

**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 7:37 p.m., Monday, August 8, 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.

**PUBLIC COMMENT:** Mayor Stockton opened the Public Comment section of the meeting. He added that there would not be a response from the City under the Public Comment portion of the meeting.

Alton Franklin, 5 Andy Ct., Unit 1, addressed the Council. He wanted to make a couple of points. He addressed the Action Agenda and engagement of others. He expressed his concern regarding the procedural rules for the Council. He noted that the Council actually listened. He had seen a lot of words with no measurable actions. He cited new City positions with no measure of performance. He expressed his interest in measurable objectives. The City needed to set goals and know that they have been achieved.

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 July 25, 2011 and Work Session Minutes of June 13, 2011

**RECOMMENDATION:** That the reading of the minutes of the previous Council Proceedings of July 25, 2011 and Work Session Minutes of June 13, 2011 be dispensed with and the minutes approved as printed.

**BACKGROUND:** The Council Proceedings of July 25, 2011 and Work Session Minutes of June 13, 2011 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 McDade that the reading of the minutes of the previous Council Meeting of July 25, 2011 and Work Session Minutes of June 13, 2011 be dispensed with and the minutes approved as printed.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Bills and Payroll

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

**FINANCIAL IMPACT:** Total disbursements to be approved \$3,320,319.50, (Payroll total \$1,661,632.97, and Accounts Payable total \$1,658,686.53).

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 McDade 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: Appointment to the Bloomington-Normal Public Transit Board and Reappointments to the Planning Commission

**RECOMMENDATION:** That the Appointment and Reappointments be approved.

**BACKGROUND:**

I ask your concurrence in the appointment of John Mark Bowman, 3611 Pamela Drive, to the Bloomington-Normal Public Transit Board. His three (3) year term will begin August 8, 2011.

I ask your concurrence in the reappointments to the Planning Commission:

Stan Cain, 10 Barley Circle. Mr. Cain is currently the Chairman and has served on the Commission 3.5 terms (1997-present). His four (4) year term will be May 1, 2011 – April 30, 2015.

Rob Wills, 1512 E. Olive St. Mr. Wills has served one (1) term. His four (4) year term will be May 1, 2011 – April 30, 2015.

Charles Stuckey, 318B N. Main St. Mr. Stuckey has served one (1) term. His four (4) year term will be May 1, 2011 – April 30, 2015.

**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

**Alderman Sage made a brief statement. He noted the importance of the strategic planning process and citizen engagement. He cited the Statement of Interest form which invited participation. He added his interest in succession planning. He requested feedback from Council. He believed the intent of a board and/or commission appointment was short term service. He stated that such action would engage more citizens. He believed that attendance standards should be set.**

**Mayor Stockton acknowledged that there was more to do. A file had been started which contained all Statement of Interest forms which have been submitted. Board and Commission membership was listed on the City's web site. A database would be developed. The Council may review this file.**

**Motion by Alderman Fazzini, seconded by Alderman McDade that the appointment and reappointments 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: Payment for Participation in McLean County's Information Technologies for EJustice Support**

**RECOMMENDATION:** That the payment to McLean County's Information Technologies in the amount of \$29,876 for EJustice Support be approved.

**BACKGROUND:** On August 23, 1999, Council entered into a joint agreement with other police agencies in McLean County to use EJustice (formerly known as Integrated Justice Information System i.e., IJIS) as its means to enter police reports. The EJustice System allows the Police Department staff to track evidence, review police reports from other agencies', and view other agencies' mug shots.

The EJustice System is the City's only means of electronic report submission and electronic evidence tracking. Due to a change in the ownership of the EJustice program, all users are now required to provide funds to support the EJustice program. The total price for supporting the program is \$140,000 per year. McLean County pays \$35,000 per quarter. The City, Town of Normal, Illinois State University, and the McLean County Sheriff's Department split the \$140,000 based on the number of users in each department. It should be noted McLean County Sheriff's Department pays for users in the Circuit Clerk's Office, States Attorney's Office and all rural police agencies.

This agreement is renewable on a yearly basis and will be in effect from March 2011 through March 2012.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** The cost for the one (1) year agreement of technology support is \$29,876. Funds for the agreement have been budgeted in G15110-70990 (Other Purchased Services).

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Randall D. McKinley  
Chief of Police

Timothy Ervin  
Director of Finance

David A. Hales  
City Manager

**Motion by Alderman Fazzini, seconded by Alderman McDade that the payment to McLean County's Information Technologies in the amount of \$29,876 for EJustice Support 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: Analysis of Proposals for 2011 Emergency Traffic Signal Repair Contract (City Wide)

**RECOMMENDATION:** That the proposal be rejected.

**BACKGROUND:** To date, emergency repair of City traffic signal facilities beyond the capability of City crews are performed on a time and materials basis by a few contractors. These contractors are chosen by staff based upon type of work, site conditions, experience, availability, and other factors. Pursuant to the Council request to bid this work, a Request for Proposals (RFP) was released. Proposals for the 2011 Emergency Traffic Signal Repair Contract were received until 10:00 a.m. Wednesday, July 6, 2011 in the office of the City Clerk. One (1) proposal was received.

## Analysis of Proposal

	Material Markup	Electrician Hourly Rate	Operator Hourly Rate	Teamster Hourly Rate	Statement of Qualifications Submitted
<b>Laesch Electric, Inc.</b>	<b>17%</b>	<b>\$160.00</b>	<b>\$150.00</b>	<b>\$135.00</b>	<b>Yes</b>
Previously Completed Work	15%	\$75.00	\$113.00	\$96.00	N/A

The submitted proposal was evaluated based upon various labor trade rates, material mark up and contractor qualifications. The submitted labor trade rates were also compared to the rates paid for previously completed emergency repair work performed on a time and material basis. Since the submitted labor trade rates are approximately 1.5 to nearly three (3) times the rates for previously completed work, staff does not recommend pursuing this contract and requests permission to continue the current process.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** An RFP for this work 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. One (1) proposal was received.

**FINANCIAL IMPACT:** Payments for Emergency Traffic Signal Repairs will be made in accordance with the City's current purchasing policy with Engineering Administration - Traffic Control Maintenance Funds (1001-16210-54030).

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

**Motion by Alderman Fazzini, seconded by Alderman McDade that the proposal be rejected.**

**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 Proposals for 2011 Traffic Signal Maintenance Contract (City Wide)

**RECOMMENDATION:** That the proposal be rejected.

**BACKGROUND:** To date, maintenance of City traffic signal facilities that is beyond the capability of City crews was performed on a time and materials basis by a few 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, a Request for Proposals was released. Proposals for the 2011 Traffic Signal Maintenance Contract were received until 10:00 a.m. Wednesday, July 6, 2011 in the office of the City Clerk. One (1) proposal was received.

Analysis of Proposal

	Material Markup	Electrician Hourly Rate	Operator Hourly Rate	Teamster Hourly Rate	Statement of Qualifications Submitted
<b>Laesch Electric, Inc.</b>	<b>12%</b>	<b>\$135.00</b>	<b>\$132.00</b>	<b>\$115.00</b>	<b>Yes</b>
Previously Completed Work	15%	\$50.00	\$75.00	\$64.00	N/A

The submitted proposal was evaluated based upon various labor trade rates, material mark up and contractor qualifications. The submitted labor trade rates were also compared to the rates paid for previously completed emergency repair work performed on a time and material basis. Since the submitted labor trade rates are approximately two to over three (2 - 3) times the rates for previously completed work, Staff does not recommend pursuing this contract and requests permission to continue the current process.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** This work 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. One (1) proposal was received.

**FINANCIAL IMPACT:** Payments for Traffic Signal Maintenance will be made in accordance with the City's current purchasing policy with Engineering Administration - Traffic Control Maintenance Funds (1001-16210-54030).

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

**Motion by Alderman Fazzini, seconded by Alderman McDade that the proposal be rejected.**

**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 Proposals and Approval of the 2011 Emergency Utility Repair Contract (City Wide)

**RECOMMENDATION:** That the technicality be waived, and the proposal prices for the 2011 Emergency Utility Repair Contract submitted by G.A. Rich & Sons, Inc., be accepted and the Mayor and City Clerk be authorized to execute the necessary documents.

**BACKGROUND:** To date, emergency repair 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. An example of this emergency repair work would be the sewer repair recently completed at 1605 E. Taylor St. approved at the July 11, 2011 Council meeting.

Pursuant to Council's request to bid this work, a Request for Proposals (RFP) was released. Proposals for the 2011 Emergency Utility Repair Contract were received until 10:00 a.m. Wednesday, July 6, 2011 in the office of the City Clerk. Three (3) 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. Only one (1) contractor submitted the requested Statement of Qualifications. Staff recommends that this technicality be waived.

The selected contractor was chosen based primarily upon the labor rate evaluation and staff's determination of the contractor's ability to perform the work. The labor rate evaluation uses a typical average emergency utility repair for the amount of labor hours and materials used as a base of comparison. Any performance failures by the contractor can be used as factors during the RFP process during the next fiscal year.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** This work was advertised in The Pantagraph on June 22 and 29, 2011. Twelve (12) 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. Three (3) 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 expenditure has already occurred from these funds, the following amounts will be encumbered for this contract: \$50,000 in Water Transmission & Distribution Funds (5010-50120-70550); \$30,000 in Sewer Maintenance &

Operation Funds (5210-52100-70551); and \$30,000 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 McDade that the technicality be waived, and the proposal prices for the 2011 Emergency Utility Repair Contract submitted by G.A. Rich & Sons, 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 Bids for One (1) Six-Yard Rear Load Packer for the Parks, Recreation, and Cultural Arts Department

**RECOMMENDATION:** That one (1) International 4300 with New Way Diamond Back Six-Yard Rear Load Packer be purchased from Rantoul Truck Center Rantoul IL, in the amount of \$112,803, and the Purchasing Agent be authorized to issue a Purchase Order for same.

**BACKGROUND:** The Parks, Recreation, and Cultural Arts Department has a 2000 International 4700 with a Six-Yard Packer Body. This unit is used to pick up garbage at all park locations, golf courses, Constitution Trail trailheads, pools and the Lincoln Leisure Center. It is operated by a two (2) person crew, seven (7) days a week, eight (8) hours a day from April through October. With lesser volume, it is operated by one (1) employee, three (3) days per week, eight (8) hours per day from November through March. This unit was scheduled for replacement in FY 2009.

