

CITY OF BLOOMINGTON

EXECUTIVE SESSION

109 E. OLIVE ST.

MONDAY, JUNE 13, 2011, 5:30 P.M.

AGENDA

Collective Bargaining, Section 2 (c) (2)

Claims Settlement, Section 2 (c) (12)

CITY OF BLOOMINGTON
CITY COUNCIL WORK SESSION
109 E. OLIVE ST.
MONDAY, JUNE 13, 2011, 6:00 P.M.

City Hall – Council Chamber/Conference Room

AGENDA

City Council Rules of Procedure – Discussion

2011 Action Agenda – City Manager Update

**CITY COUNCIL RULES OF PROCEDURE
CITY OF BLOOMINGTON, ILLINOIS**

SECTION 1. CODE OF CONDUCT.

1.1. City Council Members.

- (a) During City Council meetings, all Council members will maintain such standards of behavior befitting a public official and will not engage in conduct that reflects discredit upon themselves or the City Council in general. All Council members shall maintain a decorum that is conducive to constructive debate and collective decision-making. All aldermen shall assist the Chairperson in assuring fair and orderly conduct of the meeting with proper respect for others, and shall promote concise discussion and decision-making, in accordance with these rules..
- (b) No Council member shall, either by conversation or otherwise, delay or interrupt the proceedings or refuse to obey the rulings of the Chairperson or these rules of the City Council, including the procedures for debate and voting herein.
- (c) Council members are reminded that they have a fiduciary duty to the City of Bloomington and its body of citizens as a whole. Conduct is regulated by the laws of the United States, the State of Illinois, and the City of Bloomington, as well as these rules.
- (d) A Council member desiring to speak shall address or signal the Chairperson and, upon recognition by the Chairperson, shall confine discussion to the topic under debate, avoid discussion of personalities and indecorous language, refrain from personal attacks and verbal abuse, and observe any time allotments.

1.2. Administrative Staff.

- (a) Members of the administrative staff and employees of the City shall observe the same rules of procedure and decorum applicable to members of the City Council in section 1.1. For these purposes, speakers sponsored by the staff and recognized by the Chairperson shall observe the same rules as staff.
- (b) Although the Chairperson has the authority to preserve decorum in meetings, the City Manager is also responsible for the orderly conduct and decorum of all City employees under the City Manager's direction and control.
- (c) The City Manager shall take such disciplinary action as may be necessary to ensure that decorum is preserved at all times by City employees in City Council meetings.
- (d) All staff addressing the City Council, including the City Manager, other staff members, and sponsored speakers, shall request to be recognized by the Chairperson before speaking, and shall limit their remarks to the matter under discussion and to any time limits allotted.

- (e) All remarks and questions addressed to the City Council by the public or staff shall be addressed to the City Council as a whole and not to any individual member.
- (f) No staff member, other than the staff member having the floor, shall enter into any discussion either directly or indirectly, without permission of the Chairperson.

1.3. Citizens and Other Visitors.

- (a) Citizens, representatives of the news media, and other visitors are encouraged and welcome to attend all public meetings of the City Council and will be admitted to the City Council chamber or other room in which the City Council is meeting up to the safe capacity of the room.
- (b) In accordance with applicable law including the Open Meetings Act, some closed sessions of the City Council may exclude the public to allow discussion of privileged subjects; however, such meetings will only be conducted with public disclosure of the time, place, and general category of discussion;
- (c) Persons entering the room may be subjected to physical, electronic, or similar search to assure the safety and security of all attendees. Persons may refuse to submit to such search, but may then be excluded from attendance.
- (d) Everyone attending any City Council meeting shall follow proper decorum. Citizens and other attendees at the City Council meeting, including speakers, shall observe the same rules of propriety, decorum, and good conduct applicable to members of the City Council, and may be reminded that they are normally observers, not Council members, and may participate only in ways authorized by these rules.
- (e) All persons addressing the City Council, regardless of whether by appointment, during public discussion sessions, during public hearings, or otherwise, shall request to be recognized by the Chairperson before speaking, and shall limit their remarks to the matter under discussion and to any time limits allotted.
- (f) Members of the media and the public may use audio, photographic, and video recording devices to record all or some of the meeting; provided, however, that no such photography or recording will be allowed if it is in violation of section 1.3(g);
- (g) The Chairperson may warn any attendee(s) individually or collectively, of improper conduct and may direct that any egregious or repeat offenders be removed from the room. Any person(s) removed from the room shall be barred from the room during the remainder of that same session of the City Council. Prohibited actions while attending the meeting or addressing the City Council include the following activities when they unreasonably interfere with a speaker, the conduct of the meeting, or the convenience of, and the ability to monitor and participate in the meeting by, any member of the City Council, staff, or public in attendance:
 - 1. Continuing or repeated private conversation, or any conversation that is of sufficient loudness or animation to be audible or disturbing to others in the room;

2. The making of overly personal, impertinent, profane, or slanderous remarks, or boisterous behavior;
3. Unauthorized remarks from the audience, stamping of feet, whistles, cheering, yelling, and similar demonstrations;
4. Behavior or physical activities such as obscene or disrespectful gestures or dress; contact with others; threatening advances toward the City Council, any speaker or attendee; or repeated physical movement in or about the meeting room;
5. Bringing into the room or close proximity thereto, any device, noisemaker or amplification device, substance, object, animal, sign, banner, or any other thing that unreasonably interferes with the proper conduct of the meeting or the ability of the public to monitor the proceedings;
6. Photographing or recording of the meeting in a way that is distracting, interferes with the conduct of the meeting, creates a physical hazard or consumes excessive space, or in any other way unreasonably interferes with the ability of any other attendee to monitor and observe the meeting; and
7. Bringing into the room, whether used or not, any weapon, noxious substance, flammable liquid or gas, explosive device, or any object or substance that can be potentially harm any attendee.

1.4 Public Comment Sessions

- (a) A public comment period not to exceed fifteen (15) minutes duration will be held during the first regularly-scheduled City Council meeting of each month. To assure sufficient time for comments from multiple individuals, the Chairperson may limit the time for each comment to no less than one minute and no more than three minutes.
- (b) Alternatively, upon the majority vote of the City Council and in accordance with any ordinance then in effect, such public comment sessions may be held at quarterly sessions, such as "Citizen Voice" meetings, which shall be of at least sixty (60) minutes duration each, and during which certain rules regarding duration and discussion may be relaxed.
- (c) Should the number of speakers exceed the capacity of the minutes allotted, the Chairperson may conduct a lottery to determine who may speak.
- (d) Speakers cannot give their allotted minutes to another speaker to increase that person's allotted time. No speaker will be allowed to speak more than once during each public comment session.
- (e) All persons desiring to address the City Council during a public comment session must submit a written request in the format prescribed prior to the

starting time of the meeting, or within such time as prescribed by the Chairperson, by giving their name, contact information, and a short description of the topic they wish to discuss.

- (f) When conducted at a regular City Council meeting, the public comment portion of the agenda will be placed after “Appointments” but before the “Consent Agenda.”
- (g) Speakers shall address the City Council from the podium, and not approach the City Council or City staff. Speakers will begin their statement by first stating their name and address.
- (h) There shall be a maximum of three (3) speakers on the same subject. It is recommended that if there are several people who wish to speak on the same subject that they choose one person to speak for all.
- (i) Statements are to be directed to the City Council as a whole and not to individual Council members. No speaker shall engage in interactive conversation with any other person in the room, including the audience, staff, or Council members, except that the Chairperson may request certain information from the speaker to ascertain identity or topic.
- (j) Speakers will be courteous in their language and presentation.
- (k) Topics must be relevant to the business of the City, and speakers should not discuss any of the following: public hearing items; candidacy of any person seeking public office; matters in current or anticipated litigation; and matters which are closed session items.
- (l) After the speaker has made his or her statement, he or she shall be seated with no further debate, dialogue or comment.

1.5 Public Comment During the Meeting Other Than the Public Comment Session. Similar to legislative sessions of Congress and state legislatures, City Council meetings are intended primarily for debate among, and voting by, the City Council, and other attendees should expect to participate only as allowed by these rules and when invited to do so. Council members should prepare themselves for debate and voting prior to the meeting, including listening to input of interested parties and the general public, researching, and reading supplied materials. As a general rule, public input to Council members should be provided prior to, and not during, Council meetings.

- (a) Public questions and comment will be allowed during the meeting only during public hearings, any public comment session, the portion of the consent agenda under the specific process stated, and when the City Council votes to suspend the rules to allow public comment.
- (b) When a matter has been referred to the City Council from a board, commission, or other official body that has conducted a public hearing, the input and evidence gathered at that public hearing, and presented by way of record, shall be considered

by the City Council. In such cases, the Council shall give primary weight to that record, and will not ordinarily seek additional public input at the City Council meeting. This preserves the credibility of the board or commission, preserves time during the City Council meeting, and avoids the need for the public to be present to provide input redundant to the previous public hearing.

- (c) Comments by City staff may be allowed upon the request of the Chairperson or the City Manager. This shall be used only to obtain additional information on the topic currently under discussion. When a contract for goods or services is under consideration, the proposed vendor(s) for such contract may be considered as City staff.

SECTION 2: DUTIES AND PRIVILEGES OF THE MAYOR OR CHAIRPERSON.

2.1. Chair. The Mayor, while present, shall preside as Chair at all meetings of the City Council. In the event of the absence of the Mayor, he shall designate a substitute Chairperson from among the Mayor Pro Tem or other Council members. If the Mayor is absent without designating a substitute Chairperson, an automatic designation shall be made to the Mayor Pro Tem if present, and then to other Council member in order of seniority (total time of service) on the City Council.

2.2. Call to Order. The meetings of the City Council shall be called to order and conducted by the Chairperson.

2.3. Preservation of Order. The Chairperson shall preserve order and decorum, enforce compliance with all rules of procedure and confine Council members in debate to the question under discussion. In case of any disturbance or disorderly conduct, the Chairperson shall have the power to require the chamber to be cleared.

2.4. Questions to be Stated. The Chairperson shall state all questions submitted for a vote and announce the result.

2.5. Powers. The Chairperson shall have the following powers:

- (a) To rule motions in or out of order. In doing so, he may consult with the City Clerk or other Parliamentarian, or with legal counsel;
- (b) To regulate the course of the meeting in accordance with these rules and applicable laws and ordinances. This includes the responsibility to regulate speakers and attendees;
- (c) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (d) To entertain and answer questions of parliamentary law or procedure. In doing so, he may consult with the City Clerk or other Parliamentarian, or with legal counsel;
- (e) To call a brief recess at any time; and

- (f) To adjourn in an emergency.

SECTION 3. DUTIES AND PRIVILEGES OF COUNCIL MEMBERS AND RULES OF DISCUSSION AND VOTING.

3.1. Seating Arrangement. Council members shall occupy the seats, in the City Council chamber, assigned to them under a plan adopted by the Mayor, and which may be rotated from time to time. Upon the meeting being called to order by the Chairperson, all Council members shall immediately take their assigned seats and remain there during the meeting, pursuant to these rules. Council members may participate in the meeting remotely if the standards set by statute and ordinance are met.

3.2. Right of Floor. A Council member who desires to speak must be recognized by the Chairperson, except that the Chairperson may limit Council member's order and length of speaking in accordance with the rules of debate stated in Section 3.5. No member shall address the Chairperson or demand the floor while a vote is being taken.

3.3. Conflict of Interest. A Council member prevented from voting by a conflict of interest shall leave the City Council meeting during the debate, shall not vote on the matter, and shall otherwise comply with the rules concerning conflicts of interest. The Chairperson shall make reasonable effort to inform any Council member, who has left the room for such reason and who is nearby, that the agenda has advanced and that the absent member may re-enter the meeting room.

