 10:00 a.m. on June 27, 2011 in the Public Works Department's conference room. Two (2) proposals were received.

FINANCIAL IMPACT: Although this project was not included in the FY 2012 Budget, funding for grading & seeding was included in various fund budgets. The following funds and amounts will be encumbered for this work: \$25,000 in Water Transmission & Distribution Funds (5010-50120-70550); and \$25,000 in Storm Water Management Funds (5510-55100-70550). The April 30, 2010 net asset balance for the Storm Water Fund is \$199,109 not including the \$11,341,614 BNWRD/City IEPA Loan. Once the FY 2011 financials are released staff will switch to these net assets.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

Jim Karch, PE CFM
Director of Public Works

Timothy Ervin
Director of Finance

Craig Cummings
Director of Water

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporate Counsel

David A. Hales
City Manager

Alton Franklin, 5 Andy Ct., Unit 1, addressed the Council. He questioned City staff's recommendation to waive a formal bid process technicality for the three (3) previous items, (contracts for 2011 Streets, Alleys & Sidewalk, 2011 Utility Maintenance, and 2011 Grading & Seeding). David Hales, City Manager, addressed the Council. He noted that the bidders had failed to submit qualification paperwork. City staff was familiar with the companies. These were one (1) year contracts. The requested waiver would allow these bids to be awarded to the lowest responsible bidder.

Motion by Alderman Fazzini, seconded by Alderman Anderson that the technicality be waived, the RFP prices for 2011 Grading & Seeding submitted by Rowe Construction be accepted, 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 Contract for the Bloomington Center for Performing Arts (BCPA)

RECOMMENDATION: That the contract with Mipster Bober Productions, Inc. in the amount of \$12,500 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: Mipster Bober Productions, Inc. to perform services in the BCPA on dates agreed by staff. Contract expenses for the contracts will be \$12,500. 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 Bloomington Center for the Performing Arts.

FINANCIAL IMPACT: Funding for these contracts will come from account X21100-70220 of the BCPA's FY 2011-2012 Budget, to be offset by future revenues from ticket sales, grants, playbills, concessions, advertising, and sponsorships. These revenues are also targeted to offset the additional artist expenses for travel, meals, and lodging.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

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

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

(PARTIALLY EXECUTED CONTRACT ON FILE IN CLERK'S OFFICE)

Motion by Alderman Fazzini, seconded by Alderman Anderson that the contract with Mipster Bober Productions, Inc. in the amount of \$12,500 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: Agreement with the Town of Normal for the Donation and Installation of four, (4) Electric Vehicle (EV) Charging Stations (Citywide)

RECOMMENDATION: That the EV Charging Station Agreement with the Town of Normal to receive four (4) level two electric vehicle charging stations be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The Town of Normal has received a Department of Energy Grant which allowed the purchase of thirty-three (33) EV charging stations. Through the EV Town initiative, the Town has offered four (4) of the stations to be installed in the City. In addition to the four (4) that have been offered to the City, four (4) were offered to Illinois State University, two (2) to Illinois Wesleyan University, two (2) to Heartland Community College, and two (2) to Central Illinois Regional Airport.

The intent is to create an area wide EV charging zone, lessen the dependence on foreign oil, lower the carbon footprint, and meet the future needs of the community.

The two (2) locations that have been deemed by staff to be the most cost effective for installation are the following:

- Two (2) units to be placed in the City surface parking lot available to the public at the southeast corner of Washington Street and East Street.
- Two (2) units in the Lincoln parking garage accessible by the public at the southwest corner of Front Street and East Street.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The City's Planning and Zoning Commission, Town of Normal, and Heartland Community College.

FINANCIAL IMPACT: All four (4) EV charge stations will be offered free of charge to the City. The City is responsible for the cost to install the stations. Staff has estimated that the total cost for installation of all four (4) units would be \$2,500 using City staff. This estimate includes wiring material, conduit, fittings, removal, and replacement of sidewalk, circuit breakers and fittings as needed.

The stations are required to be free for public use for the first five (5) years. The Town has required this to be part of the agreement and is not a part of the original grant from the Department of Energy. After five (5) years the City will have the option to add components (at a cost) to the charging station that will allow for the electricity cost to be passed on to the user.

The following is a table estimating the potential electric costs for the City based upon usage of the charging stations:

Number of Vehicles Fully Charged in a Year	Cost After One Year	Cost After Two Years	Cost After Three Years	Cost After Four Years	Cost After Five Years
200	\$240 - \$380	\$480 - \$760	\$720 - \$1,140	\$960 - \$1,520	\$1,200 - \$1,900
400	\$480 - \$760	\$960 - \$1,520	\$1,440 - \$2,280	\$1,920 - \$3,400	\$2,400 - \$3,800
600	\$720 - \$1,140	\$1,440 - \$2,280	\$2,160 - \$3,420	\$2,880 - \$4,560	\$3,600 - \$5,700
800	\$960 - \$1,520	\$1,920 - \$3,400	\$2,880 - \$4,560	\$3,840 - \$6,080	\$4,800 - \$7,600
1,000	\$1,200 - \$1,900	\$2,400 - \$3,800	\$3,600 - \$5,700	\$4,800 - \$7,600	\$6,000 - \$9,500

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Jim Karch, PE CFM
Director of Public Works

J. Todd Greenburg
Corporate Counsel

David A. Hales
City Manager

Electric Vehicle Charging Station Agreement

This Agreement is entered into by and between the Town of Normal a home rule Illinois unit of local government with offices at 100 East Phoenix Normal Illinois and City of Bloomington.

The purpose of this Agreement is to supple electric vehicle charging stations at various public access locations throughout the community. The Town of Normal has received a federal grant used in part for the acquisition of electrical vehicle charging stations. The Town has contracted with a local vendor for the purpose of acquiring electrical vehicle charging stations. Entity desires to place 4 electric vehicle charging stations on property owned by such Entity and pledges to make such vehicle charging stations available to the public without charge or fee, for the purpose of recharging electric vehicles.

In consideration of the mutual promise contained herein, the parties agree as follows:

1. The Town of Normal shall, at no cost to Entity, make available to such Entity 4 electric vehicle charging stations.
2. Entity agrees to install and make such electrical vehicle charging stations available to the public without charge or fee, for the purpose of recharging electric vehicles no later than December 31, 2011.
3. All electric vehicle charging stations shall be placed in locations accessible to the public.
4. Entity agrees to maintain the electric vehicle charging stations in working order. Entity agrees to hold harmless and indemnify the Town of Normal from any and

all claims of any person arising in whole or in part out of use and maintenance of electric vehicle charging station. Entity further agrees to waive all acclaims against the Town of Normal, whether now existing or arising in the future, and Entity covenants not to sue the Town of Normal. The foregoing waiver and covenant not to sue shall apply to any and all claims arising in whole or in part out of the condition, use, and maintenance of electrical vehicle charging stations.

5. The sole obligation of the Town of Normal under this Agreement is to provide the electric vehicle charging station at no cost to the entity.
6. Entity agrees to promptly notify the Town of Normal of any damage to any electric vehicle charging station placed on Entity's property and Entity agrees to promptly repair any damage to the electric vehicle charging station.
7. Entity shall provide the number of electric vehicle charging stations, noted adjacent to each signature hereafter, and provide public notice of the location and availability of such electric vehicle charging station for public use.
8. This Agreement is solely for the benefit of the parties hereto and the public in general. No third party beneficiary rights are intended to be created and no third party shall have any claim or cause of action against a party to this Agreement due to breach of this Agreement by any party.
9. Entity agrees to maintain its electric vehicle charging station in compliance with this Agreement for a period of five years, without charge or fee for use of said charging station, unless sooner terminated, or modified, by agreement with the Town of Normal.
10. Each person signing this Agreement acknowledges and represents that he or she has been duly authorized by the governing body of said Entity to enter into this Agreement.

Town of Normal

By: Christopher Koos
Mayor

ATTEST:

Wendellyn J. Briggs
Town Clerk

August 16, 2011

City of Bloomington

By: Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

August 23, 2011

Motion by Alderman Fazzini, seconded by Alderman Anderson that the EV Charging Station Agreement with the Town of Normal to receive four (4) level two electric vehicle charging stations 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: Edward Byrne Memorial Grant (JAG)

RECOMMENDATION: That the 2011 Edward Byrne Memorial Justice Grant in the amount of \$63,007 be accepted and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff recommends acceptance of federal grant money from the 2011 Edward Byrne Memorial Justice Grant (JAG) in the amount of \$63,007 to be shared with the Town of Normal. The town of Normal will receive \$16,640 and the City of Bloomington will receive \$46,358. The monies for the City would be used for technology, training, and equipment.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Randall D. McKinley
Police Department

David A. Hales
City Manager

Motion by Alderman Fazzini, seconded by Alderman Anderson that the JAG Grant in the amount of \$63,007 be accepted 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: Development Agreement between the City and Hershey Grove, LLC

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

BACKGROUND: On February 11, 2002, Council approved an Annexation Agreement with Hershey Grove LLC regarding property on the southeast side of the City. Among the provisions of that Agreement was a requirement that the City extend Hershey Road to the southern perimeter of the annexed premises within ten (10) years of the making of the Agreement and apply to the Illinois Commerce Commission for a crossing permit for the Norfolk Southern railroad tracks which lie across the proposed Hershey Road extension within two (2) years from the making of the Agreement. For various reasons, including manpower and budget issues, the City was not able to comply with that portion of the Agreement.