Replacement of this unit was delayed for an additional three (3) years. This resulted in an increase life cost to this unit of \$17,582. Life cycle cost of maintenance is the maintenance cost from the time the vehicle is purchased to when it is taken out of service. FY 2012 had \$115,000 budgeted for replacement of this unit from the Parks, Recreation and Cultural Arts Department, G14110-72130.

On July 22, 2011, at 11:00 a.m., bids were received, opened, and publicly read. Three (3) qualifying bids were received and are as follows:

<b>Vendor</b>	<b>Rear Loading Refuse Packer</b>
Rantoul Truck Centers**	\$112,803.00
Prairie Archways	\$119,440.00
RNOW Inc.	\$120,882.78

\*\*Lowest bidder

Staff respectfully requests to accept the lowest bid from Rantoul Truck Centers and the replacement unit be declared surplus, and sold at public auction in accordance with the City's surplus property policy.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** An invitation to bid was advertised in the Pantagraph on July 5, 2011. Eleven (11) bid packets were mailed to prospective bidders. A total of ten (10) bids were received. Six (6) of the bids received were no bids, and one (1) was disqualified for being a partial bid.

**FINANCIAL IMPACT:** FY 2012 had \$115,000 budgeted for replacement of this unit. The total cost to purchase the Rear Loading Refuse Packer is \$112,803, which will be paid from the Parks, Recreation Department G14110-72130. The vehicle will be financed through a five (5) year capital lease.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed By:

Jim Karch  
Director of Public Works

Timothy Ervin  
Director of Finance

John Kennedy  
Director of Parks, Recreation,  
& Cultural Arts

Recommended by:

David Hales  
City Manager

**Motion by Alderman Fazzini, seconded by Alderman McDade that one (1) International 4300 with New Way Diamond Back Six-Yard Rear Load Packer be purchased from Rantoul Truck Center in the amount of \$112,803, 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:** Request to Open a Time Capsule located on City property, and the Contents be donated to the McLean County Museum of History

**RECOMMENDATION:** That the Time Capsule be opened and the contents be donated to the McLean County Museum of History, with the exception of any contents which may obviously be City property.

**BACKGROUND:** The City has been contacted by Janet Chapman and Brian Fogler (a mother and her son) to allow them to open a time capsule which has been found on City property, and that the City donate the contents to the McLean County Museum of History (with the exception of any items which may obviously be City property).

Mr. Fogler has located a time capsule in Forest Park which was originally buried in 1910. It was uncovered and reburied, along with some additional materials, in 1945. Mr. Fogler has requested that his mother be permitted the privilege of opening the time capsule, and that the contents be donated to the McLean County Museum of History, unless there are items which were obviously intended to become the property of the City. They would like to ensure that the public has the ability to view the contents of the time capsule. The granting of the request is under the authority of the Council.

Susan Hartzold, Curator of Collections and Exhibits, and Terri Clemens, Registrar, have confirmed that the Museum of History would be interested in accepting a donation of the contents of the time capsule. Ms. Chapman and Mr. Fogler also gave the staff a copy of a

Pantagraph article from July 8, 1945 regarding the “re-interment” of the time capsule at that time. According to the article, the 1910 artifacts include a letter written on stationary of William R. Bach, State’s Attorney, describing the Bloomington park system as it existed then; it was signed by William R. Bach, W.H. Hunter and John J. Cowden, Park Commissioners. There was a copper plate with the names of those men, plus Edward Baumgardner, park custodian. Copies of the June 1, 1910 Daily Pantagraph and Daily Bulletin were also included, along with a copy of the Proceedings of the City Council dated May 2, 1910. Finally, some 1910 picture post cards (Mayor R.L. Carlock holding two Miller Park bear cubs, and pictures of the “Miller Park deer herd”, the Pavilion, park bears and caged lions). The 1945 additions to the box include the July 8, 1945 Pantagraph and a letter explaining the 1945 discovery and re-interment.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** McLean County Museum of History.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg  
Corporation Counsel

David A. Hales  
City Manager

**Motion by Alderman Fazzini, seconded by Alderman McDade that the Time Capsule be opened and the contents be donated to the McLean County Museum of History, with the exception of any contents which may obviously be City property.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Application of the City of Bloomington, d/b/a Bloomington Center for the Performing Arts, located at 600 N. East St., for an RBS liquor license, which will allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week

**RECOMMENDATION:** Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that an RBS liquor license for the City of Bloomington, d/b/a Bloomington Center for the Performing Arts, located at 600 N. East St., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) alcoholic beverages will not be allowed in the auditorium.

**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of the City of Bloomington d/b/a Bloomington Center for the Performing Arts, located at 600 N. East St., requesting an RBS liquor license which would allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Steven Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel; Bob Wall, Asst. Police Chief; and Tracey Covert, City Clerk, and Joel Aalberts, Performing Arts Manager and Applicant representative.

Commissioner Stockton opened the liquor hearing and requested that the Applicant explain this request. Joel Aalberts, Performing Arts Manager, and Applicant representative, addressed the Commission. He noted that alcohol sales have been a part of the concessions at the Bloomington Center for the Performing Arts, (BCPA), since 2006. The BCPA has worked with an outside vendor. For the 2011 Performance Season, BCPA staff believed that it was time to bring liquor sales in house. A City liquor license would not cover rentals for weddings, etc. Rentals generally involved a larger selection of alcoholic beverages. Only beer and wine would be sold by the glass prior to and during intermission of adult events.

Commissioner Stockton questioned alcohol sales during the Illinois Symphony. Mr. Aalberts noted that these events would be handled by BCPA staff. He described the Symphony as a standard performance event. He restated that alcohol sales by the glass have been offered in the past. The City license would allow the BCPA to recoup all profits. This revenue would off set performance costs.

Mr. Aalberts added that BCPA staff would research BASSETT (Beverage Alcohol Sellers & Servers Education and Training)/STEPS (Safety Training to Encourage Profitable Services) training. Twenty-two (22) volunteers and four (4) full time staff would be trained. The full time staff members would act as supervisors.

Commissioner Stockton noted that the City had selected an outside vendor in the past that was issued a season performance liquor license. Mr. Aalberts responded affirmatively. KPTS, Inc., d/b/a Six Strings located at 525 N. Center St., currently holding a TAS (Tavern, All types of alcohol, Sunday sales), was the current provider. Six Strings would handle an outdoor event at the BCPA in September 2011.

Commissioner Petersen questioned if the City would eventually handle the BCPA's outdoor events. Mr. Aalberts noted that outdoor events were larger and there was a higher demand for alcohol sales. The BCPA staff and its volunteers would grow with experience to accommodate customers' wishes.

Commissioner Stockton expressed his concern about any violations. George Boyle, Asst. Corporation Counsel, addressed the Commission. He recommended that the City retain special counsel for any enforcement issues. This special counsel should be external to the City. He had not spoken with another municipality but cited the Town of Normal as an example.

Commissioner Stockton acknowledged the need for hardy internal policing. This would include sanctioning employees and volunteers. Mr. Aalberts noted that the City's golf courses, (Highland, Prairie Vista and the Den at Fox Creek), held RBS liquor licenses. The opportunity for liquor sales would be limited to prior to a programmed performance and during intermission. He added that a Park Police Officer would be present at outdoor events. He believed that the BCPA's outdoor events provided a safe environment. There had been no issues to date.

Commissioner Gibson requested that the City define the premise (indoor and outdoor events). (See Chapter 6. Alcoholic Beverages, Section 26 (d) (2) (i - vii) ). Mr. Aalberts noted that the outdoor event space was fenced off. He noted the limited number of access points and added that BCPA staff was assigned to police same.

Commissioner Petersen questioned the number of stations. Mr. Aalberts noted that the BCPA was dependent upon event set up. There would only be one (1) alcohol sale station for outdoor events. He reviewed the various layouts submitted with the application (indoor and outdoor events). He reviewed the process for entering outdoor events, (gates were located on US 51 and East St.).

Commissioner Buchanan requested that City staff enhance the drawings with the use of color to clarify and define the premise.

Commissioner Stockton noted that premise be controlled. Mr. Aalberts stated that there would be no change to the event set up.

Commissioner Gibson noted that more than fifty-one percent (51%) of sales must come from items other than alcohol. He noted ticket sales as an example. He questioned why City staff wanted to change the current system and have the City assume the risk. Mr. Aalberts noted that the primary reason was revenue. Alcohol sales would provide another revenue stream to cover performance costs. He noted that the Castle Theater and the US Cellular Coliseum also held liquor licenses. The BCPA's system was simple and could be executed safely. There was a small opportunity for alcohol sales. Concessions added to the event and were a service to patrons. The product would be provided at an affordable price while removing the middle man.

Commissioner Petersen questioned the number of outdoor events. Mr. Aalberts responded that there were five (5) outdoor events. BCPA would evaluate the Jaycees Bruegala after the event.

Commissioner Petersen believed that a careful approach was needed for outdoor events. There appeared to be no issues with indoor events. Mr. Aalberts noted that BCPA staff would be cautious to maintain the City's image. It would be reasonable to have a police presence at outdoor events. He believed that events could be held safely.

Commissioner Stockton believed that the Council would be concerned about this application. He noted that no beverages would be allowed in the auditorium. Mr. Aalberts noted that City policy did not allow beverages inside the auditorium. There would be no change to this policy. Commissioner Stockton stated that this policy could be attached as a condition upon the license.

Commissioner Gibson did not see any issues with the sale of beer and wine. There may be issues which the Council may request clarification. He believed that from the Commission's view point, Mr. Aalberts had answered the Commission's questions and concerns. He questioned if the City needed to establish a violation protocol prior to issuing a liquor license. Commissioner Stockton believed that the City would request assistance from the Town of Normal. He added that there had not been any issues with liquor sales at this facility. Commissioner Gibson wanted to understand the issue. Commissioner Petersen believed that the City set a precedent when it licensed its golf courses. Commissioner Buchanan noted that the location was not problematic and there was responsible management.

Commissioner Gibson questioned if the Applicant's file contain liquor liability and a license bond. Tracey Covert, City Clerk, responded affirmatively.

Commissioner Stockton noted that there had been liquor service at the BCPA. He compared this application to a change of ownership. He requested that a condition be placed on this application to not allow alcoholic beverages in the auditorium.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately 112 courtesy copies of the Public Notice were mailed. In addition, the Agenda for the July 12, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** None.