3.4. Agenda and Introduction of Motions.

- (a) Items can be placed on a meeting agenda by:

1. The Mayor,
2. The intended Chairperson of the meeting, in the absence of the Mayor,
3. The City Manager or designee thereof, or
4. By a majority vote of the City Council before the formulation of the agenda.

- (b) During regular and special meetings, the Chairperson shall follow the agenda and may speak, and/or at his discretion, allow the City Manager, member of staff, or Council member to introduce and explain the nature of each topic. Thereafter, the City Council shall proceed by motion before further discussion and debate. Any Council member may make such a motion. The requirement for a motion does not apply where an item is placed on the agenda "for discussion and possible action."

- (c) The agenda may be amended. Items on the consent agenda shall be moved to the regular agenda at the request of any Council member, without a vote. Items removed from the consent agenda will be discussed during the regular agenda, normally before the items previously on the regular agenda. For good and valid reasons, including the convenience of the public in attendance, the Chairperson may change the order of the agenda, at his own discretion or at the request of any Council member, except that at the first reasonable opportunity immediately upon the Chairperson's announcement or inception of such change, any Council member

may object to such change by making a procedural motion for call to follow the agenda (section 5.4).

3.5. Discussion and Debate. After a substantive motion has been made and seconded, the Chairperson shall state the motion and then open the floor to debate. The Chairperson shall preside over the debate according to the following general principles:

- (a) The maker of the motion is entitled to speak first.
- (b) No Council member shall speak longer than five (5) minutes at any one time, except by consent of the majority of members of the City Council. This time limit shall include time yielded to others to ask questions, and the time taken to answer questions.
- (c) To the extent possible, the Chairperson will allow Council members to speak in the order they request to do so; however, that order may be modified by the Chairperson to allow Council members, who have not been given appropriate opportunity to speak, to have speaking priority prior to further speaking by members who have already spoken. The Chairperson may also modify the speaking order when necessary to allow clarification of a topic or an answer to a specific question, including the direction of a question to the City Manager or the City Manager's sub-direction to City staff. After such modification, the Chairperson will return to the normal speaking order.
- (d) During debate, Council members will adhere to discussion of the topic at hand and deliver their points in a concise manner without undue deviation from the topic, or in including an unnecessary degree of detail. The Chairperson may interrupt a speaking Council member to advise of this rule. After one such warning, the Chairperson may, at his discretion, advise the speaking Council member to complete speaking within thirty (30) seconds, and thereafter may move to another speaker.
- (e) A Council member desiring to question a member of the administrative staff not already at the podium shall address the questions to the City Manager who shall be entitled either to answer the inquiries or to designate a staff member for that purpose. Council members shall show due respect for the reporting relationship of staff members to the City Manager, and shall refrain from verbal abuse. Although Council members may inquire of the City Manager for reports on completed and planned staff activities, this should be done in recognition of the City Council's primary role as a policy-making body, and the City Manager's primary role of directing day-to-day operations.
- (f) A Council member, once recognized, shall not be interrupted while speaking unless called to order by the Chairperson, unless a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a Council member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the

member shall remain silent or make additional remarks so as to comply with rules of the City Council.

- (g) Council members shall confine their questions to the particular matters before the body and in debate shall confine their remarks to the issues before the City Council.
- (e) Unless otherwise indicated, and subject to limitations contained in these rules, each alderman shall be allowed to speak at least once on each motion, and each alderman shall be allowed to speak at least once in rebuttal after all other aldermen have been given their initial opportunity to speak on the motion, after which the Chairperson may call for a vote at any time. The Chairperson's decision to call for a vote may be overridden by a majority of the Council members present as provided by section 5.1. The right to make both an initial comment and a rebuttal comment may be extinguished by a motion and approval to call the question as provided by section 5.10.

3.6. Voting.

- (a) No vote may be taken on a matter that has not been included on the agenda that was provided prior to the meeting in accordance with the Illinois Open Meetings Act. However, the proposed motion, for a matter that has been properly included on the agenda, may be modified and voted upon to the extent that it only extends into subject matter that would be reasonably related to the announced agenda item.
- (b) No vote on an agenda item shall be taken without a quorum of a majority of Council members present.
- (c) Every Council member present when a vote on a question is called shall vote either "yes" or "no". However, at a Council member's discretion and upon clearly stating the reason prior to the beginning of the vote, any Council member may abstain, although such abstention is discouraged. In cases where the Council member is required to not participate because of a conflict of interest, section 3.3 governs.
- (d) No Council member may vote by agency, proxy, or if not in attendance, except that Council members may participate, be in attendance, and vote by electronic means as authorized by law.
- (e) After the result of a vote is announced, a Council member may not change a vote unless, before the adjournment of that meeting, permission is given to change the vote by a majority vote of the members present.
- (f) The City Clerk, or designee thereof, shall conduct each roll call vote in a specific order that will rotate from meeting to meeting.
- (g) It is not in order for any Council member to attempt to explain or qualify his or her vote during any roll call. Such explanations may be made during Council debate before the vote, during Council discussion agenda item near the end of the meeting, and/or by insertion of a dissent or protest as provided in section 3.8.

(h) The Chairperson may vote in the following situations:

1. When allowed under Illinois statutes or City of Bloomington ordinances, including tie votes and votes that require a two-thirds majority or other supermajority, the Mayor shall be allowed to vote.
2. When the Chairperson is an alderman, that alderman is allowed his normal vote as an alderman, but may not vote as the Mayor.

3.7. Demand for Roll Call. At the time a vote is called by the Chairperson, upon demand of any Council member for a roll call vote, and without any discussion of the request, the roll shall be called for individual votes to be recorded by the City Clerk upon any question before the City Council.

3.8. Dissents and Protest. Any Council member shall have the right to express dissent from or protests against any ordinance, resolution, or other action of the City Council and have the reason for the dissent or protest entered in the minutes. Such dissent or protest may be filed in writing or electronically and presented to the City Clerk for placement in the minutes not later than normal time established by the City Clerk for preparation of the minutes for their approval at a meeting following the date of the City Council's action on the matter.

3.9. Point of Privilege. The right of a Council member to address the City Council on a question of personal privilege shall be limited to cases in which the member's integrity, character, or motives are assailed, questioned or impugned.

3.10. Point of Inquiry. A Council member may raise a point of inquiry if a simple clarification of a motion is needed. The member must first be recognized by the Chairperson. The point should be used sparingly and only in the case of confusion as to the intent or substance of a motion.

3.11. Point of Order. A Council member may interrupt the speaker to make a point of order to the Chairperson that the meeting is being conducted inappropriately in some way. Once ruled upon, repeated points of order on the same issue are not permitted.

3.12. Excusal from Attendance. Council members are expected to attend meetings and stay in attendance during each meeting. No member shall be excused from attendance at a City Council meeting except for good and valid reasons, which shall be communicated to the Mayor and/or City Clerk in advance whenever practicable.

3.13. Excusal During Meetings. No Council member shall leave a City Council meeting while in session without advising the Mayor; except, however, Council members may be briefly absent from meetings for a period of no longer than ten (10) minutes to attend to personal needs. During their attendance at the meeting, Council members will remain attentive to the proceedings and shall not disrupt the meeting in any unauthorized way.

SECTION 4. MOTIONS GENERALLY.

4.1. Motions Generally. Motions are the vehicles for debate and decision-making. Normally, a motion must be made and seconded prior to active debate of an agenda item to focus discussion on a particular topic.

4.2. Substantive Motion. A substantive motion may deal with any subject within the City Council's legal powers, duties and responsibilities. A substantive motion is out of order while another substantive motion is pending.

4.3. Withdrawal of Motions. A motion may be withdrawn by the introducer at any time before it is amended or before the Chairperson puts the motion to a vote, whichever occurs first. Such a motion to withdraw must be approved by the original seconder.

Comment: Robert's Rules provides that once a motion has been stated by the Chairperson for debate, it can not be withdrawn without the Council's consent. Such a procedure is unnecessary for a small body. However, this rule does prohibit withdrawing motions after they have been amended. Once a motion has been amended, it is no longer the same motion as was made by the introducer, so it is no longer his or hers to withdraw.

4.4. Multiple Motions. Up to three motions, including procedural motions, may be on the floor simultaneously, provided that no more than one substantive motion may be on the floor at one time. The Chairperson may reject a fourth motion until the three that are on the floor have been resolved. When two or three motions are on the floor at the same time, the first vote should be on the last motion made ("last-in, first-out").

SECTION 5. PROCEDURAL MOTIONS.

In addition to substantive motions, only the following procedural motions, and no others, are in order. Unless otherwise noted each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and are frequently used to "act upon" a substantive motion by amending it, delaying consideration of it, and so forth. The following enumeration of procedural motions is exhaustive; if a procedural option is not on the list, then it is not available. In order or priority (if applicable), the procedural motions are as follows:

5.1. Motion to Appeal a Procedural Ruling of the Presiding Officer. A decision of the Chairperson ruling a motion in or out of order, calling for a vote, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the City Council. This appeal is in order immediately after such decision is announced and at no other time. The member making the motion need not be recognized by the Chairperson and the motion, if timely made, may not be ruled out of order. If the appeal is seconded, the member making the appeal may briefly explain the ruling, but there shall be no debate on the appeal, and no other member shall participate in the discussion. The Chairperson shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the members present vote "Yes," the ruling of the Chair is sustained; otherwise, it is overruled.

5.2. Motion to Adjourn. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation of a pending matter. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled

meeting. A motion to adjourn shall always be in order, except: 1) when a member is in possession of the floor; 2) when the members are voting; 3) when adjournment was the last preceding motion; and 4) when it has been decided that the previous question shall be taken.

Comment: This motion differs from the Robert's Rules motion to adjourn in several respects. The Robert's Rules motion to adjourn is not debatable or amendable and can be made at any time, thus interrupting substantive deliberations. Here, however, since the number of members is small and procedures are available to limit debate, this motion allows both debate and amendment, but specifies that the motion is in order only when action on a pending matter is concluded.

5.3. Motion to Recess. Council members may also propose a recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chairperson determines the length of the recess, which may range from a few minutes to an hour.

5.4. Motion to Call to Follow the Agenda. This motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.

Comment: This motion is patterned on the call for the orders of the day in Robert's Rules. It differs in that it may be debated; also, unless the motion is made when the item of business that deviates from the agenda is proposed, the right to insist on following the agenda is waived for that item.

5.5. Motion to Suspend Rules. This motion, if passed, allows the body to suspend its own rules of order, conduct or procedure for a particular purpose. This motion requires a two-thirds vote. The motion should specifically state the portion of the rules that are being suspended, such as, "I move to suspend the rules to allow public input".

Comment: This motion is generally the same as the Robert's Rules motion to suspend rules, except that it is debatable and amendable. This motion is in order when the body wishes to do something that it may legally do but cannot accomplish without violating its own rules. It permits the Council to exercise greater flexibility and perhaps informality than adhering strictly to the rules might allow. For example, the City Council might use this motion to allow it to consider an agenda item out of order, without formally amending the agenda that it has adopted.

5.6. Motion to Go into Closed Session. The City Council may go into closed or "executive" session only for one or more of the permissible purposes listed under Section 2 of the Open Meetings Act (5 ILCS 120/2). The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. No motion for closed session is required when the closed session is expressly scheduled.

5.7. Motion to Leave Closed Session. This motion provides a procedural mechanism for returning from closed session to an open meeting.

5.8. Motion to Divide a Complex Motion (Question) and Consider it by Paragraph. This motion is in order whenever a Council member wishes to consider and vote on subparts of a complex motion separately.

Comment: This motion is the same as the two motions division of a question and consideration by paragraph in Robert's Rules, except that it is debatable.

5.9. Motion to Defer Consideration (Table). The City Council may defer a substantive motion for later consideration at an unspecified time. A substantive motion, the consideration of which has been deferred, expires 100 days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending. A member who wishes to revisit the matter during that time must take action to revive consideration of the original motion, or else move to suspend the rules.