Hershey Grove LLC has submitted a proposed final plat for a 6th Addition to Brookridge Heights (a multi-family development constructed on the annexed property). Staff has negotiated a tentative agreement with Hershey Grove LLC in which it agrees that, since the easternmost portion of Hamilton Road would not currently connect to another street or road, only a two (2) lane road needs to be constructed. During the construction phase of the easternmost section of Hamilton Road, the City agrees to issue construction permits for new apartment buildings at Brookridge Heights, provided that the proposed extension of Hamilton Road is graded and maintained in such a way as to provide access to City emergency vehicles as well as semi-trucks

hauling heavy equipment and building materials. In return, Hershey Grove LLC has agreed to an extension of the time frame for application of a crossing permit by the City to the Illinois Commerce Commission so that Hershey Road can cross the railroad tracks, with a commitment to construct Hershey Road across the tracks no later than two (2) years after the date of the receipt of an order from the Commerce Commission allowing the crossing.

The Development Agreement also contains a provision extending the original Annexation Agreement to February 11, 2032. Staff believes this Development Agreement addresses concerns by both parties to the original Annexation Agreement and respectfully recommends its approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Hershey Grove, LLC.

FINANCIAL IMPACT: The City's share of extending two (2) lanes of Hamilton Road to the east line of the Hershey Grove Annexation is estimated at \$130,000 plus \$25,000 for water main over sizing. The estimated cost to extend a sidewalk from the Brookridge Apartments to Hershey Road is \$47,360. The current estimated costs for extending Hershey Road from Hamilton Road to 750' south across the Norfolk Southern Railroad are \$250,000 for design and \$2,775,000 for construction. The total estimated cost to the City for all improvements required by the development agreement is \$3,227,360.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

Jim Karch
Director of Public Works

David A. Hales
City Manager

**DEVELOPMENT AGREEMENT
BETWEEN CITY OF BLOOMINGTON AND
HERSHEY GROVE, LLC**

Whereas, on February 11, 2002, the City of Bloomington (hereafter "City") and Hershey Grove, L.L.C. (hereafter "Owner") entered into an agreement regarding certain property which was to become annexed to the City of Bloomington; and

Whereas, it is the intention of the parties to enter into this Development Agreement which clarifies and amends certain provisions of the aforesaid agreement; and

Whereas, the City of Bloomington is a home rule municipality pursuant to Article VII, Section 6 of the 1970 Illinois Constitution, and as such has broad authority to exercise any power and perform any function pertaining to its government and affairs;

In consideration of the following mutual promises, the parties agree as follows:

Paragraph 6 of the February 11, 2002 Agreement between the parties is amended by deleting the paragraph and substituting therefore the following language:

This Agreement shall be enforceable until February 11, 2032. This Agreement is binding upon the parties hereto, and their heirs, successors, and assigns.

Paragraph 14 of the February 11, 2002 Agreement between the parties is amended by deleting the first two sentences and substituting therefore the following language:

The City agrees to file a petition, which will include detailed construction drawings and specifications, with the Illinois Commerce Commission for an at-grade crossing of the Norfolk Southern Railroad by Hershey Road no later than September 1, 2012. The City will complete the extension across the railroad tracks no later than two years after the date of the receipt of an Order allowing the at-grade crossing from the Commerce Commission.

Paragraph 15 of the February 11, 2002 Agreement between the parties is amended deleting the paragraph and substituting therefore the following language:

Two lanes of Hamilton Road will be extended by Owner to the eastern property line of the premises subject to the February 11, 2002 Annexation Agreement, with each party contributing one-half of the cost of a 30 foot residential street (currently estimated to be \$130,000.00 per party (\$260,000.00 total)). Hamilton Road construction shall consist of a 10" full-depth hot mix asphalt roadway, curb and gutter on the north side, storm sewers, sidewalks on the north side, utilities running the length of said road, and street lights. The City will pay for the oversizing from an eight-inch to a twelve-inch water main (material costs only) along the Hamilton Road extension to the east property line. Payment by the City to Owner for its one-half contribution of the cost of such construction will be paid within 45 days of the receipt of a detailed invoice from Owner of the cost of such construction. The cost of engineering will be paid entirely by Owner. The construction shall be completed by November 1, 2012.

A sidewalk will be constructed by the Owner on the northern side of Hamilton Road for the entire perimeter of Brookridge Heights extending all the way west to Hershey. Construction shall be completed by November 1, 2012. The City shall reimburse Owner for 100% the costs of constructing the sidewalk (excluding engineering costs) adjacent to the portion of Hamilton Road constructed in 2002.

A new paragraph 18 is added, to read as follows:

The City shall issue building permits for new apartment buildings at Brookridge Heights 6th Addition without regard to completion of the east entrance and the extension of Hamilton Road to that entrance provided that the rock put down leading to the new entrance supports emergency vehicles (in particular, all kinds of fire trucks), semis hauling heavy equipment and building materials. A condition of this provision is that the road must be graded and continuously maintained in such a manner that use of the road

will not damage the City's emergency vehicles. The east entrance leading from the extended Hamilton Road into the apartment complex shall be completed at Owner's expense by November 1, 2012.

Date: August 22, 2011

City of Bloomington

By: Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Hershey Grove, LLC, an Illinois Limited
Liability Company

By: Stephen Snyder

Alderman Stearns noted that the City had a contractual obligation which dated back to 2002. She noted the City's investment in infrastructure which would benefit private development. She planned to vote for this item.

Alderman Anderson echoed Alderman Stearns' comments regarding this item.

Mayor Stockton noted that the City made a commitment years ago. These obligations were tough to fulfill given the current economic conditions.

Motion by Alderman Fazzini, seconded by Alderman Anderson 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: Request for Alcohol in Miller Park Zoo for the Miller Park Zoological Society Fundraiser, known as ZooDo

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: For many years, the Miller Park Zoological Society held its Annual Gala at Bloomington Country Club. The event has consisted of a catered dinner and silent auction with proceeds helping to support both education and capital development projects. In 2008, the event was renamed ZooDo and moved back to Miller Park.

The 2011 event is being planned to occur within the Zoo's grounds with Biaggi's Ristorante Italiano providing food and alcohol service. In case of inclement weather, the event will be moved indoors to the Pavilion. The event is scheduled for Saturday, September 10, 2011 from 5:30 until 9:00 p.m.

Section 26(d) of Chapter 6 and Section 701 of Chapter 31 of the Bloomington City Code prohibits the possession of open containers of alcohol on public property and the sale and possession of alcohol in the parks respectively.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Miller Park Zoological Society.

FINANCIAL IMPACT: The ZooDo fundraising goal is \$50,000 to assist with future capital improvements to the Zoo.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

John Kennedy
Director of Parks, Recreation
& Cultural Arts

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

ORDINANCE NO. 2011 - 35**AN ORDINANCE SUSPENDING PORTIONS OF SECTION 26(d) OF CHAPTER 6 AND SECTION 701 OF CHAPTER 31 OF THE BLOOMINGTON CITY CODE TO ALLOW POSSESSION OF OPEN ALCOHOL ON PUBLIC PROPERTY DURING THE ZODOO TO BE HELD AT THE MILLER PARK ZOO AND PAVILION**

WHEREAS, the Miller Park Zoo Society will hold a ZooDo at the Miller Park Zoo and Pavilion on September 10, 2011; and

WHEREAS, the Miller Park Zoo Society requested permission to allow sales and consumption of alcohol during the ZooDo, its Annual Gala; and

Whereas, to allow possession of an open container of alcohol on a public street, Section 26(d) of Chapter 6 which prohibits the possession of open containers of alcohol on public streets and Section 701 of Chapter 31 which prohibits alcohol within the park of the Bloomington City Code, must be suspended.

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

Section 1: That Section 26(d) of Chapter 6 and Section 701 of Chapter 31 of the Bloomington City Code, 1960, as amended, are suspended on the following dates during the following hours: September 10, 2011 between 4:30 o'clock p.m. and 10:00 o'clock p.m. for Miller Park Zoo and Pavilion. This suspension shall be effective only as to persons inside the designated area only and for alcohol purchased from an event vendor within the designated area. No alcohol may be taken out of a licensed premises into the designated area, notwithstanding the fact that the premises are operated by the event vendor.

Section 2: Except for the dates, times and location set forth in Section 1 of this Ordinance, Section 26(d) of Chapter 6 and Section 701 of Chapter 31 of the Bloomington City Code, 1969, as amended, shall remain in full force and effect. Nothing in this ordinance shall be interpreted as repealing said Section 26(d) and Section 701.

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 22nd day of August, 2011.

Approved this 23rd day of August, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Fazzini, seconded by Alderman Anderson 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: Motor Fuel Tax (MFT) Resolution for the Resurfacing of Ireland Grove Road from Veterans Parkway to the Kickapoo Creek Bridge, (Ward 8)

RECOMMENDATION: That the Resolution be adopted.

BACKGROUND: On July 27, 2009, Council approved a Local Agency Agreement for Federal Participation and an MFT Resolution for the City's estimated portion of the project. The project was bid in November 2009 and the bid prices were higher than the estimates. Council approved the funding change in a revised Local Agency Agreement on April 26, 2010.

Although the additional MFT funds were encumbered during this meeting, the supplemental resolution for the additional funds was inadvertently omitted. The Illinois Department of Transportation requires an executed Resolution in order to expend MFT funds. Construction of the project was completed in July 2010. Staff recommends that Council approve the Resolution appropriating \$5,900 in MFT funds (X20300-72530).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This resolution does not represent increased cost or a change order for the project. The MFT funds (X20300-72530) were previously encumbered at the April 26, 2010 Council meeting. A summary of the project funding change follows.

<u>Original Funding</u>	<u>Revised Funding</u>	
Federal Funding	\$420,000.00	\$470,000.00
MFT Funding	<u>\$76,100.00*</u>	<u>\$82,000.00</u>
Total Funding	\$496,100.00	\$552,000.00
Additional MFT Resolution	\$5,900.00	

*Estimated funding based on budget.