Respectfully,

Reviewed by:

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

John Kennedy  
Director of Parks, Recreation  
& Cultural Arts

Randall D. McKinley  
Police Chief

**Motion by Alderman Fazzini, seconded by Alderman McDade that an RBS liquor license for the City of Bloomington, d/b/a Bloomington Center for the Performing Arts, located at 600 N. East St., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) alcoholic beverages will not be allowed in the auditorium.**

**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:** Amendment to Lake Bloomington Lease - Lot 2, Block 22 in Camp Potawatomie (Ian and Dana King)

**RECOMMENDATION:** That the Amendment to the Lake Bloomington Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

**BACKGROUND:** On July 25, 2011, Council approved a lease transfer for Lot 2, Block 22 in Camp Potawatomie to Ian and Dana King. The Kings have since informed the City that their lending institution is requesting certain changes in the lease as a condition of financing. The Legal Department staff tendered alternate language which is acceptable to the lending institution. Council has approved this alternate language in the past. Staff believes that this proposed rider does not adversely affect the ability of the City to maintain its ability to exercise control of the premises in the event of a foreclosure.

Basically, the City agrees that in the event of any delinquency in lease payments or other breach of the lease, it will notify the lending institution as well as the lessee so that the lending institution can protect its mortgage interest by eliminating the delinquency or breach. In the event the lending institution has to foreclose on its mortgage interest in the house, the City agrees that the lending institution may take over the ground lease also. The City retains the ability to refuse to assign the lease to a new owner other than the lending institution, but will not “unreasonably refuse” a new lease pursuant to a contract between the lending institution and the new proposed lessee.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg  
Corporation Counsel

David A. Hales  
City Manager

### AMENDMENT TO LAKE BLOOMINGTON LEASE

This Amendment to Lake Bloomington Lease (“**Amendment**”) is made and entered into this 8<sup>th</sup> day of August, 2011, (“**Execution Date**”), effective on the Execution Date, by and between THE CITY OF BLOOMINGTON, ILLINOIS, an Illinois municipal corporation, acting as Lessor (“**Lessor**”) under a certain Lake Bloomington Lease which is dated the 25<sup>th</sup> day of July, 2011 (the “**Lease**”) and IAN KING and DANA KING, acting as Lessee (“**Lessee**”). The Lessor and Lessee are collectively referred to, in this Amendment, as the parties.

#### RECITALS

A. The Lease, as revised and modified by this Amendment, relates to the lease and demise to Lessee from Lessor of the property legally described in the attached “Exhibit A” (the “leased premises”); and,

B. Lessor and Lessee, in order to facilitate Lessee’s financing secured by a mortgage on the leasehold estate created in the leased premises by the Lease, have agreed to revise and modify the Lease, as, and to the extent described in this Amendment.

NOW THEREFORE, the parties, in consideration of the provisions, the terms, the conditions and the covenants which are contained and expressed in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. The Lease is amended, revised, and modified to revoke and delete paragraph 1 and to add the following terms and provisions as paragraph 1 of the Lease:

“1. DEMISE OF LEASED PREMISES. Lessor hereby leases and demises to Lessee and Lessee agrees to lease from Lessor the property described in Exhibit “A” together with all buildings, improvements and fixtures now or hereafter erected thereon, and all rights, privileges, and easements appurtenant thereto (hereinafter referred to as the “premises” or “leased premises”).”

2. The Lease is amended, revised and modified to add “Subject to the terms and provisions of paragraph 19,” at the beginning of paragraph 13.

3. The Lease is amended, revised, and modified to add the following terms and provisions as paragraph 19 of the Lease:

#### 19. MORTGAGES OF LESSEE’S INTEREST:

(A) Lessee, and Lessee’s successors and assigns, respectively possess the unrestricted right to mortgage and pledge Lessee’s leasehold estate under this Lease, subject to the limitations which are expressed in this paragraph 19; however, any such mortgage or pledge will be subject and subordinate to Lessor’s fee interest in the leased premises and to the rights of Lessor under this Lease.

(B) If this Lease or the leasehold interest which is created by this Lease is mortgaged, then, so long as any such mortgage remains unsatisfied, the following terms and provisions will apply to this Lease, and to the relationship between Lessor and Lessee which is created by this Lease:

(i) Lessor, concurrently with the service of any notice of default on Lessee under this Lease, or the service of any other notice to Lessee pursuant to the provisions of or with respect to this Lease, must serve a copy of that notice on the holder of such mortgage, and no notice by Lessor to Lessee under this Lease will be deemed to have been properly served or effective unless and until a copy of the notice has been served on the mortgage holder in compliance with this subparagraph (i).

(ii) Any mortgage holder, if Lessee is in default under this Lease, may act to remedy that default, or to cause the default to be remedied, and Lessor will be required to accept such performance by or at the instance of the mortgage holder as though Lessee had timely acted to remedy the default.

(iii) No event of default will be deemed to exist under this Lease in respect to the performance of work or acts which Lessee is required to perform, or conditions which Lessee is required to remedy, if corrective actions have been timely commenced and are being prosecuted to completion with diligence and continuity.

(iv) In the event of the occurrence of a default, other than a default in the payment of rent or other financial obligations which are created by this Lease, Lessor will not initiate any action to effectuate a termination of this Lease until Lessor has notified the mortgage holder and allowed the mortgage holder a reasonable period of time, consisting of no less than sixty (60) days, within which to either (i) obtain possession of the leased premises (including possession by a receiver) or (ii) institute, prosecute and complete foreclosure proceedings or otherwise acquire Lessee's interest under this Lease with diligence. The mortgage holder, after obtaining possession or acquiring Lessee's interest under this Lease, will act to promptly cure all defaults then reasonably susceptible of being cured by such holder; however: (i) the mortgage holder will not be obligated to continue such possession or to continue such

foreclosure proceedings after the default has been cured; and (ii) the mortgage holder will comply, during the period of Lessor's forbearance, with such of the terms, provisions, covenants and conditions of this Lease as are reasonably susceptible of being complied with by the mortgage holder. Any default by Lessee, which is not reasonably susceptible of being cured by the mortgage holder, will be deemed to have been waived by Lessor upon completion of such foreclosure proceedings or upon the acquisition of Lessee's interest in this Lease, except that any events of default which are reasonably susceptible of being cured after such completion and acquisition will then be cured with reasonable diligence. Subject to the terms and conditions of this Lease, such mortgage holder, or the mortgage holder's designee, or other purchaser in foreclosure proceedings, may become the legal owner and holder of this Lease through such foreclosure proceedings or by an assignment of this Lease in lieu of foreclosure.

(v) In the event of the termination of this Lease prior to the expiration of the Term, Lessor will deliver a notice, in writing, to the mortgage holder which advises the mortgage holder that this Lease has been terminated, accompanied by a statement of the payments which would then be due under this Lease in the absence of such termination and a description of all of the other defaults, if any, then existing under this Lease. The mortgage holder, or the mortgage holder's designee, following the receipt of that notice from Lessor, may elect to enter into a replacement lease with Lessor, on the following terms and conditions, within sixty (60) days after the receipt of the notice that Lessor has terminated this Lease: (i) the replacement lease will be effective as of the date of termination of this Lease; and (ii) the term of the replacement lease will be the then remaining period of the Term of this Lease, at the rent and on all of the other covenants and conditions which are contained within this Lease, including any applicable rights of renewal.

(vi) Any notice or other communication which Lessor desires or may be required to deliver to the holder of a mortgage on this Lease must be in writing and must then be delivered to the mortgage holder by a reputable overnight carrier or served by registered or certified mail, return receipt requested, with first-class postage prepaid, addressed to the mortgage holder at the address referenced

in such mortgage, or at such other address as may be designated by the mortgage holder by a notice, in writing, delivered to Lessor by registered or certified mail, return receipt requested, with first-class postage prepaid, or by a reputable overnight carrier.

Any notice or other communication which the holder of a mortgage on this Lease desires or may be required to deliver to Lessor must be in writing and will be deemed to have been properly delivered or served if delivered to Lessor or sent to Lessor by registered or certified mail, return receipt requested, with first-class postage prepaid, or by a reputable overnight carrier, addressed to Lessor at Lessor's address referenced in this Lease, or at such other address as may be designated by Lessor by a notice, in writing, delivered to such mortgage holder by registered or certified mail, return receipt requested, with first-class postage prepaid, or by a reputable overnight carrier.

(vii) No agreement between Lessor and Lessee modifying, amending, revising, cancelling, or surrendering this Lease will be effective without the prior consent of the leasehold mortgagee, expressed in writing, and timely delivered to both Lessor and Lessee.

(viii) No union of the interests of Lessor and Lessee in or under this Lease will be deemed to cause or result in a merger of this Lease in the fee interest.

(C) If any leasehold mortgagee acquires title to Lessee's interest in this Lease, by foreclosure of a mortgage on that interest, or by an assignment in lieu of foreclosure or under a replacement lease which has been executed pursuant to this paragraph 19, such mortgagee may assign that interest or the replacement lease with the consent of Lessor which consent will not be unreasonably withheld, delayed or conditioned, and, in that event, the leasehold mortgagee will be deemed to be released, from and after the date of such assignment, from all liability in respect to the performance or observance of the covenants and conditions which Lessee was required to perform and observe.

(D) Lessee will not treat this Lease as terminated by an election under the federal bankruptcy laws, or under any similar applicable state law, and Lessee specifically and expressly assigns to the leasehold mortgagee any right to acquiesce in any termination of this Lease under such laws.

4. The Lease is amended, revised, and modified to add the following terms and provisions as paragraph 20 of the Lease:

**20. REPRESENTATIONS AND WARRANTIES OF LESSOR:**

Lessor represents and warrants to Lessee that:

(a) Lessor has good and marketable title to the leased premises free and clear of any and all mortgages, liens, charges, leases (other than this Lease), security interests, claims, encumbrances, and agreements, and Lessor has full power, right and authority to lease and demise the leased premises to Lessee and execute perform this Lease and has complied with all statutory requirements and has taken all corporate action necessary to do so. Lessor shall provide Lessee, within five (5) days of Lessee's written request, with copies of corporation resolutions or other documents evidencing such compliance and corporate action.

(b) The leased premises does not rely on any other premises or on any facilities (other than the facilities of public utility and water companies whose lines are in the public street(s) adjoining the leased premises or, if they cross any other premises, do so through valid easements extending to and benefitting the leased premises) located on any premises not included in the leased premises to fulfill any governmental requirement, including, but not limited to, any zoning or other land use laws, or for the furnishing to the leased premises of any utilities, including, but not limited to, electricity, gas, telephone, water, sewer or waste treatment or recovery facilities and similarly, no building or other improvement not included in the leased premises relies on any part of the leased premises to fulfill any governmental requirement or for the furnishing to such building or improvement of any utilities.

(c) The leased premises are properly zoned for the uses and occupancy permitted under the provisions of the Lease.