Comment: This motion allows the City Council to temporarily defer consideration of a proposal. It may be debated and amended. A motion that has been deferred dies if it is not taken up by the City Council (via a motion to revive consideration) within a specified number of days of the vote to defer consideration. One hundred days is a suggested period of time. This motion is distinguished from the motion to postpone to a certain time or day. A matter that has been postponed to a certain time or day is brought up again automatically when that time arrives.

5.10. Motion to Move or Call the Previous Question (Limit Debate). This may be made at any time after a substantive motion is made. If made before twenty (20) minutes of debate and the opportunity of each alderman to make both an initial comment and a rebuttal comment as provided by section 3.5(e), the motion requires approval by at least two-thirds of the Council members, including the Chairperson. If made after at least twenty minutes of debate and after the opportunity of each alderman to make both an initial comment and a rebuttal comment as provided by section 3.5(e), the motion requires the approval of only a majority of Council members present.

Comment: This motion differs from the Robert's Rules motion. The Robert's Rules motion is always in order, is not debatable or amendable, and requires a two-thirds vote for adoption. Thus it may be used to compel an immediate vote on a proposal without any debate on the issue. Once every member has had an opportunity to speak, the debate may be ended by a majority vote. Twenty (20) minutes is a suggested period of time.

Note, this rule avoids the practice followed by some bodies of allowing any member to end debate by simply saying "call the question," without the body actually taking a vote on that procedural issue. Such a practice is contrary to regular parliamentary procedures. In addition, it allows individual members to impose their will unilaterally on the group, in defiance of the principle of majority rule on which these rules are based.

5.11. Motion to Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A Council member who wishes to revisit the matter must either wait until the specified time, or move to suspend the rules.

Comment: This motion allows the City Council to postpone consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy.

5.12. Motion to Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last offered amendment is disposed of by a vote. Any amendment to a proposed ordinance shall be reduced to writing before the vote on the amendment.

Comment: This motion is similar to the motion to amend in Robert's Rules except for the additional requirement to write down amendments to longer, typically more complex items such as ordinances. Amendments are voted on in reverse order; that is, the last-offered amendment, which would amend the first amendment, is voted on first. Once the last-offered of the two pending amendments is disposed of, an additional amendment may be offered.

5.13. Motion to Revive Consideration. The City Council may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 5.9. The motion is in order at any time within 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted.

Comment: This motion replaces the motion "to take up from the table" in Robert's Rules and was renamed in order to avoid confusion. This motion may be debated and amended, whereas the motion in Robert's Rules may not. If the motion to revive consideration is not successful within the specified number of days of the date on which consideration was deferred, the substantive motion expires. Its subject matter may be brought forward again by a new motion. One hundred days is a suggested period of time. The number of days here should be the same as in Rule 5.9.

5.14. Motion to Reconsider. The City Council may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority) and at the meeting during which the original vote was taken, including any continuation of that meeting through recess or adjournment to a time and place certain. The motion can not interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

Comment: According to Robert's Rules, this motion may be made at the same meeting as the vote being reconsidered or on the next legal day and may interrupt deliberation on another matter. To avoid placing a measure in limbo, these rules restrict the availability of the motion to the same meeting as the original vote, including any continuation of that meeting if it is recessed or adjourned to a time and place certain. If a Council member wishes to reverse an action taken at a previous meeting, he or she generally may make a new motion having the opposite effect of the prior action. Note that in some cases reversal may not be possible; for example, where rights have vested because of the original vote, or where a binding contract has already been signed in reliance on that decision. The motion to reconsider is permitted under these rules only when action on a pending matter concludes.

5.15. Motion to Rescind or Repeal. The City Council may vote to rescind actions it has previously taken or to repeal items that it has previously adopted.

Comment: Each meeting of a City Council is in many respects a separate legal event. Unless prohibited by law, a City Council may at a subsequent meeting “undo” action taken at a previous meeting. While Robert’s Rules and these rules treat the motion to rescind as a procedural motion because it acts upon a substantive motion, it is probably more correct to regard the rescission motion as a new substantive motion in its own right. The motion that it changes is a substantive motion that was adopted at a previous meeting. The substantive action has been completed, and the motion is no longer really “alive” to be modified procedurally as it was at the meeting at which it was adopted. The motion to rescind is in order only for those measures adopted by the Council that can legally be repealed or rescinded. It is not intended to suggest that the Council may unilaterally rescind a binding contract, or may repeal an action where a person’s rights have already vested.

5.16. Motion to Prevent Reintroduction for Six Months. This motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to two-thirds of the actual membership. If adopted, the restriction imposed by the motion remains in effect for six (6) months.

Comment: This is a “clincher” motion to prevent the same motion from being continually introduced when the subject has been thoroughly considered. There is no comparable motion in Robert’s Rules, although the objection to consideration of a question accomplishes much the same purpose. Because this motion curtails a member’s right to bring a matter before the Council, the required vote is two-thirds of the actual membership of the Council. Six (6) months is a suggested time.

SECTION 6. AMENDMENT OF THE RULES.

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, so long as the amendment is consistent with generally accepted principles of parliamentary procedure and applicable statutes and ordinances. Adoption of an amendment shall require an affirmative vote equal to or greater than a majority of Council members.

SECTION 7. ROBERT’S RULES OF ORDER.

To the extent not provided for in these rules, and to the extent it does not conflict with Illinois law, City ordinances, or with the spirit of these rules, the City Council shall refer to *Robert’s Rules of Order Newly Revised*, to answer unresolved procedural questions.

CITY OF BLOOMINGTON
SPECIAL CITY COUNCIL MEETING AGENDA
109 E. OLIVE
MONDAY, JUNE 13, 2011, 7:00 P.M.

1. **Call to order.**
2. **Pledge of Allegiance to the Flag.**
3. **Remain Standing for a Moment of Silent Prayer**
4. **Roll Call**
5. **Eligibility of Alderman Judy Stearns**
6. **Adjournment**
7. **Notes**

News Release

Issued by: Legal Department, City of Bloomington

Date: June 7, 2011

The City of Bloomington has received the opinion of John Zimmermann, Raysa and Zimmermann, LLC, from whom it sought a second legal opinion regarding the City Council's inquiry into the eligibility of Alderman Judy Stearns to be sworn into office for a second term. That opinion is attached.

In brief, the opinion concludes that the City Council does not have the authority to find Ms. Stearns ineligible to hold elective office based on Ms. Stearns' owing property taxes to the City of Bloomington at the time her nomination papers were filed. However, the opinion states that the City Council has the authority to judge whether Ms. Stearns is currently eligible to hold office and could determine her ineligible if it found she currently owes a debt to the City.

Mayor Stephen Stockton has scheduled a special session for Monday, June 13, at 7:00 p.m., at which the Council will consider the opinion and its next steps regarding the eligibility of Alderman Stearns for office.

Inquiries may be directed to:

George Boyle, Assistant Corporation Counsel

Rosalee Dodson, Assistant Corporation Counsel

City of Bloomington Legal Department, 309- 434-2213



OPINION

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED CORRESPONDENCE

To: City Council, City of Bloomington, Illinois

Date: June 6, 2011

Re: Whether Alderman Stearns is Eligible for the Office of Alderman

PURPOSE

You have asked that we render our opinion as to whether the City Council:

- I. Can rule Alderman Stearns (herein “Ms. Stearns”) ineligible to hold the office of alderman if Ms. Stearns owed property taxes to the City of Bloomington at the time her nomination papers were filed;
- II. Is limited to the factual issues a court would decide in a statutory election contest in its ability to rule on Ms. Stearns’ eligibility; and
- III. Has the authority to judge whether Ms. Stearns is currently eligible to hold the office of alderman based on a debt currently owed to the City of Bloomington.

SHORT ANSWERS

It is our opinion that:

- I. The City Council does not have the authority to find Ms. Stearns ineligible to hold elective office based on Ms. Stearns’ owing property taxes to the City of Bloomington at the time her nomination papers were filed;
- II. The City Council is limited to the factual issues a court would decide in a statutory election contest in its ability to rule on Ms. Stearns’ eligibility; and
- III. The City Council has the authority to judge whether Ms. Stearns is currently eligible to hold the office of alderman based on a debt currently owed to the City of Bloomington.

BACKGROUND

In the Consolidated Election on April 5, 2011, Ms. Stearns was re-elected to the office of

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June 6, 2011
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Alderman of the City of Bloomington (“City of Bloomington” or “City”). Following the election, the City Council became aware that Ms. Stearns owned multiple properties that were receiving a homestead exemption. The City subsequently took the position that Ms. Stearns owed property taxes from prior years to the City. Based on the possibility that at the time of her re-election Ms. Stearns owed property taxes to the City, following her re-election, the City Council has refrained from seating Ms. Stearns as Alderman until a determination has been made that she is qualified to hold elective office.¹

DISCUSSION AND ANALYSIS

I. The City Council Does Not Have the Authority to Find Ms. Stearns Ineligible to Hold Elective Office Based on Ms. Stearns’ Owing Property Taxes to the City of Bloomington at the Time Her Nomination Papers Were Filed.

Because an objection to Ms. Stearns’ nomination papers was not filed before the statutory deadline to file such an objection, Ms. Stearns cannot now be declared ineligible to hold office based on her potential ineligibility at the time she filed her nomination papers. Under the Illinois Election Code, objections to nomination papers must be filed within five business days following the deadline to submit nomination papers. 10 ILCS 5/10-8. If an objection to a candidate’s nomination papers is not timely filed, that candidate’s nomination papers are valid. *Id.* Once a person has been elected, that person cannot be removed from office merely because of an alleged deficiency in nomination papers. *Geer v. Kadera*, 173 Ill. 2d 398 (Ill. 1996). Thus, regardless of whether Ms. Stearns was in arrears in paying her property taxes to the City at the time she filed her nomination papers, she cannot be found ineligible at this point in time based on any deficiency, real or perceived, in her nomination papers.

A. Illinois Election Code

Section 10-8 of the Election Code provides for the filing of objections to the nomination papers of a candidate for elected office. Specifically, Section 10-8 provides:

Certificates of nomination and nomination papers * * * being filed as required by this Code, and being in apparent conformity with the provisions of this Act, shall be deemed to be valid unless objection thereto is duly made in writing within 5 business days after the last day for filing the certificate of nomination or nomination papers * * *.

10 ILCS 5/10-8.

Based on the possibility that Ms. Stearns owed property taxes to the City at the time she

¹ It was recently discovered Ms. Stearns’ owns a Bloomington property that had been sold for unpaid taxes in November 2010. Because she has since paid those taxes, it would be considered a past debt in the same manner as her homestead exemption taxes. As explained below, the difference between past and current debts is critical.

City Council, City of Bloomington, Illinois
June 6, 2011
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filed her nomination papers, an objection could have been filed objecting to her candidacy.²

Section 10-8 of the Election Code, however, provides two important points of authority covering the facts at issue. First, Section 10-8 provides a deadline for filing objections to nomination papers. No objection was filed against Ms. Stearns' nomination papers before or after that deadline. Second, Section 10-8 provides that the nomination papers shall be deemed to be valid unless an objection is filed. Accordingly, Ms. Stearns nomination papers were valid based on the fact that no objection was filed.

B. Illinois Supreme Court Precedent

The Illinois Supreme Court has determined that once a person is elected, that person cannot be removed from elected office because of a deficiency in her nomination papers:

We conclude, as this court has in the past, that a person once elected cannot [*sic*] be removed from office *vis-à-vis* a statutory election contest merely because of a deficiency in his or her nomination papers. Objections to certificates of nomination and nomination papers are, in effect, dissolved by the general election.

Geer, 173 Ill. 2d at 409.

In *Geer*, a contester filed in the circuit court a "Petition to Contest" alleging, *inter alia*, that an elected official was not qualified to hold office under Section 3.1-10-5 of the Illinois Municipal Code. The contester alleged that the elected official signed and filed nominating papers stating he was qualified for the office specified, even though the elected official did not meet the residency requirement under Section 3.1-10-5.