Respectfully submitted for Council consideration.

Prepared by:	Financial review by:	Reviewed as to legal sufficiency:
Jim Karch, PE CFM Director of Public Works	Timothy Ervin Director of Finance	J. Todd Greenburg Corporate Counsel

Recommended by:

David A. Hales
City Manager

(MFT RESOLUTION 2014 - 37 ON FILE IN CLERK'S OFFICE)

Motion by Alderman Fazzini, seconded by Alderman Anderson that the Resolution be adopted.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Prevailing Wage Resolution

RECOMMENDATION: That the Resolution be adopted.

BACKGROUND: Illinois law requires the City to pass a Prevailing Wage Resolution each year. Prevailing wage records are kept by the Illinois Department of Labor and with the help of municipalities throughout the State, they are updated each June. The prevailing wage information received from the Department of Labor has been corrected pursuant to information received from the various local labor unions.

The Resolution also adds a requirement that as a prerequisite to awarding contracts for public work in excess of \$100,000, the contractor provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

The Resolution requires prevailing wages to be paid when private commercial economic development projects are directly supported by public funds, such as Tax Increment Financing or tax incentives. This requirement was first imposed by the City in 1991. Certain private projects which, in the staff's opinion, are less directly supported by public funds have been exempted from the requirements that prevailing wages be paid.

The proposed Resolution complies with Illinois law as to public works and is within the Home Rule authority of the City as to private commercial economic developments directly supported by public funds. Staff respectfully recommends adoption of this Resolution.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: All area unions.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Todd Greenburg
Corporate Counsel

David A. Hales
City Manager

RESOLUTION NO. 2011 - 38**A RESOLUTION OF THE CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS
ASCERTAINING THE PREVAILING RATES OF WAGES FOR LABORERS,
WORKERS AND MECHANICS EMPLOYED AT PUBLIC WORKS
OF THE CITY OF BLOOMINGTON**

WHEREAS, the Prevailing Wage Laws, 820 ILCS 130/1 et seq., as amended, require that each public body awarding any construction contract for public work or doing such work by day labor shall annually ascertain the general prevailing hourly rates of wages for employees engaged on such work; and

WHEREAS, “public work”, as defined in the Prevailing Wage Law, includes commercial or industrial projects financed in whole or in part through the issuance of revenue bonds by the City of Bloomington under authority of the Industrial Project Bond Act or Home Rule Ordinance, without regard to what person or entity formally contracts for such work; and

WHEREAS, the statutes further provide that said rates be published, publicly posted and/or kept available for inspection by any interested party and a certified copy hereof must be promptly filed in the Office of the Secretary of State and Labor Department and be provided to others on request; and

WHEREAS, the City of Bloomington believes Prevailing Wage Law should apply to private commercial economic development projects directly supported by public funds, including projects supported by Tax Increment Financing or tax incentives of any kind, but excluding projects financed by the Downtown Commercial Revolving Loan Fund, projects resulting from Annexation Agreements, Intergovernmental Agreements, projects involving the City’s Land Subdivision Code (including waivers/variations therefrom), activities that are exempt due to specific contract language, or certain projects the City Council finds inappropriate for application of Prevailing Wage Law; and

WHEREAS, the City of Bloomington believes that contractors awarded contracts for public work as defined by state statute and this Resolution should, as a prerequisite to such contract, provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor’s Bureau of Apprenticeship and Training for all construction contracts in excess of \$100,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bloomington, County of McLean, State of Illinois that the prevailing wages as set forth in the document attached hereto are incorporated herein by reference as the prevailing rates of hourly wages in the City of Bloomington, Illinois for the laborers, workers and mechanics specified therein who are engaged in the construction of public works within the jurisdiction of this municipality; and

BE IT RESOLVED that the prevailing wages set forth in the document attached hereto and incorporated by reference shall be paid to laborers, workers and mechanics specified therein

when such persons perform work on private commercial economic development projects directly supported by public funds, including projects supported by Tax Increment Financing or tax incentives of any kind, but excluding projects financed by the Downtown Commercial Revolving Loan Fund, projects resulting from Annexation Agreements, Intergovernmental Agreements, projects involving the City's Land Subdivision Code (including waivers/variations therefrom), activities that are exempt due to specific contract language, or certain projects the City Council finds inappropriate for application of Prevailing Wage Law; and

BE IT RESOLVED that contractors awarded contracts for public work as defined by state statute and this Resolution should, as a prerequisite to such contract, provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for all construction contracts in excess of \$100,000; and

BE IT RESOLVED that nothing herein contained shall be construed to apply said prevailing hourly rates of wages in the locality to any work or employment other than public works or private commercial economic development projects directly supported by public funds as defined in the Act and this Resolution; and

BE IT RESOLVED that the City Clerk shall publicly post or keep available for inspection by any interested party in the main office of this City this determination of prevailing rates of wages; and

BE IT RESOLVED that the City Clerk shall mail a copy of this determination to any employer, any association of employers, and to any person or association of employees who have filed or do file their names and addresses with the Clerk requesting copies of any determination under said law of the particular rates and of the particular classes of persons whose wages will be affected by such rates; and

BE IT RESOLVED that the City Clerk shall promptly file a certified copy of this Resolution with the Secretary of State and the Department of Labor of the State of Illinois; and

BE IT RESOLVED that the City Clerk, as required by law, shall cause to be published in a newspaper of general circulation within the area of this municipality a notice of this determination and that it is the effective prevailing wage determination of this public body.

ADOPTED this 22nd day of August, 2011.

APPROVED this 23rd day of August, 2011.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

(WAGE TABLE ON FILE IN CLERK'S OFFICE)

Motion by Alderman Fazzini, seconded by Alderman Anderson that the Resolution be adopted.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from Interchange City West, LLC Requesting Approval of a Final Plat for Interstate Business Park 10th Addition, located east of Avalon Way and south of Illinois Route 9 (Market Street) (Ward 6)

RECOMMENDATION: That the Final Plat be approved and the Ordinance passed.

BACKGROUND: On May 10, 2004, Council approved the amended Preliminary Plan for Interstate Business Park. Staff reviewed the Final Plat and finds it in conformance with the provisions of the Preliminary Plan. There are tap on fees due from this subdivision per the Annexation Agreement dated October 9, 1995. Staff recommends that Council accept the Petition and pass an Ordinance approving the Final Plat for Interstate Business Park 10th Addition subject to the Petitioner paying the required fees prior to recording of the plat.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Interchange City West, LLC.

FINANCIAL IMPACT: All survey and platting costs are being paid by Interchange City West, LLC.

Respectfully submitted for Council consideration.

August 22, 2011

419

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Jim Karch
Director of Public Works

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

PETITION FOR APPROVAL OF FINAL PLAT

STATE OF ILLINOIS)
) SS
COUNTY OF McLEAN)

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS

NOW COMES INTERCHANGE CITY WEST, LLC, an Illinois Limited Liability Company, hereinafter referred to as your Petitioner, respectfully representing and requesting as follows:

1. That your petitioner is the owner of the freehold or lesser estate therein of the premises described on Exhibit A attached hereto and made a part hereof by this reference;
2. That your petitioner seeks approval of the Final Plat for the subdivision to be known and described as Interstate Business Park, 10th Addition, Bloomington, Illinois, which Final Plat is attached hereto and made a part hereof;
3. That your petitioner also seeks approval of the following exemptions or variations from the provisions of Chapter 24 of the Bloomington City Code, 1960: None;
4. That your petitioner hereby dedicates to the public, all public rights-of-way and easements shown on said Final Plat.

WHEREFORE, your Petitioner, INTERCHANGE CITY WEST, LLC, an Illinois Limited Liability Company, prays that the that the Final Plat for Interstate Business Park, 10th Addition, Bloomington, Illinois, submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

INTERCHANGE CITY WEST, LLC, an Illinois Limited Liability Company, Petitioner,

By Its Attorney:

Robert J. Lenz
Attorney for Petitioner

ORDINANCE NO. 2011 - 36

**AN ORDINANCE FOR APPROVAL OF THE FINAL PLAT OF
INTERSTATE BUSINESS PARK, 10TH ADDITION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for Approval of the Final Plat of the Interstate Business Park, 10th Addition, legally described on Exhibit A attached hereto and made a part hereof by this reference; and

WHEREAS, said Petition requests the following exemptions or variations from the provisions of Chapter 24 of the Bloomington City Code, 1960, as amended: NONE; and

WHEREAS, said Petition is valid and sufficient and conforms to the requirements of the statutes in such cases made and provided and the Final Plat attached to said Petition was prepared in compliance with the requirements of the Bloomington City Code.

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

1. That the Final Plat of Interstate Business Park, 10th Addition, and any and all requested exemptions and/or variations be, and the same is hereby approved, and all dedications made therein are accepted.
2. That this Ordinance shall be in full force and effective as of the time of its passage and approval.

PASSED this 22nd day of August, 2011.