(d) To the best of Lessor's knowledge on the Execution Date, there are no proceedings, either pending or threatened, for the taking of all or any portion of the leased premises, or any interest therein, by eminent domain. Lessor shall give Lessee prompt notice of the institution of any such proceedings or threat thereof or any requests or discussions with respect thereto.

(e) To the best of Lessor's knowledge on the Execution Date, there is no litigation or governmental, administrative or arbitration proceeding pending or threatened (including, but not limited to, with respect to condemnation of any part of the leased premises or the environmental condition of the leased premises), or any basis therefore, which affects or might affect the leased premises or the ownership or operation thereof by Lessee or which might affect the ability of Lessor to perform its obligations under this Lease.

(f) All representations and warranties of Lessor in this paragraph 20 shall survive the expiration or sooner termination of this Lease.

5. INTERPRETATION. The parties agree that, except to the extent revised and modified by this Amendment, all of the other provisions, terms, conditions, and covenants which are respectively contained in the Lease remain in full force and effect. In the event of any conflict between the terms and provisions of the Lease and this Amendment, the terms and provisions of this Amendment will govern and control in all circumstances.

6. COUNTERPARTS. This Amendment may be executed in multiple counterparts, which will collectively comprise and constitute a single agreement which will then be binding on all of the parties, even though the parties are not signatories to the original Lease, or to the same counterpart of this Amendment, and such counterparts may be separately recorded to document and evidence the existence of a single agreement signed by all of the parties.

IN WITNESS WHEREOF, the parties respectively executed and then delivered this Amendment, to be effective on and as of the Execution Date, in pursuance of the uses and purposes which are described and contained in this Amendment.

LESSOR:

LESSEE:

THE CITY OF BLOOMINGTON, ILLINOIS

IAN KING

By: Stephen F. Stockton  
Title: Mayor

DANA KING

ATTEST:

By: Tracey Covert  
City Clerk

**EXHIBIT A**

Lot 2 in Block 22 in Camp Potawatomie, according to the private unrecorded plat of the ground belonging to the City located around Lake Bloomington in Hudson and Money Creek Townships in McLean County, Illinois.

PIN: 07 – 12 – 206 - 005

**Motion by Alderman Fazzini, seconded by Alderman McDade that the Amendment 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: Fiscal Year 2011 Year End Budget Amendment

**RECOMMENDATION:** That the Ordinance be passed.

**BACKGROUND:** State of Illinois statutes require expenditures incurred within each individual fund not to exceed the appropriation amount set forth in the annual budget of an established fiscal period. In an effort to strengthen the fiscal controls of the budgetary process, staff has prepared a list of budgetary amendments for FY 2011. This action corresponds with the August 24, 2009 discussion where staff committed to Council that the majority of budget amendments would be presented in the fiscal year the expenditure occurred rather than in the proceeding fiscal year.

The appropriated budget of individual funds may be exceeded for several reasons such as but not limited to:

FY 2010 encumbrances paid from FY 2011;

- Purchases and/or projects (ex. grants) approved in mid-year and thus not included within the appropriated budget; and
- Projects approved after the annual budget was approved.

Staff has prepared documentation which itemized the proposed mid-year budgetary amendments and a short description of the reason behind the budget amendment. As a reminder, as part of the Financial Impact section for each Council memo, if necessary a statement will be included that



will disclose the need for a budget amendment if the applicable item is approved by the City Council.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** Not applicable.

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

**ORDINANCE NO. 2011 - 34****AN ORDINANCE AMENDING THE BUDGET ORDINANCE  
FOR THE FISCAL YEAR ENDING APRIL 30, 2011**

Whereas on April 26, 2010 by Ordinance Number 2010 - 17, the City of Bloomington passed a Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2011, which Ordinance was approved by Mayor Stephen F. Stockton on April 14, 2010; and

Whereas a budget amendment is needed as detailed below;

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

Section One: Ordinance Number 2010 - 17 (the Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2011) is further hereby amended by inserting the following line items and amounts presented in Exhibit #1 in the appropriate place in said Ordinances.

Section Two: Except as provided for herein, Ordinance Number 2010 - 17 shall remain in full force and effect, provided, that any budgeted or appropriated amounts which are changed by reason of the amendments made in Section One of this Ordinance shall be amended in Ordinance Number 2010 - 17.

Section Three: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED the 8<sup>th</sup> day of August, 2011.

APPROVED the 9<sup>th</sup> day of August, 2011.

APPROVED:

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

(EXHIBIT 1 ON FILE IN CLERK'S OFFICE)

**Motion by Alderman Fazzini, seconded by Alderman McDade 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:**

Presentation - Fiscal Year 2011 4<sup>th</sup> Quarter and Annual Financial Report.

Mayor Stockton introduced this item. David Hales, City Manager, addressed the Council. He noted that Standard Poor had downgraded the US debt rating. The City's rating was the same as the US but with a stable outlook. The US has a negative out look. The City's financial position was stronger. He cited City staff's conservative revenue projections. In addition, City staff had reduced expenditures. He noted the Council's policy direction. All were committed to financial responsibility. The process was on going. He cited the need for future actions. There were key documents which laid the foundation, (Tax Levy and Budget Ordinance with the outside audit). City staff continued to watch the national economy. The recovering from the recession had been slow. He believed that there was a new normal. Citizens expected quality services with the City's limited resources.

Tim Ervin, Finance Director, addressed the Council. He would present the fourth quarter highlights and preaudit figures. Mr. Ervin's PowerPoint presentation would be posted on the City's web site. He noted that the outside audit was due by statute by October 31, 2011. To date, the audit was sixty percent (60%) complete. Sikich, outside auditor, would present the findings and management letter to the Council. All information and figures presented this evening were preliminary. He noted that the third quarter financial report projected a carryover balance. He reminded the Council that \$2.5 million had been budgeted for road resurfacing and \$600,000 for Gaelic Park. The General Fund's projected carryover balance was \$4.8 million. Revenue was higher than projected. In addition, expenditures were lower than projected. The City had met the UFB, (Unreserved Fund Balance), goal of \$11.1 million and had \$3.1 million for road resurfacing and Gaelic Park.

Mr. Ervin presented a four (4) year comparison regarding cash flow. Cash flow was important because payments from the state had lagged. Cash flow was a critical element of the City's financial status. He noted the property tax payments. He highlighted the City's debt retirement. Five percent (5%) of GO (General Obligation) debt was retired. At the current rate of retirement, the City would pay down fifty percent (50%) of its debt in ten (10) years. The City had refinanced \$5 million of the US Cellular Coliseum, (USCC), debt.

Mr. Ervin addressed challenges. He cited equipment, infrastructure, streets and vehicles. He noted recent expenditures. Community Development had continued to see decreases in federal funding, (approximately sixteen percent/16%). There needed to be a long term plan to fund the operations and maintenance at the Bloomington Center for the Performing Arts. Pensions, (Police, Fire and IMRF – Illinois Municipal Retirement Fund), were another issue. These figures were from the Fiscal Year, (FY), 2010 CAFR (Comprehensive Annual Financial Report). City staff was currently working with the actuary. He addressed the IMRF prior to ERI (Early Retirement Incentive). ERI has impacted the City's ratio. He cited the \$2 million payment to IMRF for ERI.

Mr. Ervin addressed the Enterprise Funds. Several of them have negative values. These funds should be examined and should be self supporting.

Mr. Ervin cited property tax levy and property tax collection. He also addressed the ten (10) major revenue sources. He noted collections exceeded budget and FY 2010 in six (6) of these, (1. Mandated State Sales Tax; 2. Ambulance Fee; 3. Replacement Tax; 4. Local Use Tax; 5. Refuse Collection Fee; and 6. Food & Beverage Tax). He added that the Replacement and Use Tax collections were significantly higher. He noted the state's one (1) time Tax Amnesty Plan. He also addressed state shared revenue, (1. Sales Tax; 2. Home Rule Sales Tax; 3. Telecommunication Tax; and 4. Local Use Tax). He had waited for the receipt of same to prepare this report. Income tax payments were four (4) months in arrears. The state owes the City \$2.1 million. He cited the recent increase to the state income tax rate. The state has kept the entire increase.

Mr. Ervin addressed neutral items. The City's finances were stronger than budgeted but lower than FY 2010, (1. Home Rule Sales Tax and 2. Utility Tax). He also addressed adverse items. These items were lower than budget and lower than FY 2010, (1. Hotel Motel Tax and 2. Building Permit Fees). Other funds had revenues and expenditures which were in line with budget, (1. Motor Fuel Tax; 2. Bloomington Center for the Performing Art; 3. Water Fund; 4. Sewer Fund and 5. Storm Water Fund). He addressed the USCC.

Mr. Ervin addressed the City's credit rating for FY 2011. Definitions with quotations were provided from the three (3) firms, (Fitch, Standard Poor and Moody's).

Mr. Hales stated that the goal was an AAA credit rating. The City had seen progress. He addressed the City's long term financial stability.

Mr. Ervin restated that the audits were in process. The final report results would be presented to the Council at a later date.

Mr. Hales recognized Mr. Ervin's efforts. He noted the significant reforms and the City's fiscal conservatism. He cited the change made to revenue projections. The Finance Department staff oversaw the City's financial matters.

He planned to meet with the various unions and share this information. There was good news and challenges. There were strong positive results.

Mayor Stockton complimented Mr. Hales. The City had reduced expenses and eliminated positions. The goal was financial expertise. He noted the recession and the City's financial obligations. The City had fared better than other municipalities. The City had the ability to balance revenues, expenses and projections. Future issues included revenue and jobs. He described Mr. Ervin's report as excellent and interesting. The good news was that the City was achieving its financial goals.

Mr. Hales stated that Mr. Ervin's report and presentation would be placed on the City's web site.

Alderman Fazzini commented from past experience how difficult it was to achieve a bond rating increase during a recession. AAA rating would be of financial benefit to the City.

Mr. Hales believed that the taxpayers were interested in wise expenditures and good management. Citizens wanted to be confident and trust the City's financial status. There needed to be a comfort level that the City was on the right track.

Mr. Ervin noted that the bond rating agencies assigned the risk level which determined the interest rate. The higher the bond rating the lower the interest rate. He added that the rating agencies also considered the local economy. They also looked at governance.

Alderman Fazzini stated that bankers generally know cities' finances better than their staff. It was not so here.

Alderman Stearns questioned the impact of the state's rating upon the City. She cited pensions and other post employment benefits, (OPEB).