On appeal, the Illinois Supreme Court determined that any objection to the elected official's nomination papers and his qualifications for candidacy were waived when the contester failed to file an objection within the timeframe provided by the Illinois Election Code. The Court reasoned that Section 10-8 of the Election Code provided procedures to object to a candidate's nomination papers, including the candidate's eligibility under Section 3.1-10-5 of the Illinois Municipal Code. The Court further reasoned that, if an objection was not filed pursuant to the guidelines established under the Election Code, then any objection to a candidate's nomination papers was waived and could not be pursued at any time thereafter, including at any time following election.

Here, no objection to Ms. Stearns' nomination papers was filed within the timeframe provided by the Illinois Election Code and, hence, all objections to her nomination papers are waived.

² We do not opine as to whether Ms. Stearns, at the time she filed her nomination papers, owed property taxes to the City of Bloomington, whether based upon her ownership of multiple properties that were receiving a homestead exemption or upon other facts.

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C. The Jackson Decision

The City Council has noted that a recent Illinois Appellate Court decision involved a candidate in arrears on her property taxes. In *Jackson v. Bd. of Election Comm'rs*, 944 N.E.2d 439 (1st Dist. 2011), an objector's petition was filed to a candidate's nomination papers to run for alderman, claiming that the candidate was ineligible to run because she owed property taxes due to improperly claiming homeowner's exemptions on multiple properties for previous tax years. The court in *Jackson* determined that "arrearages on property taxes are also arrearages on taxes to the city, and a person in arrears in property taxes is not eligible to run for elective municipal office under Section 3.1-10-5(b) of the Illinois Municipal Code." *Id.* at 449.

While this decision addresses similar facts to the issue involving Ms. Stearns, there is one critical distinction: in *Jackson*, an objection to the candidate's nomination papers was timely filed. Thus, the issue before the *Jackson* court was whether the candidate was ineligible to run for elective office; and the issue was only before the *Jackson* court based on the appeal from a timely filed objection to the candidate's nomination papers. Since any objection to Ms. Stearns' nomination papers would be untimely, an Illinois court would follow the *Geer* decision and determine that all objections had been waived.

II. The City Council is Limited to the Factual Issues a Court Would Decide in a Statutory Election Contest in Ruling on Ms. Stearns' Eligibility.

Election contests in Illinois are created by statute and the procedure established for such contests must be strictly followed. See *Doelling v. Board of Education*, 17 Ill. 2d 145 (Ill. 1959). A city council must follow statutory authority in making findings or issuing rulings. See *Likens v. Baas*, 133 Ill. App. 3d 42 (1st Dist. 1985). Thus, while the City Council has the authority to hear election contests, it must follow the statutorily created procedures and must rule on factual issues within the authority granted to it by statute.

In *Likens*, two voters filed a Petition for Election Contest with the municipality's city council requesting that their two votes be recast in a manner different from their original votes. The two voters alleged that election officials required them to vote for an alderman in a ward in which they did not reside, which prevented them from voting for "Mr. Alderman" from their ward. Mr. Alderman lost the election by one vote. At the conclusion of the election contest hearing, the city council withdrew the two voters' originally cast votes, recast the votes for Mr. Alderman and declared Mr. Alderman to be the winner of the election.

On appeal, the Illinois Appellate Court invalidated the city council's ruling. The court determined that the city council had statutory authority to recount votes and to reject illegal ballots, but had no authority to transfer an illegal vote from one ward and recast it for a losing alderman in another ward to give that alderman the victory.

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Based on the case law cited above, the City Council is limited to the authority bestowed upon it by Illinois statute in ruling on Ms. Stearns' eligibility. The City Council cannot make a ruling on Ms. Stearns' eligibility unless that ruling is specifically authorized by Illinois statute. More importantly, the City Council lacks authority to entertain an election contest if the contester has not followed the procedure established by statute. See *Doelling v. Board of Education*, 17 Ill. 2d 145 (Ill. 1959); *Robinson v. Jones*, 186 Ill. App. 3d 82 (1st Dist. 1989) (Board of Trustees had a duty to decline to entertain a petition to contest because it was untimely filed).

III. The City Council Has the Authority to Judge Whether Ms. Stearns is Currently Eligible to Hold the Office of Alderman Based on a Debt Currently Owed to the City.

Pursuant to the qualifications listed in Section 3.1-10-5 of the Illinois Municipal Code, the City Council has the authority to judge the eligibility of Ms. Stearns to hold elective office and could determine her ineligible if it is found she currently owes a debt to the City. The City Council has the authority to judge whether an alderman *is* eligible to hold his or her office. 65 ILCS 5/3.1-40-10. While the City Council has been granted the authority to judge an alderman's eligibility, that authority is not unlimited.

First, the City Council's authority is limited to determining an alderman's current eligibility: the City Council is "the sole judge whether under Section 3.1-10-5 of the Illinois Municipal Code [65 ILCS 5/3.1-10-5] aldermen *are* eligible to hold their offices," *not* whether the aldermen *were* eligible. 65 ILCS 5/3.1-40-10 (emphasis added).

Second, the City Council is limited to judging an alderman's qualifications listed within that same Section 3.1-10-5: (1) *has* the alderman not been a qualified elector or resided in the City at least one year preceding the election or appointment³; or (2) *is* the alderman in arrears in the payment of a tax or other indebtedness due to the City; or (3) *has* the alderman been convicted of a felony; or (4) *has* the alderman not resided in the ward at least one year next preceding the election or appointment⁴. 65 ILCS 5/3.1-10-5 (emphasis added).

As demonstrated in the list of qualifications above, three out of the four qualifications include past actions of the elected official which continue into the present. The qualification at issue here, however, is the one qualification based solely upon present conditions: whether Ms. Stearns is ineligible for currently being in debt to the City. Consequently, the City Council is prevented from considering past debts owed to the City which have since been paid.

³ There are a number of exceptions to this residency rule, which are listed in Section 3.1-10-5(a).

⁴ There are a number of exceptions to this residency rule, which are listed in Section 3.1-10-5(c).



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CONCLUSION

I. Based on both the Illinois Election Code and Illinois Supreme Court authority, the City Council does not have the authority to find Ms. Stearns ineligible to hold elective office based on her potential ineligibility at the time she filed her nomination papers.

II. Because a timely objection has not been filed, either to Ms. Stearns' nominating papers or to the results of the election, the City Council does not have authority to hear an election contest. From there it follows that the City Council lacks authority to make a ruling on Ms. Stearns' eligibility because such a ruling would not specifically be authorized by Illinois statute.

III. The City Council has the authority to judge the present-day eligibility of Ms. Stearns to hold the office of alderman. Here, however, the potential disqualification is apparently a debt Ms. Stearns may or may not have owed the City when she filed her nominating papers and when she was elected to office but which is no longer due and owing. Accordingly, while the City Council has authority to determine the eligibility of Ms. Stearns based on a debt owed to the City, its authority is limited to determining whether Ms. Stearns *is currently* in debt to the City.

RAYSA & ZIMMERMANN, LLC

John J. Zimmermann, Esq.

JJZ/og

Memo to: Mayor and City Council
From: Todd Greenburg, Corporation Counsel
Re: Statutes on Eligibility of Aldermen and Procedures to Determine Eligibility
Date: May 5, 2011

Illinois law Specifies the Qualifications for the Office of Alderman

The statutes of Illinois set forth certain requirements for a person to serve in the office of alderman:

Sec. 3.1-10-5. Qualifications; elective office.

(a) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least one year next preceding the election or appointment, except as provided in subsection (c) of Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

(b) A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

(c) A person is not eligible for the office of alderman of a ward unless that person has resided in the ward that the person seeks to represent, and a person is not eligible for the office of trustee of a district unless that person has resided in the municipality, at least one year next preceding the election or appointment, except as provided in subsection (c) of Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11. [These provisions refer to exceptions involving aldermen and village trustees in redistricted wards and are not applicable here.]

(d) If a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person's spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for

purposes of determining the residency requirement under subsection (a).

Illinois Law Permits City Councils to Judge Statutory Qualifications for Alderman

Another statute gives the City Council the authority to determine whether one of their proposed members is eligible to serve:

Sec. 3.1-40-10. Judge of elections. The city council shall be the sole judge of the election to office of the aldermen. It shall also be the sole judge whether under Section 3.1-10-5 aldermen are eligible to hold their offices. A court, however, shall not be prohibited from hearing and determining a proceeding in quo warranto. [*Quo warranto* is a type of legal proceeding in which the State's Attorney or a taxpayer asks a court to determine the authority of a person to hold office.]

Homestead Exemptions and Tax Arrears

As a result of an article published in the Pantagraph prior to the April election, the electorate and the City Council became aware of the fact that two properties in Bloomington owned by Judy Stearns had homestead exemptions. An additional property in Normal and a property in Oak Park also had homestead exemptions.

On February 18, 2011, the Illinois Appellate Court (1st District) issued an opinion in a case (*Jackson v. Board of Election Commissioners of the City of Chicago*, 944 N.E.2d 439) in which an objection was filed to the candidacy of a person running for an alderman position in Chicago. The appellate court ruled that because, on the date the candidate filed her nomination papers, she had multiple homestead exemptions on properties in Chicago, her properties had been under-assessed for tax purposes. Therefore, on the date her nomination papers were filed she was in arrears for the portion of the real estate taxes which would have been paid to the City of Chicago had her properties been properly assessed. Since the nomination papers, by law, include a certification by the candidate that he or she *is* eligible (present tense) to serve in the office of alderman, her nomination papers were not accurate and her name was ordered to be stricken from the ballot.

Grounds for Striking a Candidate's Name or Contesting an Election

If a timely challenge to Judy Stearns' candidacy been filed, and *if* the Bloomington Board of Election Commissioners and/or the courts had ruled in the same manner as the 1st District of the Appellate Court did in the *Jackson* case, Ms. Stearns' name would have been stricken from the ballot. (Please remember, however, that the *Jackson* case was not decided until February 18, 2011, and that it reversed decisions by a hearing officer and the Chicago Board of Elections which had ruled that the Chicago candidate was eligible to be on the ballot). However, no timely challenge to the nominating papers was filed (state law requires an objection to candidacy be made within 5 business days from the last date of filing for office (10 ILCS 5/10-8; November 22, 2010 was the last day for filing nomination papers for alderman).

A majority of the persons voting in the election voted for Judy Stearns; no petition challenging those results was filed (petitions challenging the results of an election must be filed within 30 days from the date of the election and must allege that "the petitioner voted at the election, and

that he believes that a mistake or fraud has been committed in specified precincts in the counting or return of the votes for the office or proposition involved or that there was some other specified irregularity in the conduct of the election in such precincts, and the prayer of the petition shall specify the precincts in which the recount is desired” 10 ILCS 5/23-20).

On the afternoon of Monday, April 25, 2011, I became aware of the *Jackson* case. I contacted Mayor Stockton, who informed Judy Stearns of the case that evening. I contacted Hannah Eisner, the civil attorney for the McLean County State’s Attorney’s office, who informed me that McLean County had a policy, in cases where exemptions had been inaccurately placed on real estate, to correct the error but to not attempt to collect back taxes. Since the issue of whether Ms. Stearns was currently in arrears needed to be addressed by the City Council prior to its regular meeting of May 9, 2011, I contacted Mike Ireland, Assessor for the Bloomington City Township, for his assistance in calculating any arrearages which may be owing to the City pursuant to the *Jackson* case. Ms. Stearns also contacted me, and indicated she was willing to pay arrears, but that the County had told her it would not accept payment.