APPROVED this 23rd day of August, 2011.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A
Legal Description

A part of Lot 4 in the NE¼ of Section 1, Township 23 North, Range 1 East of the Third Principal Meridian, City of Bloomington, McLean County, Illinois, being part of the land subdivided for

the Estate of Jacob Motter, deceased, recorded in Chancery Record 15, Page 563 in the office of the Clerk of the Circuit Court of McLean County, Illinois, more particularly described as follows: Commencing at the southeast corner of Interstate Business Park 5th Addition, according to the Plat thereof recorded as Document No. 2004-21105 in the McLean County Recorder of Deeds Office, on the east right of way line of Avalon Way; thence S.00°-36'-47"E. 80.77 feet on the east right of way line of said Avalon Way to the Point of Beginning; thence N.89°-23'-13"E. 248.21 feet to the west line of Lot 1 Interstate Business Park, according to the Plat thereof recorded as Document No. 1997-11154 in the McLean County Recorder of Deeds Office; thence S.00°-51'-36"E. 160.00 feet on the west line of said Lot 1 to the northeast corner of Lot 9 in Interstate Business Park 6th Addition, according to the Plat thereof recorded as Document No. 2005-15568 in the McLean County Recorder of Deeds Office; thence S.89°-23'-13"W. 248.90 feet to the northwest corner of said Lot 9, on the east right of way line of said Avalon Way; thence N.00°-36'-47"W. 160.00 feet to the Point of Beginning containing 39,768.38 square feet/0.91 acres, more or less, with assumed bearings given for description purposes only.

Motion by Alderman Fazzini, seconded by Alderman Anderson that the Final Plat be approved, and the Ordinance passed.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Request for Proposals (FRP) for Taxable Capital Lease

RECOMMENDATION: That the RFP for Taxable Capital Lease in the amount of 4.1 million be awarded to Commerce Bank and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: City staff use a diverse range of equipment to provide services to residents. From fire trucks, to utility trucks, it is important that staff have safe and reliable equipment to provide efficient and effective service. In past years, the City delayed the replacement of equipment in all departments as a short term means to balance the budget. Beginning FY 2011, the City undertook an equipment replacement program to replace worn, outdated equipment through the direct use of General Fund revenue. Limited resources were committed to replace items such as worn, high mileage police cars in FY 2011. The backlog of worn, outdated equipment became apparent during the preparation of the FY 2012 budget as expenditures outpaced the amount of available resources.

The FY 2012 budget included a recommendation the City obtain a five (5) year capital lease to replace approximately \$4.1 million in high cost equipment. This recommendation is in addition to the City committing approximately \$2 million in General Fund revenue to replace equipment. The equipment financed through this capital lease includes equipment such as one (1) fire truck, two (2) ambulances, and four (4) automated garbage/recycling trucks. This \$4.1 million equipment list is composed of equipment from multiple operational departments. The equipment identified for replacement by the capital lease was recommended by each department and reviewed by Fleet Management. It was discovered that the majority of these items incurred significant maintenance cost or existing equipment no longer met the needs of the department. After this review, Fleet Management recommended the replacement of the highest priority items.

The Purchasing Agent included a statement in the RFP documents to notify all potential bidders that the City would be financing procurement of capital equipment/vehicles with a lessor. Some equipment has been bid and/or purchased, and will be either financed or the lessor will refund the money spent from the General Fund.

A Request for Proposals was published in the Pantagraph on June 30, 2011 and posted on the City's web site. Sixteen (16) financial institutions were mailed RFP's. Four (4) responses were received. The results are as follows:

Bidders	Interest Rate
JP Morgan Chase *	2.85%
Commerce Bank**	2.99%
US Bank	3.66%
Heartland Bank & Trust	Not Interested

*Includes 0.10% option to retire debt after one year with no fees

** Recommended Proposal

Staff interviewed JP Morgan Chase and Commerce Bank. Staff recommends awarding the RFP to Commerce Bank. This recommendation is not based upon the lowest interest rate since the rates are very close, but other factors which provide flexibility to the City. The Commerce Bank proposal provides the City flexibility to retire the debt anytime during the duration of the contract. Additionally, profit generated by Commerce Bank from this transaction is reinvested in the Bloomington market. This profit flows directly back into the community through Commerce Bank's active participation with organizations such as the United Way and Economic Development Council. The City uses Commerce Bank for Procurement Cards and Utility Lockbox services. The City has received exceptional customer service for these products.

The JP Morgan Chase proposal offers two (2) options where during the first twenty-four (24) months of the lease the City would have to "make whole" or pay a fee, while the second option is to add an additional 0.10% to the lending rate so the debt could be retired after twelve (12) months.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: An RFP was published in the Pantagraph on June 30, 2011 and posted on the City's web site. Sixteen (16) financial institutions were mailed RFP's. Four (4) responses were received.

FINANCIAL IMPACT: The estimated five (5) year interest rate cost is approximately \$307,000. This figure is subject to change. Both institutions indicated they would pass on interest rate savings from any short term change in interest rates to the City. The interest expenditures for this item are budgeted from interest expense account line item (73500 – Interest Expense).

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Timothy L Ervin
Director of Finance

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Request for Proposals Capital Equipment Financing

Equipment List

Parks Maintenance – Garbage Packer	\$115,000
Parks Maintenance – GMC Pick-up Truck	\$27,500
Recreation – Passenger Van	\$21,000
Police – Squad Cars (7 @ \$28,350)	\$198,450
Fire – Passenger Van	\$32,000
Fire - Ambulance (2 @ \$200,000)	\$400,000
Fire – Fire Truck	\$500,000
Street Maintenance – Utility Truck	\$47,400
Street Maintenance – Boom Truck	\$95,000
Street Maintenance – Street Paint Machine	\$130,000
Golf Course – Maintenance Equipment *	\$300,000
Golf Course – Golf Carts *	\$230,000
Solid Waste – Automated Garbage Trucks (4 @ \$250,000)	\$1,000,000
Solid Waste – Recycling Toters (19,000 @ \$50)	\$950,000
Parking – Truck	\$28,500
Parking – Low speed vehicle	\$24,000

Total \$4,098,850

Mayor Stockton introduced this item. The Council had been provided with the list of equipment that would be included in the lease.

Alderman Fazzini questioned if there were philosophical reasons for City staff's recommendation to award this lease to Commerce Bank. He acknowledged that Commerce Bank was a local financial institution and cited its involvement in the community. He noted the difficulty the City has attracting outside bidders. He added the small difference in cost. David Hales, City Manager, addressed the Council. He believed that the issue was flexibility. Tim Ervin, Finance Director, addressed the Council. He cited the ability of the City to pay off this lease early without penalty. He noted that JP Morgan Chase would have charged the City early termination fees.

Alderman Stearns questioned the cost calculations for same. Mr. Ervin noted that the cost would vary. The City would have to make up the difference. The City's Reserve Policy was written to encourage early debt retirement. Mr. Hales added that this lease would be for capital equipment. The City would purchase this equipment with the intention to pay off the debt early. The City still needed to develop a capital equipment replacement plan. The City needed to aggressively replace its older equipment. Alderman Stearns expressed her support for local businesses. She believed that JP Morgan Chase had also made an impact with local charities. Mr. Ervin noted that JP Morgan Chase presented the City with several options. He noted that after one (1) year the fee would be ten (10) additional basis points. In addition, the City would be responsible for the brokerage fees, (i.e. make the bank whole).

Alderman Fazzini noted that hedge fees can be significant. He believed that City staff could have made a more compelling recommendation.

Motion by Alderman Fazzini, seconded by Alderman Fruin that the RFP for Taxable Capital Lease be awarded to Commerce Bank in the amount of approximately \$4.1 million 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: Funding Commitment to the Economic Development Council (EDC) of the Bloomington Normal Area

RECOMMENDATION: That the EDC funding in the amount of \$100,000 be incorporated into the City's FY 2012 Budget.

BACKGROUND: Over the past several months, the EDC Board of Directors has worked diligently on the creation of an updated strategic plan. This plan, called “Forging Ahead” will serve as a blueprint for the EDC’s work plan over the next five (5) years. The plan was developed with significant input from public and private community leaders as well as existing investors in the EDC. It will be reviewed and updated periodically over the next five (5) years.

The EDC has had a substantial impact on the economies of Bloomington, Normal, and McLean County over the past five (5) years under the “Navigating a New Direction” strategic plan. The following is a summary of some of the major accomplishments that the EDC fostered via partnerships with private organizations and local governments:

Created/retained 1,035 jobs.

Completed 20 major economic development projects, 30% of them fell within target industries of manufacturing, construction, and logistics.

Capital investment totaled over \$1 billion in McLean County.

Assisted in the procurement of over \$25 million in Federal funding for a variety of projects and programs as part of the “One Voice Legislative Program”.

The Center for Emerging Entrepreneurs (Incubator) launched in February of 2011. This is a partnership with Illinois State University.

A number of City priorities are incorporated into the Forging Ahead strategic plan for the next five (5) years. The City will continue to play a significant role in the governance of the EDC. Alderwoman Jennifer McDade and City Manager, David Hales serve on the thirteen (13) members Executive Committee, the primary governing entity of the EDC. The Mayors of Normal and the City, along with the County Board Chair, also play a significant role in the governance of the EDC.

Over the past five (5) years, the City honored its pledge to contribute \$80,000 annually. In FY 2011 there was a one time 10% reduction in support, in the amount of \$72,000. The same amount was also pledged by the Town and McLean County. Due to cost increases and a desire to continue to enhance the EDC’s effectiveness, the Forging Ahead campaign co-chairs, Dave Magers, CFO - Country Financial and Alderwoman Jennifer McDade, request an increase to the five (5) year pledge. The same request was made to the Town on August 15, 2011, and will be made to the McLean County Board.

The detailed presentation will cover items such as the activities of the EDC over the past five (5) years, the goals, objectives going forward, and the formal request for a five (5) year funding pledge of \$500,000 (\$100,000/year vs. current \$80,000/year). This is not a contract, but a pledge to fund. If funds are not available or if priorities change, the City will have the right to change the amount budgeted for any fiscal year.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The City will increase its five (5) year funding commitment to the EDC from \$80,000 to \$100,000 annually. At this time, the City's FY 2012 Budget includes funding to maintain the current \$80,000 contribution amount. If the pledge is approved for FY 2012, a line item adjustment will be made.