Mr. Ervin expressed his belief that OPEB would be smaller. He noted the change in demographics would result in better actuarials. Alderman Stearns questioned the impact of recent retirements. Mr. Ervin stated that the outside auditors were still working. Alderman Stearns questioned the City's liability for sick and vacation time. Mr. Ervin stated that this information would appear in the debt summary portion of the CAFR. The audit would be available in October 2011.

Alderman Mwilambwe questioned long term stability in practical terms. He also addressed AAA rating. Mr. Ervin stated the key was consistency year after year. The City needed to address liabilities and debt. Alderman Fazzini estimated the time line at three (3) years.

Mayor Stockton noted that there was still more to do.

**Alderman Purcell extended his appreciation to Mr. Ervin for his efforts.**

**The following was presented:**

**SUBJECT:** Application of DazLou, LLC (pending), d/b/a Sidetracked Sports Bar, located at 907 E. Oakland, for a TAPS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week

**RECOMMENDATION:** Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that a TAPS liquor license for DazLou, LLC (pending), d/b/a Sidetracked Sports Bar, located at 907 E. Oakland, be created, contingent upon compliance with all applicable health and safety codes with the following conditions: *prior to issuance of license* 1.) installation of a six foot (6') high solid (opaque wood material) fence along the properties south and west perimeters, said fence would not allow vehicle/pedestrian traffic to enter the property from the south and west; 2.) installation of an interior sound baffling barrier; 3.) construction of a double vestibule door for the west entrance; 4.) an outdoor patio/beer garden will be not allowed; *operational after issuance of license* 5.) live and/or amplified music shall cease at 11:00 p.m.; 6.) sale of packaged alcohol from the liquor store shall cease at 11:00 p.m. 7.) windows or doors must be closed when live/amplified music is offered; 8.) west entrance staffed by appropriate personnel; 9.) continued maintenance of property's interior and exterior; *offered by applicant* 10.) place dress code policy on file with City Clerk's Office; and 11.) Commission reserves the right to impose additional conditions, be approved.

**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of DazLou, LLC (pending), d/b/a Sidetracked Sports Bar, located at 907 E. Oakland, requesting a TAPS liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel and Tracey Covert, City Clerk and LouAnn and Steve Devine, owners/operators and Applicant representatives.

Commissioner Stockton opened the liquor hearing and requested that the Applicants explain this request. He specifically addressed the Applicants' interest in this location and their plans for the property. Steve Devine, owner/operator and Applicant representative, addressed the Commission. He had managed the former Slick Rick's for three (3) years. He and his wife had saved money in order to reopen the property as a neighborhood bar. The building would be remodeled. There would also be a packaged liquor store. (Slick Rick's also operated a packaged liquor store at this address.) Long term plans included installation of a small kitchen for a limited menu, (burgers, and French fries). It would not be a full service kitchen.

Commissioner Stockton questioned if the Applicants saw this business as a good investment. He questioned risk. Mr. Devine expressed his belief that the business would be successful. He

planned to attract a different clientele. The building would be remodeled. He cited new flooring, new interior soundproofed walls, and a new bar as examples. He acknowledged that there had been issues between Slick Rick's and the neighborhood.

Commissioner Stockton questioned if the Applicants had met with the neighbors. Mr. Devine inform the Commission that the neighbors had presented him with a list. A copy of the document was provided to the Commission. Items listed addressed traffic, parking, property maintenance, and disturbing the peace. Mr. Devine informed the Commission that he understood the neighbors' concerns.

Commissioner Buchanan questioned the percentage of liquor sales from packaged store. Mr. Devine estimated this figure at forty percent (40%). The packaged liquor store (Slick Rick's) had performed well. Commissioner Buchanan questioned Mr. Devine's experience with packaged liquor sales. Mr. Devine informed the Commission that he had over forty (40) years of experience in liquor sales. Commissioner Buchanan questioned if the clientele at the tavern and the packaged liquor store was the same. Mr. Devine responded negatively.

Commissioner Stockton reviewed the neighbors' list. Mr. Devine informed the Commission that would act as the Night Manager. He would not be catering to the biker crowd. He acknowledged that there had been drug dealers who were Slick Rick's customers. He would not tolerate these individuals as customers. A manager would be present at all times. Slick Rick's was operated by an absentee owner who tolerated any behavior.

Commissioner Stockton opened the hearing to public input.

Melissa Stuedemann, 910 E. Oakland St., addressed the Commission. Her residence was across the street. She was speaking on behalf of her husband and herself. They were interested in what was best for the City and the neighborhood. She requested reasonable accommodations as the business would be located in a residential area. She expressed concern regarding the bass portion of music as she was sensitive to same.

Marie Winquest, 608 S. Clinton, addressed the Commission. She had resided at this residence for thirty-seven (37) years. Her yard back up to the property's parking lot. She acknowledged that this application represented a change of ownership. She believed that the property needed to be brought up to code prior to opening. She also addressed the neighbors' list. She stressed the importance of property maintenance. She also addressed traffic. She noted that the alley was used as a thoroughfare. There was a means of access and egress to this property on Oakland Ave. She requested that a tree be removed as it blocks the street light. She cited noise from live music, (bands). In addition, she noted the number of calls to the Police Department. She requested that a fence be installed surrounding the parking area. She added that customers parked along both sides of MacArthur St. She expressed concern regarding emergency vehicle access.

Commissioner Stockton questioned if there was inadequate parking on site. Ms. Winquest expressed her concern that the alley was used as a back exit. She cited a number of incidents involving vehicles and property damage. She requested that customer traffic be directed to

Oakland Ave. Commissioner Stockton presented another option such as a barrier. He questioned parking on MacArthur. Ms. Winqest noted the traffic, the potential for individuals to be driving under the influence, and the confined space.

Commissioner Tompkins questioned if Ms. Winqest was in support of this application with conditions or in opposition to the application. Ms. Winqest expressed her concerns regarding the former business, (Slick Rick's). She re-addressed property maintenance. She presented the Commission with photographs of the property.

Commissioner Buchanan also questioned if Ms. Winqest was opposed to this application or in favor of with appropriate conditions. Ms. Winqest stated that a number of things would have to change. She again addressed property maintenance.

Mary Wilson, 809 E. MacArthur, addressed the Commission. Her home was located south of the property's parking lot. Her concern addressed on street parking. She requested that the parking lot be enclosed. Commissioner Stockton questioned if Ms. Wilson wanted the parking lot to be blocked from vehicular and pedestrian traffic. Ms. Wilson responded affirmatively. The property owner needed to take care of this property. Nothing has been done with the property since Slick Rick's closed. Commissioner Stockton noted that the City had a Code Enforcement Division. He directed Tracey Covert, City Clerk, to contact Mark Huber, Director - PACE. Staff would be directed to visit the property and address any violations.

Ms. Wilson questioned live music. She requested that hours be set for same. She wanted an established time frame. Commissioner Stockton noted that the City has placed limits on live music. He cited Gill St. Sports Bar & Restaurant, located at 3002 B Gill St., as an example. There was a variety of options available. He cited hours, volume, etc. as examples. He acknowledged that conditions might be necessary.

The Commission reviewed the photographs submitted by Marie Winqest. They expressed concern.

Rick KupperSmith, K & K Tool & Die, 915 E. Oakland Ave., addressed the Commission. He owned and operated this business. He noted that there was a retaining wall between the two (2) properties. Various vehicles have hit and damaged same. He had obtained a permit to repair it and approached Tim Jones, the property owner for 907 E. Oakland. He cited the repair costs. This issue needed to be addressed as the cost kept increasing. He expressed his opposition to a beer garden. He noted that there was a table outside where bar patrons would smoke and drink. He added that smoking was allowed inside Slick Rick's. He noted litter and property damage. He cited broken windows as an example. Noise during his business hours was also of concern. He had witnessed drug sales. He had never complained. Things needed to change. He added his belief that conditions had been placed on the Western Tap's liquor license, (located at 1301 N. Western Ave.).

Commissioner Stockton questioned the last time Mr. KupperSmith's property had been damaged. Mr. KupperSmith responded five to six (5 - 6) years ago.



Brandon Koppersmith, K & K Tool & Die, 915 E. Oakland Ave., addressed the Commission. He was Rick Koppersmith's son and employed at the tool & die shop. He addressed litter. He was opposed to a beer garden. He requested that a fence be installed. He added that the clientele needed to change. He cited prostitution as an example. He also addressed property damage. The fence had been damage one to two (1 - 2) years ago. He expressed his belief that driving under the influence was the cause.

William Stark, 807 E. MacArthur, addressed the Commission. His home was located south of the business and was also the closet to it. He was speaking on behalf of five (5) homes, (four on MacArthur and one on Bunn St.). He hoped to put all in perspective. The neighbors' list had been presented to Mr. Devine. He had known Mr. Devine for a number of years. Various situations could be addressed through the installation of a fence. Many of the neighbors were aware of what was going on at Slick Rick's. He expressed his hope that the past would remain in the past. Parking was an issue. Slick Rick's customers used MacArthur to avoid traveling on Oakland Ave. There was adequate access to Oakland. Bands tended to draw a crowd. Soundproofing the walls would not be inexpensive. He did not have any issues with the Devines application. Mr. Devine was respectful and a man of his word. The neighbors would hold Mr. Devine to his word and the list. He added that when Slick Rick's was open, he always called the business before contacting the Police Department. He requested that Mr. Devine do right by the neighborhood.

Wendy Keller, 811 E. MacArthur, addressed the Commission. Her home was located by Mr. Stark. She was interested in sample conditions. She had found individuals sleeping in her yard. She also cited public urination. She requested that a fence be installed.

Dan Stuedemann, 910 E. Oakland Ave., addressed the Commission. His wife had addressed the Commission and read from a prepared statement. They were taxpayers. He cited fear of retribution. The owner was responsible for the patrons' behavior. He questioned if conditions could address same. He also addressed the issue of consumption. Commissioner Stockton noted that this issue has been raised previously. Individuals can contact the City, (Commission, Council, Police Department). This can be done anonymously. He restated that conditions can be placed on the liquor license.

Heather Winquest, 1004 E. Jefferson, addressed the Commission. She was Marie Winquest's daughter. As a child, she had been exposed to a number of things. She became conditioned to sleep through noise. There were children in this neighborhood. She celebrated when Slick Rick's closed. She expressed her concern regarding clientele. She had managed homeless shelters and found this property's condition shameful. If conditions were placed on the liquor license, one should address property maintenance. This was a strong neighborhood that wanted better things.