In calculating the arrears, Mr. Ireland and I acted on the presumption that a homestead exemption was filed on the property owned by Ms. Stearns and her husband in Oak Park since it was acquired by them in 1987, and that therefore any homestead exemptions for properties in Bloomington were inaccurate. Since the statute of limitations for non-payment of real estate taxes is 20 years, Mr. Ireland and I checked the public records back to that date. The final calculation for back taxes in Bloomington based on inaccurate homestead exemptions was \$1,456.60. That amount was paid by Ms. Stearns by certified check made to the order of the City of Bloomington on April 28, 2011, at Bloomington City Hall. On May 5, 2011, Ms. Stearns paid an additional \$22.52 based on additional calculations by Mr. Ireland, and \$392.77 for back taxes to the City Library. She also paid \$304.97 for back taxes to the City of Bloomington Township.

The Role of the City Council

The City Council has been informed of both the *Jackson* case and the payment by Ms. Stearns. It is now up to the Council to decide whether it desires to conduct a hearing on the issues of Ms. Stearns’ election and whether there is any statutory disqualification which prevents Ms. Stearns from taking office. The Council should decide the issue of whether to conduct a hearing on these issues prior to the administration of *any* oaths of office. *In my opinion, only the City Council has the authority to authorize the delaying of oaths of office by reason of a controversy over qualifications.* I have informally polled other municipal attorneys and they concur in this opinion.

Under Illinois law, aldermen continue in office until their successors have qualified. Therefore, the City Council may debate whether a hearing is necessary under the authority of the oaths of office administered to aldermen in 2007 and 2009.

The Issues to be addressed by the Council

In the event of a debate on whether to conduct a hearing on Ms. Stearns’ qualifications for office, the City Council will need to decide two issues: (1) whether there is any reason to believe that necessary calculations of tax arrearages (or other indebtedness) to the City of Bloomington are incomplete or in error, and (2) whether there are any irregularities in the election process which

gives the City Council a reasonable belief that Ms. Stearns' election was too irregular to permit her to take office as an alderman.

Whether a Tax Arrearage or Other Indebtedness Currently Exists

As mentioned earlier in this memo, City Assessor Mike Ireland and I used the public records of the Assessors' office and the County Clerk to calculate the tax arrears of Ms. Stearns; those calculations were given to her, and she has paid that amount to the City of Bloomington. I have found no cases in which a past indebtedness which had been paid off has been used by a City Council to refuse to permit an alderman from taking office. It is my opinion that if the City Council seeks to bar Ms. Stearns from assuming office, it must find evidence of additional indebtedness which has thus far not been found, or it must find that the calculations of Mr. Ireland and myself are somehow in error and that Ms. Stearns has not fully paid an indebtedness owed to the City.

Whether an Election in Violation of Illinois Law Exists

Finally, the Council must decide whether there is evidence of irregularity in Ms. Stearns' election which justifies the City Council in refusing to seat Ms. Stearns. The issue for the City Council is whether a "mistake or fraud" involving the counting of votes or an irregularity in the conduct of an election in a precinct existed. I have found no cases in Illinois in which a court or City Council refused to seat a person who received the majority of votes cast in an election on the grounds that the person should not have been on the ballot.

The Necessity for Procedural Due Process

If the Council decides that a hearing is necessary, the Council then needs to set a date for the hearing. There are no procedures set forth in either state statutes or City ordinances for this type of hearing. However, principles of due process of law would dictate that a person whose eligibility for office is the subject of the hearing should have notice of the issues, an opportunity to challenge the evidence presented, an opportunity to cross-examine witnesses, the opportunity to present evidence and testify in his or her own defense and the assistance of legal counsel if he or she so desires.

The newly elected aldermen whose qualifications are *not* in question may be administered the oath after the City Council decides whether to conduct a hearing on any alderman whose qualifications are in question. In this particular case, if the City Council decides to conduct a hearing on Ms. Stearns' qualifications for a new term of office, she continues to hold office under the oath administered in 2007. A vacancy in the office of alderman for the 4th Ward would not occur unless or until a majority vote by the City Council would decide that Ms. Stearns was legally disqualified from taking office for a new term.

944 N.E.2d 439

Only the Westlaw citation is currently available.
Appellate Court of Illinois,
First District, Fourth Division.

Eileen JACKSON, Petitioner–Appellant,
v.

THE BOARD OF ELECTION COMMISSIONERS
OF THE CITY OF CHICAGO sitting as the duly
constituted Electoral Board to hear and pass upon
Objections to the nomination papers of candidates
for the office of Alderman of the 28th Ward of the
City of Chicago for the February 22, 2011
Municipal General Election in the city of Chicago,
Illinois, and its members, Langdon D. Neal,
Richard A. Cowen and Marisel A. Hernandez, and
Carmelita P. Earls, Respondents–Appellees.

No. 1–11–0361.Feb. 18, 2011.

Synopsis

Background: Objector to alderman candidate's nominating papers on basis that candidate was in arrears on her property taxes appealed decision of electoral board that candidate was eligible. The Circuit Court, Cook County, [Maureen Ward Kirby, J.](#), affirmed. Objector appealed.

Holdings: The Appellate Court, [Pucinski, J.](#), held that:
1 board had authority to determine whether candidate received unauthorized homeowner's exemptions and, thus, that candidate did not meet qualifications for elective office, and
2 as a matter of first impression, candidate from whom county was collecting back taxes was ineligible to run for office when she filed nomination papers.

Reversed.

West Headnotes (18)

1 Municipal Corporations—Eligibility

Electoral board had authority to determine whether candidate received unauthorized homeowner's exemptions and thus, that candidate did not meet the qualifications for elective office set forth in statute providing that

person who was in arrears to a municipality on a debt was not eligible for an elective municipal office. S.H.A. [65 ILCS 5/3.1–10–5\(b\)](#).

2 Elections—Powers and proceedings of officers in general

An electoral board is an administrative agency and only possesses the powers conferred upon it by the legislature.

3 Elections—Powers and proceedings of officers in general

On appeal, a reviewing court reviews the decision of the electoral board, not the circuit court.

4 Administrative Law and Procedure—Credibility Administrative Law and Procedure—Weight of evidence Administrative Law and Procedure—Law questions in general

An administrative agency's factual findings and credibility determinations are deemed prima facie true and correct, and a reviewing court is limited to ascertaining whether those findings are against the manifest weight of the evidence; but, an administrative agency's conclusions regarding questions of law are not subject to deference; rather, the court's review is independent and not deferential.

5 Administrative Law and Procedure—Particular Questions, Review of

A mixed question of fact and law can present in review of administrative agency's decision, even if the facts are clear and admitted, the rule of law

944 N.E.2d 439

is undisputed, and the issue is simply whether or not the law as applied to the facts is violated.

Both counties and cities may levy taxes, and cities may request that the county act as treasurer. S.H.A. Const. Art. 7, § 4(e).

6 Administrative Law and Procedure↔Particular Questions, Review of

Ultimately, an administrative agency's decision involving a mixed question of law will not be disturbed on appeal, unless that decision is clearly erroneous.

11 Counties↔Collection

County is charged with the duty of collecting property taxes, including any interest resulting from delinquent taxes. S.H.A. 35 ILCS 200/21-15.

7 Administrative Law and Procedure↔Clear error

An administrative decision is clearly erroneous only in circumstances in which the reviewing court is left with a definite and firm conviction that a mistake has been committed.

12 Taxation↔Authority to collect in general
Taxation↔Tax bills

Main duty and authority of the county collector is to collect taxes in accordance with the provisions of the Property Tax Code, which includes preparing the tax bill and mailing it to the property owner. S.H.A. 35 ILCS 200/20-5, 200/20-85.

8 Municipal Corporations↔Eligibility

A prospective candidate who owes a debt to a municipality at the time her nomination papers are filed is not eligible to run for or hold municipal office. S.H.A. 65 ILCS 5/3.1-10-5(b).

13 Municipal Corporations↔Conditions precedent

Filing by municipality of certificate as to amount of taxes it intends to levy is jurisdictional, since it is what authorizes the county clerk to extend taxes for that taxing body. S.H.A. 35 ILCS 200/18-15.

9 Municipal Corporations↔Eligibility

A tax indebtedness to a city would preclude a taxpayer from candidacy for municipal office. S.H.A. 65 ILCS 5/3.1-10-5(b).

14 Municipal Corporations↔Payment of taxes

City taxes are payable and due only to the city, even if they are collected by the county. S.H.A. 35 ILCS 200/20-90.

10 Counties↔Treasurer
Counties↔Power and duty to levy
Municipal Corporations↔Power and Duty to Tax in General

15 Taxation↔Failure to pay over taxes collected

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County collector is subject to liability if the taxes due to the city are not properly paid. S.H.A. 35 ILCS 200/19–40.

16 Taxation → Actions on official bonds

City has standing to enforce payment of its property taxes; Property Tax Code authorizes taxing districts to prosecute a suit against any collector receiving funds for their use by suit on the bond in the name of the People of the State of Illinois for failure of the collector to make the payments required. S.H.A. 35 ILCS 200/20–155.

17 Municipal Corporations → Eligibility

Candidate for alderman, who erroneously claimed two unauthorized homeowner's exemptions and, thus, owed back taxes, was ineligible to run for alderman when she filed nomination papers, although back taxes were collected by county collector, candidate paid the back taxes, and city sent candidate letter indicating that city did not find a record of candidate owing certain delineated debts, namely parking, water, administrative hearings, inspection fees, cost recovery and tax/licensing; despite city's letter, there was no question amounts levied by city through property taxes were owing and payable to city, county was required to collect city's property taxes and pay them to city, county was not entity to which tax debt was owed, and candidate owed back taxes for improper exemptions at time she filed her nominating papers. S.H.A. 65 ILCS 5/3.1–10–5(b).

18 Municipal Corporations → Eligibility

Knowledge of indebtedness after filing nominating papers does not vitiate the prohibition of statute providing that person who is in arrears to a municipality on a debt is not eligible for an elective municipal office. S.H.A. 65 ILCS 5/3.1–10–5(b).

Attorneys and Law Firms

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Opinion

OPINION

Justice PUCINSKI delivered the judgment of the court, with opinion.

**1* In this appeal, we decide a case of first impression: whether a candidate in arrears on her property taxes is also in arrears in the payment of taxes due to the city within the prohibition of section 3.1–10–5(b) of the Illinois Municipal Code (65 ILCS 5/3.1–10–5(b) (West 2008)). An objector's petition was filed to candidate Carmelita P. Earls' nominating papers to run for alderman, claiming that Earls was ineligible to run because she owed property taxes due to improperly claiming homeowner's exemptions on multiple properties for previous tax years. A hearing was held and the hearing officer overruled the objection, relying on a letter from the city of Chicago that the candidate did not owe any debt to the city. The Electoral Board adopted the hearing officer's recommendation and overruled the objector's petition, also ruling that the payment of property taxes is not a debt owed to the city and that section 3.1–10–5(b) of the Illinois Municipal Code did not apply. We hold that, notwithstanding the city's letter, the statutory enactments of the property tax collection system establish that the portions of property tax levied by the city of Chicago, though collected by Cook County, are taxes due to the city. Therefore, the candidate was ineligible to run under section 3.1–10–5(b) of the Illinois Municipal Code.

BACKGROUND

Respondent–appellee Carmelita P. Earls filed nominating papers on November 22, 2010, to run as alderman for the

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28th Ward of the city of Chicago for the February 22, 2011 municipal general election. An objector's petition was filed by petitioner-appellant Eileen Jackson, stating that Earls was not qualified to run on the ballot as she was in arrears and owed a debt to the city of Chicago because of back property taxes due to her wrongfully receiving three homeowner's exemptions on properties she owned, when she was only entitled to one exemption. The petition stated Earls failed to pay the full amount of property taxes, which included amounts owed to the city of Chicago, going back at least two years. The petition alleged that because Earls owed these debts to Chicago, Earls was in violation of the Illinois Election Code (10 ILCS 5/1-1 *et seq.* (West 2008) and Municipal Code and pursuant to *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 319 Ill.Dec. 887, 886 N.E.2d 1011 (2008)), her nomination papers were invalid.