Respectfully submitted for Council consideration.

Recommended by:

David A. Hales
City Manager

Mayor Stockton introduced this item. He noted the EDC's, (Economic Development Council), progress over the past five (5) years. The EDC was in the planning stage for the next five (5) years. The EDC has requested a funding commitment from the City of \$100,000 for each of the next five (5) years. This request was for a \$20,000 per year increase for five (5) years for a total increase of \$100,000. Economic development was the key to prosperity. Economic development supported the local economy. There needed to be a plan which addressed how to grow and replace local jobs. The EDC would be more effective based on the lessons learned in the last five (5) years. The EDC needed additional funds to attract business. Economic development needed to go beyond business retention.

David Hales, City Manager, addressed the Council. He cited his past employment in four (4) different states. The key to economic development was a regional economic development organization. Business attraction started with this entity. The City's economic development strategy needed to include collaboration with the EDC, (regional economic development organization). This would be the EDC's second five (5) year strategic plan. There would be a stronger emphasis on business attraction. A new initiative would be the redevelopment of vacant land. He noted that some of the properties had become functionally obsolete. These properties needed to be redeveloped which would result in jobs creation. These vacant properties needed to be redeveloped for productive uses. He noted the positive changes at the EDC over the past five (5) years. The City would pursue local initiatives which would address retail economic development. Investment in the EDC was in the City's best interest.

Alderman McDade addressed the Council. She served on the EDC's Executive Committee. She recognized and expressed her appreciation to the EDC's board members and staff who were present at this evening's meeting. The EDC's plan would address the City's vision – a commitment to economic development. The City's voice was being heard. The EDC was a public/private partnership made up of various entities with a shared vision.

Motion by Alderman McDade, seconded by Alderman Schmidt to suspend the rules to allow someone to speak.

Motion carried.

Bob Lakin, EDC Chairman, addressed the Council. He presented a brief history of the EDC and addressed its future plans. McLean County had benefited from spontaneous growth. This rate had slowed in the recent past. In 2006, the EDC became a professional organization with its own staff. From 2008 – 2010, there had been a national recession. These were tough times. He believed that the area was in a new period of growth and recovery. McLean County had quality assets which needed to be marketed. The EDC would be the catalyst and facilitator. He cited the following accomplishments from 2006 – 2011: goals and outcomes were established; job creation; capital investment; incubator opened; twenty (20) projects were completed; and the One Voice program which brought \$24 million in federal funds to the local community. He cited a couple of notable projects, (CAMtek, Inc. and Watershed Foods, LLC).

Jeff Lynch, EDC board member, addressed the Council. He addressed the EDC Forging Ahead Program. There were four (4) priorities: 1.) Targeted Business Recruitment; 2.) Existing Business Support/Expansion; 3.) Community Engagement, Advocacy & Scholarship; and 4.) Economic Communication & Information. The EDC had targeted specific businesses and industries under the first priority. He noted the One Voice program and transportation as examples under the third priority. An enhanced EDC web site and marketing would be addressed under the fourth priority.

Mr. Lynch presented the following goals: 1.) 1,500 new jobs; 2.) five (5) new interstate commerce companies in basic business sectors; 3.) support/retain 100 existing businesses; and 4.) \$150 million in new capital investment. He cited three (3) types of impact analysis: 1.) economic; 2.) job; and 3.) fiscal. He noted the EDC's request for a five (5) year commitment. He cited companies that were already on board with this program.

Mr. Lynch defined the EDC. The EDC must leverage both the public and private sectors into a unified team. The EDC can make a difference. He thanked the Mayor and Council for their time and attention.

Mayor Stockton noted that business attraction was difficult during a recession. However, McLean County needed to be in position. Mr. Lakin added that it was difficult to attract business. Business wanted to be where the action was. The EDC would develop targeted action plans. A community needed to offer a good lifestyle and a citizenry willing to work hard in order to attract new jobs.

Alderman Stearns questioned the EDC's survey.

Alderman McDade had provided the Council with two (2) documents: 1.) a draft EDC accountability report and 2.) a sample EDC report. The accountability report would be provided to every EDC investor. She directed the Council to Section 2 of the EDC report which addressed business retention. This area addressed business retention calls. This report would contain real data which had been gathered this year. She added that municipal services impacted economic development.

Alderman Purcell noted the cost increase, (\$20,000 per year). He was interested in specific plans and specific actions for these dollars. Mr. Lynch responded that it would be difficult to be specific at this time. He cited agriculture and agricultural research as examples of targeted business recruitment. Fifty percent (50%) of the EDC's funding would be directed towards new projects/programs. Alderman Purcell stated his willingness to support EDC at its current funding level, (\$80,000). Mr. Lynch noted that reduced funding would result in reduced programs.

Mr. Lakin noted the economic development was a long term program. The EDC must have the resources to make things happen. Economic development would result in increased tax revenue to the City. This was measurable by the City. He restated that the EDC would provide the City with monthly reports.

Mayor Stockton added that business attraction was more expensive than business retention. The City needed to bring in new jobs. The EDC had requested an additional \$20,000 per year over a five (5) year period. He believed that there would be a return on the City's investment.

Alderman Purcell had relocated to the City due to his employment with Mitsubishi Motors. He noted that changes made to labor contracts over the years. The key was profitability. The EDC's plan was not specific enough to gain his support.

Marty Vanags, EDC's CEO, 200 W. College Ave., Suite 402, Normal, addressed the Council. Five (5) industries had been identified for business attraction. Thirty to fifty (30 – 50) companies would be targeted in each area. The EDC would zero in on a reduced number of same. He cited the sales cycle process. The EDC would work with real estate brokers and site location facilitators. He restated that this would be a five (5) year cycle. Business retention involved visiting local businesses. He also addressed the referral process. The EDC served as a catalyst.

Alderman Purcell questioned tax incentives and the state's business climate. Mr. Vanags noted the Enterprise Zone. He cited CAMtek as a business retention project. Any request involving the Enterprise Zone would appear before the Council. Mayor Stockton cited the CAMtek project. He noted the return to the City (property taxes and wages). A project like this one covered the City's dues to the EDC. The City could only make an annual commitment. Mr. Vanags noted that any investor whether private or public was seen as making a pledge.

Alderman Schmidt noted her past criticism of the EDC. She believed that there had been a lack of advocacy by the EDC on the City's behalf. She added that adequate information had not been given to the Council. She believed that the City needed to become more engaged. In the past, the City merely wrote a check. She encouraged the Council to become engaged members. She cited the Angel Fund.

Mr. Lakin noted that this fund consisted of a group of investors who were willing to provide capital. The EDC acted as the facilitator. These investors hear business plans and

decide whether to invest their money to assist an entrepreneur. He cited Groupon as an example of this type of activity. Alderman Schmidt noted the City's westside. The West Bloomington Revitalization Project had received educational assistance. Mr. Lakin noted the small business incubator, small business loan program, etc. There was a host of programs available. Mayor Stockton agreed that there were a number of ways to find funding. Financing could be bundled. Mr. Lakin added that state assistance was also available.

Alderman Anderson expressed his opinion that the best time to invest in economic development was during bad times. His employer, NICOR, was currently receiving telephone inquiries. He cited the return on investment. He informed the Council that he also served on the EDC board. He also cited CAMtek. The EDC had established a relationship with this company. He hoped that CAMtek would grow and remain in the community. He restated that now was the time to invest in economic development.

Alderman Mwilambwe questioned if the EDC hoped to attract international businesses. He noted the world's emerging markets, (China, India and Brazil). He questioned international businesses' relationships to the five (5) sectors. Mr. Vanags noted that there were Midwest consulates in Chicago. He believed that there was a lot of opportunity in Brazil.

Alderman Fruin expressed his opinion that the discussion had been helpful. He reflected on the efforts of the EDC and Alderman McDade. The Council has discussed EDC funding as part of the City's strategic plan and budget. He added that the EDC's funding was seventy percent (70%) private and thirty percent (30%) public.

Ron Schultz, 1208 E. Oakland Ave., addressed the Council. He believed that he represented the taxpayer. The Council had reduced its support of the EDC. He might be in favor of a smaller percentage of increase. The issue was accountability and measurability. He was not convinced by this evening's presentation. He wanted to see results. The EDC had a lot to offer the community. He cited Alderman McDade's position on the EDC's Executive Committee. He believed that there was a conflict of interest and that Alderman McDade should recuse herself. Mayor Stockton noted that this issue had been discussed with the City's Corporation Counsel. Council members served on a number of boards in the community. The Bloomington Normal Public Transit System and Convention & Visitors Bureau were cited as examples. It was important for the City to protect its self interests. He noted that the City held two (2) positions on the EDC's Executive Committee.

Todd Greenburg, Corporation Counsel, addressed the Council. He had been asked for a legal opinion on this issue. There was no legal conflict of interest.

Alton Franklin, 5 Andy Ct., Unit 1, addressed the Council. This request was for a twenty-five percent (25%) increase in funding. He was looking for the justification for same. He was interested in the documentation. He believed that the City's funding level at this time was excessive. He expressed his opinion that urgency equaled exaggeration. He

noted other organizations in the community that provided economic development services. He cited the McLean County Chamber of Commerce as an example.

Mayor Stockton noted that the City provided support to other organizations. The City has duty beyond the EDC and funding dollars. The City has to be attractive to business organizations. The City needed to address quality of life, business atmosphere, etc. The City needed to bring prosperity which benefited all. The key was to accomplish same at a reasonable cost.