Richard Keer, 808 E. Bell St., addressed the Commission. He was the pastor at Grace United Methodist Church located at 622 S. Clinton. He was a former Peoria Police Officer. He stated that prostitutes had used the church parking lot for business purposes. The influence upon the neighborhood's youth was not positive. He questioned the number of arrests by the City's Police Department regarding drug deals. Music had continued past closing hours. Slick Rick's

customers saw the church's parking lot as an extension of the tavern's customer parking. He expressed his opposition to a liquor license at this location. This was a family neighborhood with small children.

Commissioner Stockton questioned the distance between these two (2) properties. He expressed his belief that there was at least two (2) City blocks separating same.

Commissioner Stockton noted the amount of public input. He offered the Applicants the opportunity to re-address the Commission.

The Applicants noted that the property had been vacant for six to seven (6 - 7) months. Commissioner Stockton noted the property issues. There were a lot of issues to address. He questioned if the Devines were prepared for this size of investment. Mr. Devine stated that there were no issues with the neighbors' list. He believed that a fence could be installed. He added that the City should consider only allowing parking on one side of MacArthur as the street was too narrow when vehicles parked on both sides of the street.

Commissioner Stockton recommended that this item be laid over until the Commission's June 14, 2011 meeting. Mr. Devine expressed his preference that the application be voted on this date. He added that Tim Jones, property owner, would have to be informed of the Commission's recommendation.

Commissioner Stockton noted the neighborhood's willingness to compromise. He believed that specific goals needed to be set with a means to measure what was accomplished. The Applicants needed to develop a specific plan.

Commissioner Buchanan noted his service on the Commission. He complimented those present and noted the positive input received. He recommended that this hearing be recess to a specific date. He did not believe that the Commission was ready to commit to anything at this time.

Commissioner Stockton directed the Devines to review the list, work with the neighbors and submit a plan to the Commission. He acknowledged the combination of circumstances.

Commissioner Tompkins noted his hesitancy to support this application. He recommended that the application be laid over until the Commission's June 14, 2011 meeting. The property needed extensive renovation. There were a number of issues to address. The Applicants would have to follow through and he questioned who would review their progress.

Commissioner Petersen had listened to the plan. However, he wanted to see a written plan. This would strengthen the Devine's application. He described the property as blighted.

Mr. Devine informed the Commission that he had obtained access to a forty-five (45) space parking lot located across the street from 907 E. Oakland Ave.

Motion by Commissioner Buchanan, seconded by Commissioner Tompkins that this hearing be recessed until Tuesday, May 24, 2011 at 4:00 p.m.

Motion carried.

The Bloomington Liquor Commissioner Steve Stockton called the reconvened Liquor Hearing for DazLou, LLC (pending), d/b/a Sidetracked Sports Bar, located at 907 E. Oakland, requesting a TAPS liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; Todd Greenburg, Corporation Counsel and Renee Gooderham, Chief Deputy Clerk, and LouAnn and Steve Devine, owners/operators and Applicant representatives.

Absent: Commissioner Mark Gibson, George Boyle, Asst. Corporation Counsel and Tracey Covert, City Clerk.

Commissioner Stockton opened the liquor hearing. He reminded those present that the application had appeared on the Liquor Commission's meeting agenda May 10, 2011. The hearing had been recessed to provide an opportunity for the Applicants to address several of the Commission's concerns. He summarized that neighbors had indicated their desire that the building be revitalized. The Applicants had indicated their willingness to work with the neighborhood towards a common goal. He hoped today's meeting would establish clear expectations. Steve Devine, owner/operator and Applicant representative, addressed the Commission. He had conducted a site clean up based on neighbors' comments. He provided the Commission with photographs taken during the clean up.

Commissioner Stockton acknowledged a lot had been cleaned up, especially the area between the property and K & K Tool and Die Company. Mr. Devine responded that 1,500 pounds of refuse had been taken away. Commissioner Stockton commended Mr. Devine on a great start. He questioned contact with the neighbors and fencing. Mr. Devine had met with several people in the neighborhood. Bill Stark had also assisted with the clean up. Mr. Devine provided the Commission an overhead drawing of the property. He believed the neighborhood wanted a six foot (6') wood fence. This would limit access of vehicles and pedestrians. The fence would go from K & K Tool and Die Company to the existing planter box towards Oakland Ave.

Commissioner Petersen questioned access in/out of the parking lot. Mr. Devine responded that there would be no access off MacArthur and Bunn St. The only in/out access would be from Oakland Ave. Commissioner Petersen questioned building access. Mr. Devine stated there were two (2) entrances, one (1) each on the east and west side of the building. Commissioner Petersen questioned availability of parking on the east side. Mr. Devine responded affirmatively.

Commissioner Stockton questioned the fence setback. Mr. Devine responded that the fence was required to be three feet (3') from the property line. Bushes would be planted on the other side. Prior to planting he would inquire if the placement of bushes would interfere with snow plowing.

Commissioner Buchanan questioned fencing material. Mr. Devine stated the fence would consist of treated lumber and be solid across.

Commissioner Tompkins questioned exploring sound baffling on the inside of the fence. Mr. Devine responded negatively. He questioned the aesthetics of the fence. Commissioner Tompkins questioned the estimate on improvements. Mr. Devine stated the building owners would contribute \$60,000 - \$70,000 towards improvements.

Commissioner Stockton questioned noise. He believed that the fence would assist with same. Mr. Devine planned to take the walls and ceiling down to the studs, re-insulating same for noise purposes. Commissioner Stockton stated noise was a common complaint especially with live or amplified music. A factor was open windows and doors. Mr. Devine planned to enclose the southwest corner.

Commissioner Buchanan questioned if this area would be similar to breezeway. Mr. Devine responded affirmatively. The area would measure six feet by nine feet (6' x 9'). He believed it would hold approximately one to two (1 - 2) people without the entrance doors being opened. Commissioner Stockton questioned air conditioning. Mr. Devine stated there were four (4) units.

Commissioner Stockton opened the hearing to public input.

William Lishka, 1113 Andover St., addressed the Commission. He was the Grace United Methodist Church's Administrative Board Chair. The church was located 100 yards south of the establishment. The alley empties into the church parking lot. The alley was used as a through street. He acknowledged the completed clean up. He questioned ongoing clean up and maintenance. He stated that people had been found in the church vestibule after hours especially during cold weather. He acknowledged that the church was left unlocked. He noted clean up of the vestibule was ongoing. The church wanted to ensure concerns were addressed prior to the issuance of the license. He cited previous experience with neighborhood taverns when he managed Union Insurance Group. The issues were the same.

Commissioner Stockton restated his belief that the fence would be of assistance. Mr. Lishka stated a fence was the first (1<sup>st</sup>) step. Directing traffic towards Oakland Ave. would be helpful.

Marie Winquest, 608 S. Clinton, addressed the Commission. She had resided in the neighborhood for thirty-seven (37) years. She would be speaking on behalf of the neighbors. She stated her belief that the fence would assist with traffic. Most of the noise came through her bedroom window. She cited noise from patrons smoking outside, leaving the establishment and patrons on the patio as disruptive. She stated her belief that an outside patio should not be allowed. She questioned a noise ordinance or the possibility of obtaining same. She had enjoyed having the establishment closed. She believed that the neighborhood was more family orientated. She wanted those that drive by to look at the establishment and say to themselves that it looked better.

Commissioner Stockton questioned having the establishment opened versus closed. Her preference was that the establishment remains closed. Commissioner Buchanan commented an empty building could become a blight on the neighborhood. Ms. Winquest acknowledged the possibility.

Commissioner Petersen questioned parking in the alley. Ms. Winquest stated that no one had parked in the alley.

Commissioner Stockton summarized points thus far: 1.) people and/or traffic spill over; 2.) noise; and 3.) trash. He stated his belief that the fence would help some with noise and trash.

Tammy Bergland–Clem, 11 Felton Pl., addressed the Commission. She cited previous problems: 1.) intoxicated people sleeping in yards; 2.) motorcycles revving engines at all hours; and 3.) increased traffic/accidents. Her walls, with the windows closed, would vibrate due to the loud music. She questioned if a tavern was the best fit. She was attempting to sell her home. She believed a tavern would make it harder. The neighborhood had been the quietest it had been in six (6) years.

Commissioner Stockton questioned the type of noise. Ms. Bergland–Clem stated the noise was from music, patrons and motorcycles. The noise could wake her in the middle of the night. She reminded the Commissioners that the Circle K sold beer. She requested contingences to pull the liquor license.

James Bookout, 10 Felton Pl., addressed the Commission. He stated his hopefulness that the neighbor's concerns would be considered. He acknowledged that Sidetracked might not be like Slick Rick's but it still would sell alcohol. He had called the police many times for intoxicated people in his yard. He believed that anytime there was alcohol there were problems. He also believed the neighborhood was not a place for tavern.

Melissa Stuedmann, 910 E. Oakland, addressed the Commission. She cited her concern of noise. She stated base vibrations could be felt under the street. Commissioner Petersen questioned the type of music. Ms. Stuedmann stated live bands usually played until 1:00 a.m. She cited motorcycle noise until 3:30 a.m. Commissioner Stockton questioned placing volume restrictions on bands. Ms. Stuedmann responded affirmatively.

Commissioner Stockton summarized the Commissions options. The building was problematic for other uses. He questioned a happy medium. He stated Downtown establishments had similar issues with noise. He cited Gill St. Bar and Grill, located at 3002 B Gill St., as having limits on bands. He acknowledged that Oakland Ave. would produce some noise.

Mr. Devine stated that Sidetracked would be a neighborhood sports bar. He would not use Harley emblems as part of the décor. His goal was to have an older clientele. Commissioner Clapp stated that it would be hard to change the reputation. She suggested placing restrictions on motorcycles. Mr. Devine stated that security would be at the entrance.

Commissioner Tompkins stated it was hard not to market to one specific group. He believed that once a group "adopted" an establishment it was hard to change. He questioned limiting motorcycle apparel colors. Mr. Devine responded affirmatively.

Commissioner Petersen cited Western Tap as an example of changed reputation. It was known as having a changed style, good food, entertainment and regular clientele. He believed if

Sidetracked followed Western Tap it would be better for the community. Mr. Devine stated he cannot afford a grill at this time. He did plan to add it later. Commissioner Petersen stated that he would not support a liquor store. Sidetrack needed to follow in Western Taps footsteps.

Commissioner Buchanan questioned the packaging and pricing of the alcohol. Mr. Devine stated the liquor store would provide more revenue than the bar. The store would be for convenience and priced fairly competitive.