Previously, Earls received a letter from the city of Chicago department of revenue dated November 17, 2010, indicating that the city did not find a record of certain delineated debts, specifically stating the following:

"Please accept this as confirmation that no outstanding debt was found across any of the debt types, Parking, Water, Administrative Hearings, Inspection Fees, Cost Recovery and Tax/Licensing."

Petitioner-appellant Eileen Jackson filed an objector's petition to Earls' nominating papers on November 30, 2010, listing a variety of objections, including the fact that Earls was in arrears for amounts due to the city of Chicago by virtue of property taxes in arrears due to illegally claimed exemptions for previous years on multiple properties.

*2 On December 6, 2010, the Cook County assessor's office sent a letter to Earls and her husband at their 37 N. Long residence, informing them that it had come to the office's and Alderman Smith's attention that they have received homeowner's exemptions on multiple properties. The letter outlined the dollar values of the exemptions Earls received for each of the properties. For 555 N. Lawler, Earls received a \$963.20 exemption for 2008 and a \$669.16 exemption for 2009. For 552 N. Lawler, Earls received a \$578.55 exemption for 2008 and a \$721.03 exemption for 2009. In response to this notice from the county assessor's office, Earls paid the amount owed in back taxes for the two properties on December 14, 2010.

A hearing was conducted by William Cadigan of the Chicago Board of Elections. The objector introduced into evidence public records showing that Earls had claimed a homeowner's exemption on three properties: 552 N. Lawler, 555 N. Lawler, and 37 N. Long, in Chicago, Illinois, although Earls in fact resided at 37 N. Long.

These public records included the following: copies of the deeds for 552 N. Lawler and 555 N. Lawler, showing that Earls and her husband held title to both properties as tenants by the entirety; title insurance for the 37 N. Long property indicating Earls and her husband held title as joint tenants; records printed from the Cook County assessor's Web site showing a claimed homeowner's exemption status for 555 N. Lawler in 2008 and 2009; the December 6, 2010, letter from the Cook County assessor's office sent to Earls; 2008 and 2009 homeowner's exemption applications for 552 N. Lawler and 555 N. Lawler; three original certified 2009 second-installment tax bills produced by the Cook County treasurer's office for all three properties; original certified PIN payment summaries produced by the Cook County treasurer's office for all three properties; copies of relevant statutory provisions; and a summary of the records relating to the properties and the tax levy and rates for the city of Chicago for the years 2008 and 2009. Earls testified that she in fact had lived at 37 N. Long since 2007. Earls also testified that she was the one who paid the property tax bills.

The hearing officer relied on the letter from the city of Chicago indicating the city did not find a record of the types of debts delineated and overruled the objection. The Board of Elections adopted the hearing officers' recommendations and found that the facts did not fall within the relevant provision of the Illinois Municipal Code and the holding of the *Cinkus* case because "the only evidence of indebtedness presented was regarding an amount owed to the Cook County Assessor." The Board did not address the argument made that Cook County collects certain amounts in property taxes for the city of Chicago, which it then disburses to the city. The objector appealed to the circuit court, and the circuit court entered an order affirming the Electoral Board. This appeal followed.

ANALYSIS

*3 On appeal, Jackson contends that the Board erred in finding that Earls' nomination papers were valid because the debt she amassed by unlawfully obtaining homeowners exemptions on two of her properties constituted arrearages due to the city of Chicago. Because Earls was indebted to the city of Chicago at the time she filed her nomination papers, Jackson argues that she was precluded from running for elected office pursuant to section 3.1-10-5(b) of the Municipal Code 65 ILCS 5/3.1-10-5 (West 2008).

In response, Earls initially contends that the issue of whether she erroneously received homeowners exemptions to which she is not entitled is beyond the

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scope of the authority vested in the Board of Elections, and she argues that the Board's authority is limited to simply ascertaining whether her papers comply with provisions of the Illinois Election Code governing those papers. Nonetheless, she argues that she did not owe a debt to the city of Chicago at the time she filed her nomination papers. She maintains that property taxes are payable to the Cook County Treasurer, not the city of Chicago. Accordingly, unauthorized homeowner's exemptions would not constitute a debt to the city of Chicago, and section 3.1-10-5(b) of the Municipal Code does not preclude her from running for alderman for the 28th Ward.¹

¹ Initially, we find Earls' argument that the issue of whether she received unauthorized homeowner's exemptions was beyond the scope of the Board's authority to be without merit. It is well within the Board's authority to determine whether a candidate meets the qualifications for elective office set forth in section 3.1-10-5 of the Illinois Municipal Code (65 ILCS 5/3.1-10-5 (West 2008)). See generally *Bryant v. Board of Election Commissioners*, 224 Ill.2d 473, 309 Ill.Dec. 826, 865 N.E.2d 189 (2007) (order) (reviewing an election board's decision as to whether the candidate was qualified to run for elective office pursuant to section 3.1-10-5 of the Illinois Municipal Code). More specifically, it is well within the Board's authority to determine whether a candidate is precluded from running for, or holding, an elected municipal office because he or she owes a debt to a municipality pursuant to section 3.1-10-5(b). See *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200, 319 Ill.Dec. 887, 886 N.E.2d 1011 (2008) (reviewing an election board's finding that a candidate was indebted to the village and was not entitled to run for a village trustee office). Accordingly, the issue as to whether Earls met the qualifications for elective office or whether she is precluded from running for alderman because she possessed a debt to the city of Chicago pursuant to section 3.2-10-5(b) of the Illinois Municipal Code was properly before the Board and is properly before this court.

As a threshold matter, we must determine our proper standard of review. Jackson, the only party to address the standard of review applicable to this appeal, contends that the Board's decision is subject to *de novo* review. We disagree.

^{*4 2 3 4} An electoral board is an administrative agency and only possesses the powers conferred upon it by the legislature. *Cinkus*, 228 Ill.2d at 209, 319 Ill.Dec. 887, 886 N.E.2d 1011; *Delgado v. Board of Election Commissioners*, 224 Ill.2d 481, 485, 309 Ill.Dec. 820, 865 N.E.2d 183 (2007) (order). On appeal, a reviewing court reviews the decision of the board, not the circuit court. *Cinkus*, 228 Ill.2d at 212, 319 Ill.Dec. 887, 886 N.E.2d

1011; *Ramirez v. Andrade*, 372 Ill.App.3d 68, 73, 310 Ill.Dec. 184, 865 N.E.2d 508 (2007). In reviewing an administrative agency's decision, the applicable standard of review depends upon whether the question raised on appeal is one of fact, one of law, or a mixed question of fact and law. *Cinkus*, 228 Ill.2d at 210, 319 Ill.Dec. 887, 886 N.E.2d 1011; *City of Belvidere v. Illinois State Labor Relations Board*, 181 Ill.2d 191, 205, 229 Ill.Dec. 522, 692 N.E.2d 295 (1998). An administrative agency's factual findings and credibility determinations are deemed *prima facie* true and correct, and a reviewing court is limited to ascertaining whether those findings are against the manifest weight of the evidence. *Cinkus*, 228 Ill.2d at 210, 319 Ill.Dec. 887, 886 N.E.2d 1011; *City of Belvidere*, 181 Ill.2d at 205, 229 Ill.Dec. 522, 692 N.E.2d 295. An administrative agency's conclusions regarding questions of law, in contrast, are not subject to deference; rather, the court's review is independent and not deferential. *Cinkus*, 228 Ill.2d at 211, 319 Ill.Dec. 887, 886 N.E.2d 1011; *City of Belvidere*, 181 Ill.2d at 205, 229 Ill.Dec. 522, 692 N.E.2d 295.

^{5 6 7} However, a mixed question of fact and law can present even if the facts are clear and admitted, the rule of law is undisputed, and the issue is simply whether or not the law as applied to the facts is violated. *Cinkus*, 228 Ill.2d at 211, 319 Ill.Dec. 887, 886 N.E.2d 1011. Ultimately, an administrative agency's decision involving a mixed question of law will not be disturbed on appeal unless that decision is clearly erroneous. *Cinkus*, 228 Ill.2d at 211, 319 Ill.Dec. 887, 886 N.E.2d 1011; *City of Belvidere*, 181 Ill.2d at 205, 229 Ill.Dec. 522, 692 N.E.2d 295. A decision is "clearly erroneous" only in circumstances in which the reviewing court is left with "[a] definite and firm conviction that a mistake has been committed." *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill.2d 380, 393, 261 Ill.Dec. 302, 763 N.E.2d 272 (2001) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395, 68 S.Ct. 525, 542, 92 L.Ed. 746 (1948)).

Here, there is no dispute as to the facts. The record reflects that Earls filed her nomination papers on November 22, 2010. Thereafter, on December 6, 2010, a letter addressed to Earls and her husband was sent by the Cook County assessor's office, informing them that they had erroneously claimed two unauthorized homeowner's exemptions. Upon receipt of the letter, Earls paid the back taxes on December 14, 2010. Earls does not dispute that homeowner's exemptions were claimed on the multiple properties and that she owed back taxes for these improper exemptions at the time she filed her nominating papers. Earls further does not dispute that she later paid these back taxes. Accordingly, there is no dispute that at the time Earls filed her nomination papers, she was in arrears on her property taxes.

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The law is also undisputed that “a tax or other indebtedness due to the municipality” under section 3.1–10–5(b) of the Municipal Code (65 ILCS 5/3.1–10–5(b) (West 2008)) renders a person ineligible to run for office. The issue is the application of the facts to the law. The hearing officer found that the city’s letter “effectively rebuts any claim that the Candidate was in arrears on debts to the City of Chicago at the time she signed [t]he Statement of Candidacy and Nominating Papers,” and did not address the issue of whether property taxes include taxes due to the city of Chicago. The Board of Elections, in applying section 3.1–10–5(b) of the Illinois Municipal Code to the facts, determined that “the only evidence of indebtedness presented was regarding an amount owed to the Cook County Assessor,” and that there was no support for the conclusion that a debt owed to Cook County would bar a candidate from running in a municipal election in the city of Chicago. Therefore, as this case presents a mixed question of fact and law, we must decide whether the Board’s decision is clearly erroneous.

*5 Earls contends that any tax debt resulting from the unauthorized homeowner’s exemptions legally does not constitute arrears in taxes owed to the city of Chicago. She observes that it was the Cook County assessor’s office that sent the letter that addressed the issues pertaining to the unauthorized homeowner’s exemptions taken by Earls and her husband. The letter, in turn, directed them to make their payment out to the Cook County treasurer’s office. Earls argues that the city of Chicago would not have standing to enforce the judgment, and accordingly, there was no “indebtedness due” to the city of Chicago. Earls also relies heavily on the letter she received from the city stating that the city’s search of its records indicated she did not owe a debt to the city. Because she was not indebted to the City of Chicago, Earls argues that section 5/3.1–10–5 of the Municipal Code would not bar her from running for alderman.

Section 3.1–10–5(b) of the Illinois Municipal Code provides the following:

“A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.” 65 ILCS 5/3.1–10–5(b) (West 2008).

8 9 Based on this provision, a prospective candidate who owes a debt to a municipality at the time her nomination papers are filed is not eligible to run for or hold municipal office. *Cinkus*, 228 Ill.2d at 220–22, 319 Ill.Dec. 887, 886 N.E.2d 1011. More specifically, a tax indebtedness to a city would preclude a taxpayer from candidacy. *Grabavoy v. Wilson*, 87 Ill.App.2d 193, 201, 230 N.E.2d 581 (1967).