J. Balmer, 16 Fountain Ct., addressed the Council. The City needed to increase its investment in economic development. This would benefit the long term growth of the community. The City needed to enhance its attractiveness to business. He cited the City's transportation assets, (rail and interstate). He noted other important infrastructure such as IT (Information Technology) communication. There were great opportunities to be had.

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

Motion carried.

Alderman McDade addressed a couple of areas. She cited the oversight role of the EDC's Executive Committee which was to protect the investors. The City had two (2) representatives on this committee. She noted the oversight of the EDC's finances and resources. She added that the EDC was a public private partnership which was different than other regional economic development organizations. The City was in the economic development business. At the \$100,000 level, the City had seen priorities realigned. Business attraction would be the number one priority. This would provide benefits to the City and taxpayers. Economic development was a way to increase revenue. Economic development would provide new dollars for the local economy. She was an advocate for the City and the EDC. Investment in same has given the City access at the table. The City needed to step up. She did not believe that there was a conflict of interest between the role of City advocate and Ward 5 alderman. Her role on the EDC's Executive Committee documented her commitment to the City and economic development. She hoped that the EDC's presentation had addressed the Council's comments and questions.

Alderman Sage addressed the EDC's four (4) priorities. He thanked Alderman McDade and Mr. Hales for their efforts on the EDC's Executive Committee. He believed that there should be annual check points as the EDC progressed towards its five (5) year goals. He believed that there needed to be enhanced metrics. He addressed revenue and the role it played in assisting the Council's efforts to hold and maintain property taxes. Sales taxes needed to be enhanced and grown.

Mayor Stockton noted that the Council was providing conceptual approval. The Council approved its budget on an annual basis. He requested that the EDC report back to the Council at least one to two (1 – 2) times per year.

Motion by Alderman McDade, seconded by Alderman Schmidt that the EDC funding in the amount of \$100,000 be incorporated into the City's FY 2012 Budget.

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

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

Nays: Alderman Purcell.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids for Locust Street Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project Phase 1 Construction (Wards 4 & 8)

RECOMMENDATION: That Council considers the alternatives presented, award a bid for the Locust Street CSO Elimination and Water Main Replacement Project Phase 1 Construction, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The City sewer system operates a CSO near the intersection of Locust Street and Colton Avenue. The IEPA has mandated that cities work toward elimination of CSO from their systems. Therefore, the City developed a multi-phase construction plan to eliminate this CSO by completely separating the storm and sanitary flows in this area. This project will construct the first phase of that plan. In addition to the sewer work, new water mains will be installed to replace the old mains which are reaching the end of their useful life. Also, Country Club Place (CCP) and Mercer Avenue, from Towanda to Washington, will be reconstructed including new curb & gutter, pavement and streetlights. The project schedule requires sewer work across Bloomington High School and Bloomington Country Club to be completed this winter and all work to be completed by the fall of 2013.

Bidding proposals for Locust Street CSO Elimination and Water Main Replacement Project Phase 1 were received until 2:00 p.m. Monday, August 15, 2011, in the office of the City Clerk at which time and place the bids were opened and read aloud as follows:

	<u>Base Bid</u>	<u>Additive Alt. 1</u>	<u>Additive Alt. 2</u>	<u>Total</u>
Rowe	\$9,620,077.38	\$ 492,548.44	\$ 335,845.99	\$10,448,471.81
Stark	\$9,026,548.51	\$ 474,807.00	\$ 289,524.00	\$ 9,790,879.51
Di Paolo	\$7,224,508.00*	\$ 416,869.00	\$ 236,230.00	\$ 7,877,607.00
Estimate	\$9,380,000.00	\$ 490,000.00	\$ 280,000.00	\$10,150,000.00

* Corrected (Read at time of opening as \$7,224,678.00 due to bid tabulation error)

The bid for this project was first advertised on June 17, 2011, at that time the entire project was to be funded with a low interest loan from the IEPA. The proposal requested that contractors provide prices for a base bid plus two (2) additive alternates. The additive alternates included two (2) sections of additional project identified in the CSO Elimination Plan. If prices came in over the project budget, one or both of the additive alternates could be dropped from the award to stay within budget. On February 14, 2011, Council approved the Ordinance authorizing the City to borrow up to \$10,000,000 in IEPA loan funds. All three (3) bids received, including the base bid plus alternates 1 & 2 are within the budget since the IEPA is forgiving 25% of the eligible project costs.

On August 2, 2011, the City issued an addendum to the bid that included the use of Motor Fuel Tax (MFT) funds to complete non-loan eligible items in the reconstruction of CCP and Mercer Avenue. Since the Illinois Department of Transportation (IDOT) administers MFT funds, the project was also advertised in the IDOT Bulletin, on August 4, 2011. As a stipulation on the use of MFT funds, IDOT requires that contractors be prequalified with IDOT at the time of bid opening. *It has been determined that Di Paolo Company was not prequalified with IDOT on August 15, 2011. Therefore, there is a strong possibility that MFT funds are not available to the City for this project if Di Paolo Co. is awarded the contract.*

Staff contacted IDOT regarding the prequalification status of Di Paolo Co., and learned that Di Paolo had been prequalified with IDOT for many years prior to the lapse of that status on June 1, 2011. Di Paolo did not submit the paperwork to remain prequalified. Staff contacted Mr. David Di Paolo, Vice President, who explained that his company had not planned to bid for any IDOT projects in the near future and therefore allowed their prequalification status to lapse. Mr. Di Paolo stated that their pricing on this project is aggressive (low) because they need the work. The unit prices provided by Di Paolo were, in general, just lower in each area of the contract with the exception of being significantly less for Traffic Control, Mobilization, and Surface Restoration.

Staff has performed extensive reference checks on Di Paolo Co. from both those provided by the contractor and otherwise. In general, the references feel that the contractor has the equipment and experience to provide quality work but additional inspection would be warranted because of change order requests. IDOT has rated this contractor as satisfactory in their records.

At the heart of the issue of analyzing and awarding a contract for this project is whether the bid submitted by Di Paolo meets the requirement of the lowest responsible bid. The City has used the services of Clark Dietz, a well respected engineering firm, to estimate the cost of the project. That estimation was \$10,150,000. City staff has used the services of Clark Dietz in the past and is confident in that firm's competence. The bid submitted by Di Paolo is \$2,272,393 (22%) lower than the engineer's estimate, directly raising the issue of whether the engineer's estimate was too high or whether Di Paolo's bid is unusually low. If, as the staff believes, the bid is low, it could be due either to (1) Di Paolo needs the work and was aggressive (low) with bid prices; (2) a desire by Di Paolo to expand into the Bloomington area, and to incur very little profit or even a loss on the project in order to do so; (3) the possibility that the low bidder is hoping to use change orders to increase the amount ultimately paid by the City; or (4) an error by the low bidder in calculating the costs of performing the project. *If the City Council were to determine*

that the bid is unreasonably low, it would not meet the criteria of being the lowest “responsible” bid and the Council would be justified in awarding the bid to Stark, which was the next highest bidder. Conversely, if the City Council determines that the bid, while unusually low, is still reasonable, it would be a “responsible” bid, and the Council would be justified in awarding the bid to Di Paolo.

Staff has prepared two (2) alternatives to move forward with award of this contract.

Alternative 1:

Forego the use of MFT funds to pay non-loan eligible construction costs, identify City funds in the amount of \$806,000 to complete the CCP and Mercer Ave. work, and award the contract to Di Paolo Co. in the amount of \$7,877,607.00 for the base bid plus additive alternate 1 and 2.

Staff has identified a possible City funding source to replace the MFT funds by shifting funds from the proposed FY 2013 resurfacing budget. Public Works proposes to budget \$2,500,000 in City funds for street resurfacing in FY 2013. MFT funds are allowed to be used for resurfacing costs. The City Finance Department is exploring the potential of shifting these funding sources by encumbering \$806,000 this year, from that proposed FY 2013 City resurfacing fund, and augmenting the FY 2013 resurfacing budget with \$806,000 in MFT funds. In actuality, the \$806,000 is not expected to be spent until FY 2013, after all the sewer and water main is installed in CCP and Mercer Avenue.

Alternative 2:

Disqualify Di Paolo from the bid as a non-responsible bidder. Stark Excavating, Inc. was the second low responsible bid and is prequalified with IDOT. MFT funds may be utilized by awarding the contract to Stark Excavating, Inc. in the amount of \$9,790,879.51 for the base bid plus additive alternate 1 and 2.

Benefits and Concerns involving Alternative 1:

Benefits of Alternative 1 include:

- a. Award of the contract to the low bidder would save the City over \$1,900,000 in project costs.
- b. It is IEPA's preference to award the contract to the low bidder; this would allow the IEPA to fund other important projects throughout the state with the savings.
- c. Encourage out-of-town contractors to continue bidding on City projects.
- d. Avoid potential litigation due to not selecting the low bidder.

Concerns of Alternate 1 include:

- a. Staff does not have direct experience in working with Di Paolo Co.; additional effort and staffing (hire consultant) may be required to perform construction observation and contract management.
- b. \$806,000 in City funds must be utilized since Di Paolo is not prequalified with IDOT, who will not authorize the use of MFT funds to a non-prequalified contractor.

Benefits and Concerns involving Alternative 2:

Benefits of Alternative 2 include:

- a. Staff has direct experience working with Stark Excavating on City projects and is confident that it can perform construction observation and contract management at current staffing levels.
- b. MFT funds may be utilized since Stark Ex. is an IDOT prequalified contractor.

Concerns of Alternate 2 include:

- a. City pays over \$1,900,000 in higher project construction costs.
- b. IEPA loses ability to fund other important projects throughout the state with the savings.
- c. Out-of-town contractors may be discouraged from bidding on future City projects.
- d. City is open to potential litigation due to not selecting the low bidder.