Commissioner Tompkins acknowledged the thought out plans and Mr. Devine's efforts to make Sidetracked a respectful place. He questioned if the business failed and the investment were lost. Mr. Devine responded he planned to be there from 8:00 a.m. to 5:00 p.m. There would be a night manager from 5:00 p.m. to close. Security would be at the entrance. Commissioner Tompkins questioned if Alderman Anderson had been spoken with. Mr. Devine responded negatively. Commissioner Tompkins questioned not having the liquor store or placing limits on same. Mr. Devine restated his expectation that the liquor store would bring in more revenue.

Commissioner Petersen questioned not approving or placing conditions on the liquor store. Mr. Devine stated that without the liquor store he would not open the establishment. The store generated more revenue than the tavern.

Commissioner Tompkins questioned allowing everything but live entertainment. Mr. Devine responded that he would like the opportunity to offer live entertainment. He cited Sister Grove as an example. Commissioner Stockton questioned band hours. Mr. Devine responded bands would play from 8:00 p.m. to 11:00 p.m. Commissioner Buchanan questioned weekends. Mr. Devine anticipated having bands once a month or every other month. He believed bands did not generate revenue.

Commissioner Buchanan stated his belief that Mr. Devine was a responsible applicant. He believed the closing of Slick Rick's was an opportunity for change. He added that a vacant building would have a negative impact on the neighborhood. Placing conditions on a liquor license to change clientele is easier said than done. He believed the fence would make a substantial change. He questioned the noise ordinance. Todd Greenburg, Corporation Counsel, addressed the Commission. The noise ordinance applied to vehicles. Commissioner Buchanan stated the addition of the fence, breezeway and sound baffling would be significant improvements.

Commissioner Clapp stated that this was an opportunity to monitor conditions closely especially noise. She suggested visiting when there was live entertainment. She expressed her appreciation to the neighbors for their willingness to work together.

Commissioner Petersen expressed his belief that the tavern conditions should be placed on the closing hours of the liquor store.

Commissioner Stockton cited the conditions discussed thus far. He expressed his belief that the neighbors have to understand that Oakland Ave. is a commercial route. Everything mentioned had to do with Slick Rick's. Mr. Devine was paying the penalty for the previous business. He

believed the Applicant was sincere. He questioned compromise. He stated that Slick Ricks did not have conditions placed upon the liquor license. Options were limited. This was a chance for change.

William Stark, 807 E. MacArthur, addressed the Commission. He had known Mr. Devine for years. He had assisted with the clean up. He informed the Commissioners that Mr. Devine had paid for the trash removal. He hoped that Mr. Devine would be granted the license. He believed the fence and sound baffling would solve most of the noise issues. The fence would solve traffic issues on MacArthur.

Mr. Devine stated concerns with the liquor store closing hours. Later closing hours would assist financially. Commissioner Stockton stated that the Commission would work with Mr. Devine after gaining neighborhood confidence. Mr. Devine was paying for past practices of Slick Ricks.

Ms. Winqest expressed concerns that the plans would be completed as Mr. Devine had discussed. She questioned addressing complaints. She believed that Mr. Devine's heart was in the right spot. Commissioner Stockton explained that conditions placed on a liquor license assist when there were issues. There were no guarantees.

Commissioner Petersen stated that he was impressed with Mr. Devine's rapport with the neighbors and his desire to work with the neighborhood.

Commissioner Tompkins stated the Commissioner's intent was to address complaints.

Commissioner Buchanan stated that all conditions cannot be the same. He believed that most conditions would not be burdensome to the Police Department. The Liquor Commission would enforce same. Commissioner Stockton stated that the only exception would be noise.

Commissioner Stockton suggested having two (2) follow up hearings six (6) months after opening. He recommended one (1) in the winter and the other in the summer. Mr. Devine had not set an opening date.

Mark Huber, Director of PACE, addressed the Commission. He believed the proposal was fine. He looked forward to the estimated \$60,000 to \$70,000 of improvements. The building was in need of repair. A property maintenance repair order had been issued.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately seventy-three (73) courtesy copies of the Public Notice were mailed. In addition, the Agenda for the May 10, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** This would be a new TAPS liquor license as more than six (6) months has elapsed since Slick Rick's closed. Annual fee for a TAPS liquor license is \$2,210.

Respectfully,

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

Randall D. McKinley  
Police Chief

**Mayor Stockton introduced this item. This item had been laid over from the Council's June 27, 2011 meeting. A point of interest was the number of conditions, the wisdom and enforcement of same. He informed the Council that Geoffrey Tompkins, Liquor Commissioner, was present at this evening's meeting. Mr. Tompkins addressed the Council. He presented a brief overview of the two (2) Liquor Hearings. He believed that the number of conditions could be reduced to seven (7). The conditions could be divided into qualifying and operating ones. He noted the condition which addressed windows. There were no windows on the portion of the building where the tavern would be located. Maintenance of the exterior would be visible. A dress code would allow the owner to police his business. The intention of these conditions was good. The Commission did not have any intention of placing additional conditions upon this business. He cited Friar Tucks located at 2401 Maloney Dr. closing time. He noted the synergy between the applicant and neighbors. The parties were willing to work together.**

**Mayor Stockton cited the original twelve (12) conditions. Conditions 1 and 2 addressed a fence. He added his belief that a fence was needed. Mr. Tompkins added the neighbors' concerns addressed pedestrian and vehicular traffic. Condition 7 addressed a dress code. He acknowledged that this would be subjective. The Applicant offered same and the Commission was willing to remove it. Condition 9 was subjective and to be expected. He added that the site had been cleaned up. Mr. Tompkins added that the applicant and the neighbors each had a vested interest in this business.**

**Mayor Stockton addressed the Council's general concern regarding condition enforcement. A number of these conditions were one (1) time and done. He had drafted a white paper regarding conditions and enforcement. Operational conditions were complaint driven. He noted the roles of the Commission and Police Department.**

**Alderman Fazzini stated that philosophically he would like to see this business succeed. Mr. Tompkins noted that a financial statement was part of the liquor application.**

**Alderman Anderson attended the reconvened meeting. He noted the conditions and the applicant's willingness to work with same. He cited the role of neighborhood watch programs. The Police Department was complaint driven. He stated his intention to watch this business. The neighbors appeared satisfied. He planned to support this item.**

**Mayor Stockton noted that there were some neighborhood concerns. This business may impact their homes. There was uncertainty involved. He noted that currently the building was vacant.**



Alderman McDade thanked Mayor Stockton and Mr. Tompkins for the update. She noted the number of conditions. The Council memorandum listed eleven (11). She questioned what could be enforced. She believed that the neighborhood would be confused but appeared willing to give it a try. She cited the collaboration between the applicant and the neighbors. She restated her belief that there needed to be a global approach to liquor agreed upon by the Commission and Council. She expected the Commission to adopt a proactive approach to the management of liquor. Mr. Tompkins assured the Council that the Commission worked hard on the City's behalf.

Mayor Stockton added that the Commission wanted to insure that whatever action was taken would be balanced. He noted that the word enforcement needed to be defined.

Alderman Anderson noted the number of inquiries regarding this item. The public has been encouraged to attend the board/commission hearings. These hearings were important. The neighborhood was engaged. He added his interest in enforcement and penalties.

Alderman Schmidt noted that she had been critical of the Commission. She appreciated their efforts on this item. She believed that ten percent (10%) of the people caused ninety percent (90%) of the problems. The Commission had been engaged in a conversation with the applicant and neighborhood. She expressed her willingness to support this item. She noted that the property had been cleaned up. She added that the building was vacant and there still were loud motorcycles. The work done to date was positive. She added her displeasure with conditions that fell back on the neighbors to address enforcement.

Alderman Sage stated that the Commission had taken proactive steps regarding this application. He looked forward to the Commission sharing information with the Council. He requested a global statement regarding monitoring and enforcement of conditions. There needed to be content and format. He had no tolerance for a market place approach. The Commission had taken steps forward. He planned to vote no on all liquor applications until he saw this statement.

Alderman Stearns expressed her interest in black and white, sound criteria. She had heard the decibel level for the Blues Festival was eighty-six (86). She was impressed with the work done by the Commission. Noise needed to be evaluated. Opposition was still there. She added that enforcement had not been defined. In addition, the City has chosen not to address vehicular noise. She was not comfortable with this item. She believed that the neighborhood would suffer. She believed that there would be continual concerns.

David Hales, City Manager, addressed the Council. He noted the DETF (Downtown Entertainment Task Force) report addressed noise. Noise can be decibel related. City staff will draft a response to this report. The City needed one (1) tool to address noise.

Mayor Stockton noted that the Commission had brought in a sound engineer from the University of Illinois. Noise can be a critical issue. Concerns had been raised that the

City was trying to stifle creativity. He noted sound meters. The City could develop standards. He questioned enforceability for any/all noises. He acknowledged that noise heard from seventy-five feet, (75'), was not viable. He believed the ability to address noise would benefit the entire City.

Alderman Purcell thanked Mr. Tompkins for attending. The issue was not personal. Past problems at this location had been cited. He questioned condition enforcement. He expressed his willingness to support this item. Issues at this location must be promptly addressed. It was a challenge to match the business to neighborhood needs.

Mayor Stockton noted the Commission's actions. The Commission has visited licensed establishments and met with license holders. The City relied on neighborhood complaints. The approach must be balanced and appropriate roles must be defined.

Alderman Mwilambwe informed the Council that he attended the Blues Festival with Mr. Tompkins. He had received feedback from the Villas at Spring Ridge residents. The belief was that the Festival was too loud. He noted that this was a live event. He noted the recent Blues Festival which had been held at the Oaks. Mayor Stockton added that there was no liquor service at that event. Alderman Mwilambwe assumed that the City would be involved. Citizens seemed surprised that there was not a noise policy/ordinance. He believed that a noise ordinance was needed sooner not later. Noise was subjective. The process should be collaborative.

Mayor Stockton noted the Council's interest in this subject. The Council needed to take a big picture approach to noise. He was interested in the Council's ideas and guidance regarding same.

Alderman Fruin noted that this was an important issue. He expressed his appreciation to Mr. Tompkins for his presentation. He noted that conditions had been divided – prior to issuance and operational. The Commission had taken a step forward with this concept. He noted the length of the Commission's and Council's meetings. He addressed this application. He did not believe that this item was there yet. He noted the agreement between the applicant and the neighborhood. He believed that the Council should support this item. He added that he believed that the Council would be recognizing Board and Commission members in September 2011.

Mr. Tompkins thanked the Council for their faith in the Commission. The Commission worked hard on behalf of the City.