The plain language of our statutory enactments is clear that, though collected by the Cook County collector, the money levied by the city as property taxes is due to the city. The Illinois Constitution of 1970 grants counties and municipalities the authority to levy or impose taxes. Ill. Const.1970, art. VII, § 7. A county which has an elected chief executive officer and any municipality which has a population of more than 25,000 are home rule units, and a home rule unit may exercise any power and perform any function pertaining to its government and affairs, including the power to tax. Ill. Const.1970, art. VII, § 6(a). A number of statutes authorize various taxing districts, such as municipalities, counties, townships and school districts, to levy taxes. *Chicagoland Chamber of Commerce v. Pappas*, 378 Ill.App.3d 334, 337–38, 317 Ill.Dec. 113, 880 N.E.2d 1105 (2007). The Illinois Municipal Code provides that “[t]he corporate authorities may levy and collect taxes for corporate purposes.” 65 ILCS 5/8–3–1 (West 2008).

10 Our Constitution also provides that county officers may act as treasurers of units of local government. “County officers shall have those duties, powers and functions provided by law and those provided by county ordinance.” Ill. Const.1970, art. VII, § 4(d). Specifically, “[t]he county treasurer or the person designated to perform his functions may act as treasurer of any unit of local government and any school district in his county when requested by any such unit or school district and shall so act when required to do so by law.” Ill. Const.1970, art. VII, § 4(e). Thus, both counties and cities may levy taxes, and cities may request that the county act as treasurer.

*6 11 12 Under the Property Tax Code (35 ILCS 200/1–1 *et seq.* (West 2008)), the Cook County treasurer collects taxes through property taxes. The county is charged with the duty of collecting property taxes including any interest resulting from delinquent taxes. 35 ILCS 200/21–15 (West 2008); *Village of Oak Lawn v. Rosewell*, 128 Ill.App.3d 639, 645, 83 Ill.Dec. 904, 471 N.E.2d 203 (1984). The Property Tax Code provides that the treasurers of all counties are *ex officio* county collectors of their respective counties. 35 ILCS 200/19–35 (West 2008). Thus, the Cook County treasurer is an *ex officio* county collector. The main duty and authority of the county collector is to collect taxes in accordance with the provisions of the Property Tax Code, which includes preparing the tax bill and mailing the tax bill to the property owner. 35 ILCS 200/20–5, 20–85 (West 2008). The collector has the power and the duty to collect any tax due and unpaid, and this duty continues through his or her successors until the tax is paid. 35 ILCS 200/20–95 (West 2008).

13 The property taxes collected by the Cook County treasurer include taxes on behalf of the city of Chicago.

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The Property Tax Code requires that all taxing bodies must certify annually to the county clerk the amount of taxes the taxing body seeks to raise. 35 ILCS 200/18–15 (West 2008). The filing of this certificate of the levy of taxes by a municipality is jurisdictional since it is what authorizes the county clerk to extend taxes for that taxing body. *People ex rel. Dooley v. New York, Chicago & St. Louis R.R. Co.*, 368 Ill. 536, 541, 15 N.E.2d 297 (1938).

Municipalities levy taxes in the following manner: On or before the last Tuesday in December in each year, the city ascertains the total amount of appropriations legally made or budgeted for city purposes to be provided for by the property tax levy of that year. 65 ILCS 5/8–3–1 (West 2008). Then, by an ordinance specifying in detail the purposes for which the appropriations have been made and the amount assignable for each purpose, the city levies upon all property subject to taxation within the city as that property is assessed and equalized for state and county purposes for the current year. 65 ILCS 5/8–3–1 (West 2008). A certified copy of the city's ordinance for the property tax levy is then filed with the county clerk. 65 ILCS 5/8–3–1 (West 2008). The clerk then ascertains the rate percent necessary to produce the total amount levied by the city upon the value of property subject to taxation within the city. 65 ILCS 5/8–3–1 (West 2008).

The Chicago property tax limitation ordinance of the Chicago Municipal Code (Chicago Municipal Code § 3–92–010 *et seq.* (added Mar. 8, 1993)) provides that the city's aggregate tax levy is:

“the annual levy of property taxes by the city for all purposes, with the exception of (i) amounts levied for the specific purposes of special service areas; and (ii) those specific amounts levied for the years 2002, 2003 and 2005 to 2030, inclusive, for the benefit of the Chicago school reform board of trustees of the board of education of the city of Chicago * * *, and (iii) for the purpose of determining the aggregate levies for the year 2008 and subsequent years, amounts levied for public library purposes which are separately stated on tax bills under Section 20–15 of the Property Tax Code 35 ILCS 200/20–15 plus adjustment for new property.” Chicago Municipal Code § 3–92–020(b) (added Mar. 8, 1993).

*7 The Property Tax Code requires that there must be, printed on each property tax bill, “a statement itemizing the rate at which taxes have been extended for each of the taxing districts in the county in whose district the property is located.” 35 ILCS 200/20–15(a) (West 2008). The Illinois Municipal Code also requires that the county clerk extend the city's tax in a separate column upon the books of the collector. 65 ILCS 5/8–3–1 (West 2008).

The money levied by the city as taxes on property which is collected by the Cook County treasurer is specifically

designated as a separate class of funds, which is due and payable only to the city. Money due to the county is an entirely separate class of funds. Section 3–11003 of the Counties Code (55 ILCS 5/1–1001 *et seq.* (West 2008)) sets out the classification of all moneys collected by the county as follows:

“Class A. All taxes and special assessments received by the county treasurer in his capacity as *ex officio* county collector or *ex officio* town collector, and held by him pending distribution to the several governments or authorities entitled to receive the same, shall be known as ‘Class A’ funds.

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Class C. All moneys belonging to the county in its corporate capacity shall be known as ‘Class C’ funds.” 55 ILCS 5/3–11003 (West 2008).

14 Thus, city funds are “Class A” funds, and county funds are “Class C” funds. The Counties Code further provides that “Class A” funds “shall be withdrawn only upon checks or drafts signed by the County Treasurer and payable to the order of the State Treasurer or the other proper authorities or persons entitled by law to receive the same.” (Emphasis added.) 55 ILCS 5/3–11008 (West 2008). The Property Tax Code requires that in counties with three million or more inhabitants, the county collector must, on June 1 and the first day of every month thereafter, pay over the collected taxes to the local taxing bodies. 35 ILCS 200/20–140 (West 2008). The county collector must deposit all amounts of the tax proceeds of any taxing district directly into a designated escrow account established by the district. 35 ILCS 200/20–90 (West 2008). City taxes are therefore payable and due only to the city.

15 16 The county collector is subject to liability if the taxes due to the city are not properly paid. The Property Tax Code requires county collectors to file a bond, in addition to the bond as county treasurer, and in counties of three million or more inhabitants, the amount of the bond must be no less than \$1.5 million. 35 ILCS 200/19–40 (West 2008). Contrary to Earls' assertion, the city does have standing to enforce payment of its property taxes. The Property Tax Code authorizes taxing districts to prosecute a suit against any collector receiving funds for their use by suit on the bond in the name of the People of the State of Illinois for failure of the collector to make the payments required. 35 ILCS 200/20–155 (West 2008). The county collector is also liable to removal from office for failure to account and pay over taxes to local taxing bodies as is required in the Property Tax Code. 35 ILCS 200/20–160 (West 2008). Thus, the county must pay the city property taxes to the city.

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*8 17 We return to the language of section 3.1–10–5 of the Illinois Municipal Code, which provides that a person is not eligible to run for municipal office if he or she is “in arrears in the payment of a *tax* or other indebtedness *due to the municipality*.” (Emphasis added.) 65 ILCS 5/3.1–10–5 (West 2008). Black’s Law Dictionary defines “due” as “[o]wing or payable.” Black’s Law Dictionary 574 (9th ed.2009). Regardless of the letter generated by the city regarding other types of city debts, given the plain language of our statutory enactments, there is no question the amounts levied by the city of Chicago through property taxes are owing and payable to the city.

Earls’ argument ignores the plain language of the relevant statutory provisions and fails to accord with common sense, given that the property tax bills themselves show the delineated amounts which were due to the city. See *Exelon Corp. v. Department of Revenue*, 234 Ill.2d 266, 282, 334 Ill.Dec. 824, 917 N.E.2d 899 (2009). Copies of the tax bills are in the common law record and clearly show the required line-item amounts to various taxing agencies and entities. Earls’ property tax bills clearly delineated the taxing districts where the proceeds of their tax assessment were to be directed. The bills contain an itemization of the sums that would be payable to various taxing authorities, including the city of Chicago.

The fact that Earls received a letter from the city indicating that the city’s search of its own records revealed no debt of the types listed is not dispositive, as city property taxes are collected through the county collector. Although the county issues the bill and collects the money, the county is not the entity to which the city tax debt is owed. As the tax bills clearly show, property taxes, in part, are owed to the city of Chicago. And, in fact, it is clear that neither the county nor the county treasurer can keep all the money the county collects.

Earls argues that the issue in this case “would be complicated because the taxes are paid to the Cook County Treasurer and not the City of Chicago” and that, therefore, section 3.1–10–5(b) “would not apply to this case.” However, regardless of whether the taxation system is complex, the fact remains that the city property taxes appropriated for city purposes, though collected by the county treasurer, is still due to the city. Using a rough analogy in layman’s terms, the role of the Cook County treasurer in collecting and paying money owed to the city in our property taxation system is akin to a debt being collected by a collection agency, where the debt is then ultimately paid to the proper creditor.

Also, Earls argues that she did not know she was in arrears until she received notice in the letter from the Cook County assessor’s office dated December 6, 2010. However, the evidence established that Earls was on the deeds and mortgages to the properties for which the

homeowner’s exemptions were claimed, that she was the one who paid the property tax bills, and that she knew she lived at only the 37 N. Long residence.

*9 18 Moreover, knowledge of indebtedness after filing nominating papers does not vitiate the prohibition of section 3.1–10–5(b) of the Illinois Municipal Code. In *Cinkus*, the candidate running for village trustee received notice of his debt to the village after he filed his nominating papers, by way of objection. *Cinkus*, 228 Ill.2d at 204, 319 Ill.Dec. 887, 886 N.E.2d 1011. Our supreme court determined that the indebtedness resulted in the candidate’s ineligibility to run for office, pursuant to section 3.1–10–5(b). *Cinkus*, 228 Ill.2d at 222, 319 Ill.Dec. 887, 886 N.E.2d 1011. Similarly here, regardless of when Earls received notice of her arrearages, she was in arrears on her taxes to the city at the time she filed her nominating papers.

CONCLUSION

We hold that a portion of property taxes is due to the city of Chicago; therefore, arrearages on property taxes are also arrearages on taxes to the city, and a person in arrears in property taxes is not eligible to run for elective municipal office under section 3.1–10–5(b) of the Illinois Municipal Code. Therefore, the Electoral Board’s decision was clearly erroneous. Earls is not eligible to run for elective municipal office because she was in arrears in the payment of her property taxes due to the city of Chicago. We reverse the judgment confirming the Board’s decision, set aside the Board’s decision, and, pursuant to [Supreme Court Rule 366\(a\)\(5\)](#) (Ill.Sup.Ct. R. 366(a)(5) (eff.Feb.1, 1994)), order that Earls’ name be excluded (or, if necessary, removed) from the ballot for the February 22, 2011, municipal elections.

We further order that if, because of the limited time available before election day, February 22, 2011, the Board of Elections of the City of Chicago is not physically able to remove candidate Earls’ name from ballots to be voted upon, that every person taking a ballot in the 28th Ward of the city of Chicago be given a written notice, to be initialed by the voter and a judge of elections, that candidate Earls has been found disqualified to run for alderman of the 28th Ward, that she is no longer a candidate, and that votes cast for her will not be counted.

We further order that any votes cast for candidate Earls on absentee ballots or early voting ballots not be counted.

Reversed.

Jackson v. Board of Election Com'rs of City of Chicago, --- N.E.2d ---- (2011)

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Presiding Justice **GALLAGHER** and Justice **LAVIN** concurred in the judgment and opinion.

Parallel Citations

2011 WL 692992 (Ill.App. 1 Dist.)

- 1 We acknowledge that the Board also filed an appellee brief; however, the Board did not address the merits of its decision in its brief. Instead, the Board merely apprised this court of the status of ballot preparation, testing, production, and distribution.