Regarding the possibility of litigation, in the event the City is unsuccessful, the measure of damages in Illinois would be the cost of preparing the bid, *not* lost profits.

The specifications for the bid have the following provisions to protect the City in the event of non-performance by an entity which has been awarded a bid: a bid bond in the amount of 5% of the base bid price must be posted, which would be forfeited if a bidder withdraws a bid. A performance bond and a labor and material payment bond, both in the amount of 100% of the contract amount, must be posted by the successful contractor to guarantee performance of the contract and payment of subcontractors. In the event of non-performance, the City can require the bonding company to perform the contract.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the project was published in the Pantagraph on June 17 and June 24, 2011. A pre-bid meeting was held on June 28, 2011. Public meetings were held on June 9, 2009 and July 26, 2011 for affected residents to learn about the CSO Elimination project and to ask questions. Staff has been meeting individually with District 87 Schools and the Bloomington Country Club.

FINANCIAL IMPACT: In July 2011, Council approved a Resolution authorizing the use of MFT funds to complete the reconstruction of Country Club Place and Mercer Ave., from Towanda to Washington. This authorization was based upon the fact the project was eligible to use the MFT fund as a financing source for this project. Contingent upon the bid selected, there is a possibility MFT funds will no longer be available to fund this project. If this is the case, the City will need to finance the City portion (approximately \$806,000) of project through the Capital Improvement Fund.

The Capital Improvement Funds primary source of funds is an annual transfer from the City's General Fund. In FY 2012, the City's General Fund will transfer \$5.5 million to the Capital Improvement Fund for capital projects included in the FY 2012 Budget. The Country Club project was not included in the FY 2012 Capital Improvement Fund project list. If Capital Improvements Funds are used to finance this project, the expenditures will need to be offset by either a delay with other projects in the Capital Improvement Fund, an increase in the annual General Fund transfer, or a combination of both measures. An increase in the General Fund transfer would require the City to reallocate revenue designated to General Fund Departments for the transfer to the Capital Improvement Fund. This would require further scrutiny by staff.

The City is eligible for Sewer and Water Revolving Loan Funds from the IEPA to fund the majority of the project. Loan terms include 1.25% fixed interest for 20 years and 25% principle forgiveness.

Loan funds will cover eligible construction costs as well as provide reimbursement of fees paid for professional engineering and construction observation services. Loan repayment will begin in the spring of 2014. Part of the CCP / Mercer Ave. reconstruction cost is not eligible for IEPA loan funds and will be paid with either Motor Fuel Tax (MFT) Funds or City funds, depending on the alternative chosen.

Twenty (20) year annual loan repayment is estimated to be paid from City funds as follows:

<u>Fund</u>	<u>Department</u>	<u>Alternate 1 (Di Paolo)</u>	<u>Alternate 2 (Stark Ex.)</u>
Water (50100-70050)	Water	\$135,000 /yr	\$170,000 /yr
Sewer (52100-70050)	Public Works	\$110,000 /yr	\$125,000 /yr
St. Water (55100-70050)	Public Works	\$110,000 /yr	\$125,000 /yr

Non-loan eligible costs will be paid from MFT funds or City funds as follows:

MFT (20300-72530)	Public Works	\$712,000
City	Public Works	\$806,000

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

Jim Karch, P.E., CFM
Director of Public Works

Timothy Ervin
Director of Finance

Craig Cummings
Director of Water

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Mayor Stockton introduced this item. David Hales, City Manager, addressed the Council. He informed the Council that the City had received a formal written protest to this bid. He presented a recommended outline for presentation by the various parties.

Jim Karch, Public Works Director, addressed the Council. The Locust/Colton CSO (Combined Sewer Overflow) Elimination was a multiyear, multiphase project. He reviewed the bid process which included an addendum for the addition of MFT (Motor Fuel Tax) dollars. Three (3) bids were received. One (1) was substantially lower than the other two (2). City staff was not familiar with this vendor. This company's references

were checked. He presented the Council with two (2) options: 1.) award the bid to Di Paolo Co. or 2.) award the bid to Stark Excavating Inc. He added that under the first option MFT funds could not be used because Di Paolo Co. was not prequalified by the Illinois Department of Transportation (IDOT). He cited the cost difference between these two (2) bids - \$1.9 million. The grant must be signed by the Illinois Environmental Protection Agency, (IEPA). The City might risk losing this low interest loan if it chose the second option.

Randy Vanderwerf, Project Manager, and Rick Humphrey, Project Manager – Roadway Design, Clark Dietz, Inc., addressed the Council. They were the project's engineers. They addressed additive Alternative 1 and 2. This project would involve \$8.5 million in construction dollars. The Council would have to approve the Alternatives in numerical order. Mr. Humphrey addressed the estimated cost for the MFT portion of this project. The bid would be awarded on a unit cost basis. The engineer's estimate was based upon past experience. He noted that Stark Excavating's bid was slightly lower than the engineer's estimate.

Mr. Hales addressed the project's specifications and plans. The Council did not have a favorable opinion of change orders. Mr. Vanderwerf cited this project's challenges. He cited price fluctuations as an example. He expressed his comfort level with the project's specifications and drawings. The road way work had been completed in six (6) weeks. The lowest bid was twenty percent (20%) below the engineer's estimate. The potential for change orders was there. Clark Dietz needed to be ready to defend the project's specifications.

Mr. Hales noted the projects two (2) year time line. He added that Di Paolo Co. was not a local vendor. He addressed mobilization issues. He also cited their low unit costs. Mr. Vanderwerf noted that work was scarce. Di Paolo Co. would have to work with the local unions.

Mr. Hales questioned Clark Dietz's experience with this company. Mr. Vanderwerf noted that he had no experience with same. Clark Dietz's Chicago staff had stated that this company could be difficult to work with. This remark could be viewed as an obstacle.

Mayor Stockton noted the Council's concerns regarding change orders. He questioned Mr. Vanderwerf's confidence in the project's specifications and plans and if they were detailed enough. Mr. Vanderwerf responded affirmatively. He added that there were no perfect specifications.

Alderman Sage believed that this item was outside of the normal process. He added that Di Paolo Co. was an out of town bidder. In addition to the contract, he was interested in the best value for the taxpayers. He restated that Di Paolo Co. would be a new vendor. Mr. Vanderwerf restated that Di Paolo Co. would retain local labor through the union halls. He was not concerned about the project's specifications.

Alderman Fazzini added that change orders were a major concern. He questioned this project's contingency fund. Mr. Vanderwerf responded that there was not a contingency fund. The bid was based upon quantities. The IEPA would allow change orders up to three percent (3%) to be eligible for reimbursement. He noted that this work would be below grade which meant that there were unknowns. Alderman Fazzini noted that the bid provided for no leeway. He questioned if based upon the low bid if the City could add something to this project. Mr. Vanderwerf noted that there was no additional work designed at this time. Historically, change orders equaled less than one percent (1%). The City could choose to set aside dollars for same.

Mayor Stockton noted subgrade issues which could be applied to any contractor. He restated that there was no contingency fund included in this bid. Mr. Vanderwerf noted that contractors generally account for some percentage of difficulty. Mr. Karch added that the City has no history of budgeting for contingencies. He noted the difference in the annual loan payments. The work would be completed at a lower cost.

Alderman Schmidt restated that there was no contingency fund. She questioned if the project had been scaled back. Mr. Hales informed the Council that the City started with a \$10 million budget. There was the construction contract price and engineering fees. The City may need to include additional dollars for construction oversight. He restated that this would be a two (2) year project. Alderman Schmidt questioned the impact upon IEPA loan and the fact that Di Paolo Co. was not IDOT prequalified. Mr. Hales stated that IDOT prequalification only impacted the use of MFT funds. The City could chose to shift the funding source.

Alderman Sage noted that General Fund dollars would be used. In a future budget year, MFT funds would be used to cover a portion of the City's resurfacing budget. He believed that the result would be a wash.

Alderman Fazzini questioned if the City could chose to eliminate one (1) of the two (2) alternatives. Mr. Karch noted that the City would have the ability to make modifications in the field to stay within the dollar limit.

Alderman Anderson cited change orders and the need to stay within cost. Any change order would require Council approval. Todd Greenburg, Corporation Counsel, noted that Council approval would also be needed if the scope of the project were changed in an amount of \$10,000 or more.

Alderman Mwilambwe noted that the lowest bid would require strong oversight by the City. He questioned the manpower cost of same. Mr. Hales noted that this cost had not been determined. He noted the \$10 million budget which the City must stay within. The City would maintain a constant presence. There would be oversight cost with either vendor.

Mayor Stockton noted that City staff would meet with the contractor to determine the type of supervision required. Mr. Karch noted an issue would be the City's comfort

level with the vendor. The best level of inspection would be determined. The City's interest was to place a quality product in the ground.

Mr. Hales requested that Mr. Greenburg address the letter from the Hinshaw & Culbertson, LLP, (law firm). He also requested that the Council suspend the rules to allow David Di Paolo, Di Paolo Co., and Bob Lenz, Stark Excavating, Inc.'s attorney, the opportunity to address them.

Mr. Greenburg expressed his opinion that there was a major factual issue error in the letter from Edward Gower. He addressed IDOT's vendor precertification. The box on a form had not been checked. The specifications did not require same. He added that if the City wanted to use MFT funds then the vendor must be precertified.

Mayor Stockton questioned if there was legal reason not to award this bid to Di Paolo Co. The Council needed to decide the lowest responsible bidder. The Council should consider the bidder's financial ability, skills and past performance. City staff has made inquiries. Di Paolo has done good work. He noted the Council's stance on change orders. If the use of MFT funds was important to this project, then the Council would have to select another bidder.