Mayor Stockton anticipated continued collaboration between the applicant and the neighbors. The City would continue to work with the applicant. All parties had compromised with an overall goal of betterment. He thanked everyone involved for their efforts.

Motion by Alderman Fazzini, seconded by Alderman Anderson that a TAPS liquor license for DazLou, LLC (pending), d/b/a Sidetracked Sports Bar, located at 907 E.

**Oakland, be created, contingent upon compliance with all applicable health and safety codes with the following conditions: *prior to issuance of license* 1.) installation of a six foot (6') high solid (opaque wood material) fence along the properties south and west perimeters, said fence would not allow vehicle/pedestrian traffic to enter the property from the south and west; 2.) installation of an interior sound baffling barrier; 3.) construction of a double vestibule door for the west entrance; 4.) an outdoor patio/beer garden will be not allowed; *operational after issuance of license* 5.) live and/or amplified music shall cease at 11:00 p.m.; 6.) sale of packaged alcohol from the liquor store shall cease at 11:00 p.m. 7.) windows or doors must be closed when live/amplified music is offered; 8.) west entrance staffed by appropriate personnel; 9.) continued maintenance of property's interior and exterior; *offered by applicant* 10.) place dress code policy on file with City Clerk's Office; and 11.) Commission reserves the right to impose additional conditions, be approved.**

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

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

**Nays: Alderman Sage and Stearns.**

**Motion carried.**

**The following was presented:**

SUBJECT: Redistricting of City Wards Prior to 2013 Elections

**RECOMMENDATION:** That the City Manager be directed to bring back multiple options for the redistricting of ward boundaries in accordance with advice by Corporate Counsel.

**BACKGROUND:** Based on a review of U.S. Supreme Court decisions on legislative apportionment (often referred to as "one man, one vote"), and the results of the 2010 Census as applied to the current ward boundaries, it is my advice that the City reapportion its wards prior to the 2013 election.

Although the U.S. Supreme Court does not require "mathematical exactness or precision" in requiring representative districts to be roughly proportional, in the event of litigation, the ultimate burden of justifying a deviation from districts of equal population would be on the City. State law requires that wards shall be created in a manner so that, so far as practicable, no precinct shall be divided between two (2) or more wards, and that in the formation of wards "the population shall be as nearly equal, and the wards shall be of as compact and contiguous territory, as practicable."

The greatest deviation in equal population I have found so far which was allowed by the U.S. Supreme Court was a total deviation of 11.9%. (The Court arrived at this percentage by deciding that one district was "under represented" by 7.1%; another district was "over represented" by

4.8%. The Court added the two percentages to arrive at the “11.9%” figure.) Conversely, the U.S. Court of Appeals for the 7th Circuit (which includes Illinois) refused to permit a total deviation of 4.22% for the Cook County Board in 1982.

The 2010 census established a population of 76,610 for Bloomington. If the population of the nine (9) wards were exactly equal, they would each have 8,512 persons. However, Wards 6, 7, 8 and 9 are substantially above or below that population. Ward 6 has 7,302 persons. Ward 9 has 9,518 persons, for a total deviation of 26%.

For all of the above reasons, it is my advice to adjust the ward boundaries to bring the populations closer to the goal of 8500 person per ward. State law requires that the redistricting be completed not less than thirty (30) days before the first date fixed by law for the filing of candidate petitions for the next succeeding election for City officers. Since the first date for the filing of candidate petitions for the 2013 consolidated primary is November 16, 2012, the redistricting must be completed no later than October 16, 2012.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg  
Corporation Counsel

David A. Hales  
City Manager

**Mayor Stockton introduced this item. The City was legally obligated to redistrict. Guidelines had been provided. These guidelines would be assisted by computer technology. He hoped in-house resources would be used.**

**David Hales, City Manager, addressed the Council. He noted that McLean County used its GIS (Geographic Information System) to adopt its new County Board district map. In the past, the City had worked with State Farm to generate options. Concerns had been raised due to the age of the program. He planned to use the City’s GIS to present the Council with a number of alternatives. There would be approximately 8,500 people per ward. The ward map must work within the City’s precincts. The Council would determine the ward boundaries. He requested the Council’s approval to begin the process. He noted the deadline. The City needed to move ahead. The time line was two to four (2 – 4) months.**

**Mayor Stockton cited his past involvement. Various options would be presented. The Council’s decision would be subjective.**

Alderman Fruin noted the process at the federal and state levels of government. The goal should be compact wards. He noted that there was interest in a hybrid approach. He questioned the value of ward boundaries. He believed that the Council should be removed from the process. He suggested that the Chamber of Commerce or League of Women Voters be engaged. He was interested in what was best for the City. This subject should be looked at inclusively. He noted the challenge of compact wards versus residents along the City's edges. The City was one (1) inclusive community. The new ward map needed to be correct. The process could become contentious.

Alderman Anderson expressed his interest in whatever was best for the City. He liked the idea of a hybrid system where some of the alderman would be elected at large.

Alderman Sage questioned logistics and the number of options that would be presented. He hoped for manageable numbers.

Mayor Stockton noted that the number of precincts would impact the number of options. The rule of compactness was subjective. The decision would be made by the Council.

Alderman Sage expressed his interest in front end objectivity. Todd Greenburg, Corporation Counsel, addressed the Council. The Supreme Court had ruled about equal representation. The Illinois Municipal League has stated that the ideal was none but up to a ten percent (10%) difference was acceptable.

Alderman Fazzini expressed support for a hybrid system. He noted that the final decision would not be made by the Council. He expressed his support for whatever was in the best interest of the City.

Mayor Stockton noted that state statute allowed hybrid systems. Citizens would have to take action as a referendum would be required.

Alderman Fruin believed that the Council worked well together. He noted the current ward map. He restated that the City was one (1) community. He questioned the percentage of citizens who knew who their alderman was.

Mayor Stockton believed that the Council would think beyond the legal requirements. He noted the issue of compactness. The Council would be required to vote on this issue.

Alderman McDade noted her impatience. State statute set the requirements. It was a Council decision. It was part of the service as an alderman. She noted that there was policy and politics. She encouraged the Council to act as public servants.

Alderman Schmidt noted her past experience. This could be done.

Alderman Purcell expressed his support for the current ward system. The Bloomington Election Commission established the precincts. He served as Alderman Ward 7 but was an advocate for the City. He added his belief that the residents of Ward 7 knew him.

Motion by Alderman Schmidt, seconded by Alderman McDade that the City Manager be directed to bring back multiple options for the redistricting of ward boundaries in accordance with advice by Corporate Counsel.

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

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

**Nays:** None.

**Motion carried.**

**MAYOR'S DISCUSSION:** Mayor Stockton readdressed Liquor Commission white papers. There were a number of topics/issues. Joint meetings between the Commission and Council would be scheduled in the future. He reviewed the Commission's agenda for Tuesday, August 9, 2011.

Mayor Stockton addressed the rules of procedure. The Corporation Counsel Office was reviewing same. The goal was to have a response ready by September 1, 2011. City staff would present same in an ordinance format.

He also addressed the appointment process. There was more order to same. A database was being established. It may be date forward.

**CITY MANAGER'S DISCUSSION:** David Hales, City Manager, addressed the Council. He noted a structural integrity of older buildings roundtable discussion had been held on Friday, August 5, 2011. A staff report would appear on the Council's August 22, 2011 meeting agenda.

He cited the appointment of Mr. Bowman to the Bloomington Normal Public Transit System Board. This board had a full complement of members. Andrew Johnson, new General Manager, commence employment this date.

He informed the Council that Bob Lakin, Commerce Bank President, was the new EDC (Economic Development Council) Board chair.

**ALDERMEN'S DISCUSSION:** Alderman Sage reacted to Mayor's comments regarding appointment to various boards and commissions. The City's boards and commissions needed to be reviewed and updated. He had prepared a list of study topics, 1.) purpose; 2.) mission; 3.) accountability; 4.) recruitment; 5.) appointment process; 6.)

orientation; and 7.) communication with elected official and staff; 8.) public information; and 9.) public research tools. He expressed his interest in Council feedback. He was interested in refinement and clarification. There needed to be periodic updates. He offered to work with the various board and commission chairs. He offered to gather information. He planned to make use of the September recognition event. He hoped to minimize the impact on City staff.

He also noted the employee newsletter and various milestones.

Alderman Stearns addressed this evening's Work Session. Insufficient time had been provided. The City's pensions were under funded. She added that entering into contracts regarding economic development would provide the City with flexibility and accountability.

She also questioned the City's plan for the Miller Park lagoon. John Kennedy, Director – Parks, Recreation & Cultural Arts, cited Mother Nature. Alderman Stearns cited water fowl caught in fishing line. She questioned if the lagoon could be filled quickly.

Alderman McDade noted a meeting would be held with Aldermen Sage and Fazzini and the Library Board on September 7, 2011.

She also requested that the Council mark their calendars for the 50<sup>th</sup> Anniversary celebration of the Japan Sister City scheduled for July 22 – 26, 2012. She was serving on the committee.

Alderman McDade noted that EDC (Economic Development Council) funding would appear on the Council's August 22, 2011 meeting agenda. Two (2) EDC board members would make a presentation. She also noted the EDC's five (5) year strategic plan. The EDC was working with City staff. Seven (7) themes were presented: 1.) metrics; 2.) EDC/City partnership; 3.) City specific activities that the EDC should be engaged in; 4.) accountability; 5.) business attraction; 6.) quarterly/annual reporting; and 7.) funding, (public versus private in terms of investment). She had met with Phil Boulds regarding this plan.

Mayor Stockton added that there had been a lot of changes during the past five (5) years. He encouraged the Council to become familiar with the project.

Alderman Fruin addressed the subject of Mayor/Council salaries. He expressed his interest in a comparative analysis. He questioned the Council's interest in same. He requested feedback.

He questioned the blues event scheduled at the David Davis Mansion on Saturday, August 20, 2011. Tracey Covert, City Clerk, provided information regarding the secondary liquor license. Mayor Stockton added that the event would be held on private property. The event must comply if there are any complaints regarding noise. This was another example of the need for a noise ordinance.

**Alderman Fruin noted the recent weekend blues festivals. Mayor Stockton acknowledged that there may be a noise issue with same. The City would need a quality ordinance. He added that outdoor events impacted quality of life in the community.**

**Alderman Fruin questioned if dates had been set for the strategic plan. David Hales, City Manager, stated October 14 and 15, 2011.**

**Motion by Alderman Anderson, seconded by Alderman McDade, that the meeting be adjourned. Time: 10:15 p.m.**

**Motion carried.**

**Tracey Covert  
City Clerk**