Mayor Stockton questioned if there was a legal reason to preclude Di Paolo. Mr. Greenburg responded negatively. The Council must determine an objective reason not to award the bid to Di Paolo. He noted that the bid was well below the engineer's estimate.

Alderman Stearns stated that the use of MFT funds required IDOT's approval. This included IDOT's certification of the contractor. Mr. Greenburg noted that IDOT certification was not a condition of the City's specifications. The City can choose to find these dollars elsewhere. Alderman Stearns expressed her concern regarding the loss of MFT funds. Mr. Hales responded negatively. The City received approximately \$2 million annually in MFT funds. The City has used \$2.5 million in General Fund dollars for street resurfacing. All of these funds are spent on street resurfacing. The difference was that the expenditure of MFT funds required IDOT approval. The City would shift dollars due to this unique situation.

Alderman Schmidt noted the significant cost differences. She questioned same. Mr. Karch informed the Council that the bidders did not have to inform City staff of the subcontractors. He noted that Di Paolo's bid was significantly lower in the areas of traffic control, mobilization, and surface restoration. Alderman Schmidt noted that Di Paolo must meet City standards. Mr. Greenburg added that prevailing wages must also be paid.

Motion by Alderman Schmidt, seconded by Alderman Purcell to suspend the rules to allow someone to speak.

Motion carried.

David Di Paolo, Di Paolo Co.'s Vice President, 4350 Di Paolo Ct., Glenview, addressed the Council. He thanked the Mayor and Council for the time to address them. He introduced his father, Angelo Di Paolo who founded the company forty-eight (48) years ago. Work was slow in the Chicago area. Di Paolo had submitted an aggressive bid. He could not guarantee that there would not be any change orders. He added that his company had not seen any large flaws in the specifications. Clark Dietz, design engineers, had done a good job. His company had the ability to build to City standard. Di Paolo Co.'s focus was on underground work. The firm had completed \$14 million worth of projects in the Chicago area. Work has also been done in the Galesburg area. Generally, IDOT prequalification was not required. He restated that Di Paolo had submitted an aggressive bid.

Mr. Hales questioned mobilization as this was a two (2) year process. Mr. Di Paolo stated that their bid had dollars for mobilization. Overhead costs and personnel costs were spread throughout the project.

Mayor Stockton noted that at this time Mr. Di Paolo stated that the specifications and plans were clear. Mr. Di Paolo responded affirmatively.

Alderman Sage clarified that Di Paolo had been IDOT prequalified. Mr. Di Paolo cited issues with IDOT. He noted payment difficulties. His firm had finished a job in 2006 and it still had not been closed out. IDOT certification was one (1) tool for government work. At this time there was not a lot of government work. Alderman Sage expressed that he understood the difficulty with state payments. He noted Di Paolo's preference for underground work. Mr. Di Paolo responded affirmatively. He cited a \$20 million job in Wilmette with \$12 – 13 million in underground work.

Alderman Anderson noted that the Council scrutinized change orders. He questioned Mr. Di Paolo's thoughts on the bid. Mr. Di Paolo was confident in his company's bid. He added his confidence in the plan. Di Paolo would not make a lot of money on this project. The profit margin was limited. The goal was to keep people employed. Di Paolo would make this project work.

Alderman Fruin welcomed Mr. Di Paolo to the City. He questioned the company's home base for the majority of its work. Mr. Di Paolo noted that the company was located in Glen View. The bulk of the company's work was in Chicago and the surrounding counties. Historically, the firm has reached further. He restated his comfort level in the company's ability to perform.

Bob Lenz, Stark Excavating, Inc.'s attorney, 202 N. Center St., addressed the Council. He suggested that there was another appropriate answer. When MFT dollars are used, then the bidder must be prequalified. Di Paolo Co. was not prequalified. The City was manipulating the funding. The laws were to ensure fairness to taxpayers and bidders. Only three (3) bids had been submitted. The City changed the rules after the bid was opened. He noted the integrity of the bid process. He believed the City's action was unfair to the bidders. City staff had made a mistake. Di Paolo's bid should not have been opened.

Di Paolo was not IDOT prequalified. IDOT's process was substantial. The City had restricted the bid pool by stating its intention to use MFT funds. He cautioned the potential for litigation. He requested that the bid be awarded to his client as this firm met all requirements. Stark's bid was also below the engineer's estimate. He restated that the Council needed to be fair to the taxpayers and bidders.

His client had contacted Mr. Gower who was an expert in this area of law. He was formerly employed by IDOT as an attorney. He restated his belief that awarding this bid to Di Paolo would be bad public policy.

Mr. Hales restated that there were some unknown costs. He acknowledged that Di Paolo was not IDOT prequalified.

Mayor Stockton questioned IDOT's requirements and the unchecked box. Mr. Lenz stated this was a state requirement when MFT funds are used.

Alderman Stearns questioned when MFT funds were mentioned. Mr. Karch reviewed this bid's process. Initially there was no mention of MFT funds. On August 2, 2011, an addendum was issued. It cited that MFT dollars would be used. IDOT issued a publication, Local Road Sheet. If more than \$50,000 were involved then the contractors should be prequalified.

Mr. Lenz noted that the addendum exceeded the \$50,000 threshold. The City was the responsible party. He questioned public policy and fairness.

Alderman Anderson noted that a portion of the total job was marked as MFT. Mr. Karch stated total MFT funds equaled \$800,000. This figure represented approximately ten percent (10%) of the total project's cost. The majority of this project would be covered by IEPA funds.

Alderman Stearns questioned if there was a prebid meeting. Mr. Lenz responded affirmatively. Alderman Stearns questioned if other bidders were present at this meeting. Mr. Karch noted that the prebid meeting was held prior to the August 2nd addendum. Other companies had taken out plans. City staff did not check the bidder's list.

Mr. Lenz stated that an addendum was issued. The contractors should have been IDOT prequalified due to the use of MFT funds. The City should not have considered Di Paolo. He added that this was a legislative decision. The issue was good public policy. This was a legal issue. He restated that the Council needed to consider what was in the best interest of the taxpayers and bidders.

Alderman Purcell noted the price difference, (\$1.9 million).

Bruce Meeks, 1402 Wright St., addressed the Council. He had no interest in either company. Mr. Lenz had stated that the box on the form was not checked. The City could

save money. Di Paolo had submitted a competitive bid. The Council needed to support City staff's recommendation and move forward.

Motion by Alderman Sage, seconded by Alderman Anderson to return to order.

Motion carried.

Mayor Stockton addressed the fact that the box was not checked. Mr. Greenburg stated that the City was not obligated to use MFT funds. The City can consider Di Paolo's bid. If the Council believed that it was unreasonably low, it could exercise judgment as to why it was unreasonably low. Mayor Stockton believed that the City gave contradictory information. He questioned the IDOT form. Mr. Karch cited IEPA concerns. The box was not checked.

Alderman Sage noted that MFT funds came into play at a later date. Mr. Karch restated that the bid was issued on June 17, 2011. The MFT addendum was issued on August 2, 2011.

Mr. Greenburg noted the measure of damages would be limited to recovering the cost of bid preparation. Council should give consideration to future competitive damages.

Alderman Mwilambwe questioned the bid submittal date. Mr. Karch stated August 15, 2011. Mr. Hales added that the Council memorandum was draft on Friday, August 19, 2011. City staff made no recommendation. Mr. Di Paolo was invited to this evening's meeting. At this time, staff's recommendation was to award the bid to Di Paolo Co. The bid award would include alternatives 1 and 2. The City would forego the use of MFT funds. The Council would decide at a future date how to fund resurfacing Country Club Pl. and Mercer Ave.

Motion by Alderman Schmidt, seconded by Alderman Purcell that the bid for the Locust/Colton CSO Elimination and Water Main Replacement Project be awarded to Di Paolo Co. in the amount of \$7,877,607 with the understanding that the City will forego the use of MFT (Motor Fuel Tax) funds for resurfacing Country Club Pl. and Mercer Ave., 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.

Alderman Sage expressed his confidence in City staff. He believed that due diligence had been done. The project would include alternatives 1 and 2. He addressed lines of communication.

Mr. Karch addressed the Council. He could not guarantee that there would not be any change orders. He added his confidence in Clark Dietz. Only valid change orders would be brought before the Council.

Alderman McDade expressed her concern regarding this item. This was a complicated situation. She cited past discussions regarding change orders. The City needed to be proactive and not reactive.

MAYOR'S DISCUSSION: Mayor Stockton made three (3) comments. There were no significant issues with the Blues at the Mansion event. The Culture Fest held at Miller Park over the weekend was well attended. The Council planned to participate in the Labor Day Parade.

CITY MANAGER'S DISCUSSION: David Hales, City Manager, recognized Barb Adkins, Deputy City Manager, and the various department heads for their efforts addressing the Council's questions. He also recognized Jim Karch, Director – Public Works, Greg Kallevig, Civil Engineer II, and Todd Greenburg, Corporation Counsel, and Clark Dietz, Inc. for addressing the unique developments regarding the Locust/Colton bid.

ALDERMEN'S DISCUSSION: Alderman Purcell thanked Alderman McDade and David Hales, City Manager, for their efforts while serving on the EDC Board. He restated his interest in performance measures.

Alderman Fruin stated he was not opposed to the Blues at the Mansion event held at the David Davis Mansion. He was interested in consistency in addressing neighborhood events where liquor is served.

Motion by Alderman Anderson, seconded by Alderman McDade, that the meeting be adjourned. Time: 11:34 p.m.

Motion carried.

Tracey Covert
City Clerk

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