End of Document

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PIN	Tax Year	Total Assessment	Exemption Amo	City Rate	City Taxes	Total Rate	Total Taxes	Taxes Owed on		
								Exemption to City		
14-35-406-026 1708 WILDWOOD RD	1991		3500							
	1992									
	1993									
	1994									
	1995									
	1996	\$ 22,698	\$ 3,500	\$ 1.2210	\$ 234.31	\$ 7.5420	\$ 1,447.25	\$ 42.74	\$ 39.99	\$ 199.93
	1997	\$ 23,805	\$ 3,500	\$ 1.1626	\$ 236.07	\$ 7.5403	\$ 1,531.13	\$ 40.69		
	1998	\$ 24,332	\$ 3,500	\$ 1.1672	\$ 243.15	\$ 7.5877	\$ 1,580.68	\$ 40.85		
	1999	\$ 25,730	\$ 3,500	\$ 1.1485	\$ 255.30	\$ 7.4999	\$ 1,667.21	\$ 40.20		
	2000	\$ 26,514	\$ 3,500	\$ 1.1058	\$ 254.49	\$ 7.4244	\$ 1,708.66	\$ 38.70		
	2001	\$ 27,736	\$ 3,500	\$ 1.0498	\$ 254.43	\$ 7.2990	\$ 1,769.97	\$ 36.74		
Exemption Removed	2002	\$ 28,879	\$ -	\$ 1.0173	\$ 293.79	\$ 7.3482	\$ 2,122.09	\$ -		
Totals					\$ 1,771.54		\$ 239.92			
21-03-152-008 903 E LOCUST	2002	\$ 24,256	\$ -	\$ 1.0173	\$ 246.76	\$ 7.3482	\$ 1,782.38	\$ -		
Exemption Removed										
21-03-304-012 1015 E JEFFERSON	1996	\$ 23,482	\$ 3,500	\$ 1.2210	\$ 243.99	\$ 7.5420	\$ 1,507.05	\$ 42.74		
1997	\$ 24,637	\$ 3,500	\$ 1.1626	\$ 245.73	\$ 7.5403	\$ 1,593.80	\$ 40.69			
1998	\$ 25,181	\$ 3,500	\$ 1.1672	\$ 293.91	\$ 7.5877	\$ 1,910.67	\$ 40.85			
Exemption Removed	1999	\$ 27,100	\$ -	\$ 1.1485	\$ 311.24	\$ 7.4999	\$ 2,032.46	\$ -		
					\$ 1,094.87		\$ 124.28			
21-03-428-005 1509 E WASHINGTON	1997	\$ 36,781	\$ 3,500	\$ 1.1626	\$ 386.91	\$ 7.5403	\$ 2,509.00	\$ 40.69		
1998	\$ 37,594	\$ 3,500	\$ 1.1672	\$ 397.94	\$ 7.5877	\$ 2,586.95	\$ 40.85			
1999	\$ 39,380	\$ 3,500	\$ 1.1485	\$ 400.59	\$ 7.4999	\$ 2,615.95	\$ 40.20			
2000	\$ 39,550	\$ 3,500	\$ 1.1058	\$ 398.64	\$ 7.4244	\$ 2,676.51	\$ 38.70			
2001	\$ 41,373	\$ 3,500	\$ 1.0498	\$ 397.60	\$ 7.2990	\$ 2,764.33	\$ 36.74			
2002	\$ 43,077	\$ 3,500	\$ 1.0173	\$ 438.23	\$ 7.3482	\$ 3,165.38	\$ 35.61			
Exemption Removed	2003	\$ 44,800	\$ -	\$ 1.0106	\$ 452.77	\$ 7.4383	\$ 3,332.35	\$ -		
					\$ 2,872.68		\$ 232.79			
21-04-209-010 306 E LOCUST	1998	\$ 31,150	\$ -	\$ 1.1672	\$ 363.58	\$ 7.5877	\$ 2,363.58	\$ -		
Previous Owner	1999	\$ 33,520	\$ -	\$ 1.1485	\$ 384.97	\$ 7.4999	\$ 2,513.95	\$ -		
Exemption removed	2000	\$ 34,542	\$ -	\$ 1.1058	\$ 381.97	\$ 7.4244	\$ 2,564.56	\$ -		
2001	\$ 36,134	\$ -	\$ 1.0498	\$ 379.34	\$ 7.2990	\$ 2,637.41	\$ -			
2002	\$ 37,622	\$ -	\$ 1.0173	\$ 382.74	\$ 7.3482	\$ 2,764.57	\$ -			
2003	\$ 41,384	\$ 3,500	\$ 1.0106	\$ 382.87	\$ 7.4383	\$ 2,817.90	\$ 35.37			
2004	\$ 43,064	\$ 5,000	\$ 1.0071	\$ 383.34	\$ 7.5227	\$ 2,863.42	\$ 50.36			
2005	\$ 44,356	\$ 5,000	\$ 0.9990	\$ 393.17	\$ 7.5216	\$ 2,960.20	\$ 49.95			
2006	\$ 45,288	\$ 5,000	\$ 0.9973	\$ 401.79	\$ 7.5753	\$ 3,051.94	\$ 49.87			
2007	\$ 36,670	\$ 5,000	\$ 1.0067	\$ 318.81	\$ 7.6198	\$ 2,413.18	\$ 50.33			
2008	\$ 36,670	\$ 5,500	\$ 0.9954	\$ 310.27	\$ 7.6459	\$ 2,383.24	\$ 54.75			
Requested Exemption Removal	2009	\$ 36,956	\$ 6,000	\$ 1.0762	\$ 333.14	\$ 7.7414	\$ 2,396.44	\$ 64.57		
					\$ 4,415.99		\$ 355.19			
21-04-209-011 310 E LOCUST	1999	\$ 17,530	\$ -	\$ 1.1485	\$ 201.33	\$ 7.4999	\$ 1,314.74	\$ -		
No History of Exemption on this parcel since ownership in 1999.										
21-04-209-014 316 E LOCUST	2009	\$ 28,926	\$ 6,000	\$ 1.0762	\$ 246.72	7.74141	\$ 1,774.80	\$ 64.57		
2009 requested transfer from 306										
					\$ 246.72		\$ 64.57			
21-04-210-010 801 N MCLEAN	1996	\$ 48,233	\$ -	\$ 1.2210	\$ 588.94	7.54201	\$ 3,637.75	\$ -		
No Exemptions	2010	\$ 61,671	\$ -	\$ -	\$ 653.79	0	\$ 4,806.46	\$ -		
21-04-229-027 522 E Chestnut	2006	37961	0	\$ 0.9973	378.59	7.57528	2875.66	\$ -		
No Exemptions										
21-04-253-014 401 E Locust	2001	\$ 63,000	\$ -	\$ 1.0173	640.91	\$ 7.3482	\$ 4,629.37	\$ -		
No Exemptions	2010	\$ 58,333	\$ -	\$ -	618.41	\$ -	\$ 4,546.30	\$ -		
21-09-152-004 1008 Summit	1994									
1995										
1996	19643	3500	\$ 1.2210	197.11	\$ 7.5420	1217.51	\$ 42.74	\$ 39.99	\$ 79.97	
1997	20610	3500	\$ 1.1626	198.91	\$ 7.5403	1290.15	\$ 40.69			
1998	21065	3500	\$ 1.1672	205.22	\$ 7.5877	1332.79	\$ 40.85			
1999	21276	3500	\$ 1.1485	204.15	\$ 7.4999	1333.17	\$ 40.20			
2000	21925	3500	\$ 1.1058	203.74	\$ 7.4244	1367.95	\$ 38.70			
2001	22935	3500	\$ 1.0498	204.03	\$ 7.2990	1418.56	\$ 36.74			
Exemption Removed	2002	23880	0		242.94	1754.77	\$ -			
					1456.1		\$ 239.92			
21-11-253-003 704 ARCADIA DR	1994									
1995										
No Exemptions	\$ 1,996	\$ 62,664.0000	0	\$ 1.2210	\$ 765.15	\$ 7.54	4726.13	\$ -		
					\$ 765.15		\$ -			

Grand Total All \$ 1,256.67 \$ 1,456.60

PIN	Tax Year	Total Assessment	mption Amo	City Rate	City Taxes	Total Rate	Total Taxes	Taxes Owed to		
								City		
14-35-406-026 1708 WILDWOOD RD	1991		3500							
	1992									
	1993									
	1994									
	1995									
	1996	\$ 22,698	\$ 3,500	1.2210	\$ 234.31	\$ 7,5420	\$ 1,447.25	\$ 42.74	\$ 39.99	\$ 199.93
	1997	\$ 23,805	\$ 3,500	1.1626	\$ 236.07	\$ 7,5403	\$ 1,531.13	\$ 40.69		
	1998	\$ 24,332	\$ 3,500	1.1672	\$ 243.15	\$ 7,5877	\$ 1,580.68	\$ 40.85		
	1999	\$ 25,730	\$ 3,500	1.1485	\$ 255.30	\$ 7,4999	\$ 1,667.21	\$ 40.20		
	2000	\$ 26,514	\$ 3,500	1.1058	\$ 254.49	\$ 7,4244	\$ 1,708.66	\$ 38.70		
	2001	\$ 27,736	\$ 3,500	1.0498	\$ 254.43	\$ 7,2990	\$ 1,769.97	\$ 36.74		
2002	\$ 28,879	\$ -	1.0173	\$ 293.79	\$ 7,3482	\$ 2,122.09	\$ -			
Totals				\$ 1,771.54		\$ 239.92				
21-03-152-008 903 E LOCUST	2002	\$ 24,256	\$ -	\$ 1.0173	\$ 246.76	\$ 7,3482	\$ 1,782.38	\$ -		
Exemption Removed										
21-03-304-012 1015 E JEFFERSON	1996	\$ 23,482	\$ 3,500	1.2210	\$ 243.99	\$ 7,5420	\$ 1,507.05	\$ 42.74		
	1997	\$ 24,637	\$ 3,500	1.1626	\$ 245.73	\$ 7,5403	\$ 1,593.80	\$ 40.69		
	1998	\$ 25,181	\$ 3,500	1.1672	\$ 293.91	\$ 7,5877	\$ 1,910.67	\$ 40.85		
	1999	\$ 27,100	\$ -	1.1485	\$ 311.24	\$ 7,4999	\$ 2,032.46	\$ -		
Exemption Removed										
				\$ 1,094.87		\$ 124.28				
21-03-428-005 1509 E WASHINGTON	1997	\$ 36,781	\$ 3,500	1.1626	\$ 386.91	\$ 7,5403	\$ 2,509.00	\$ 40.69		
	1998	\$ 37,594	\$ 3,500	1.1672	\$ 397.94	\$ 7,5877	\$ 2,586.95	\$ 40.85		
	1999	\$ 39,380	\$ 3,500	1.1485	\$ 400.59	\$ 7,4999	\$ 2,615.95	\$ 40.20		
	2000	\$ 39,550	\$ 3,500	1.1058	\$ 398.64	\$ 7,4244	\$ 2,676.51	\$ 38.70		
	2001	\$ 41,373	\$ 3,500	1.0498	\$ 397.60	\$ 7,2990	\$ 2,764.33	\$ 36.74		
	2002	\$ 43,077	\$ 3,500	1.0173	\$ 438.23	\$ 7,3482	\$ 3,165.38	\$ 35.61		
	2003	\$ 44,800	\$ -	1.0106	\$ 452.77	\$ 7,4383	\$ 3,332.35	\$ -		
Exemption Removed										
				\$ 2,872.68		\$ 232.79				
21-04-209-010 306 E LOCUST	1998	\$ 31,150	\$ -	1.1672	\$ 363.58	\$ 7,5877	\$ 2,363.58	\$ -		
Previous Owner	1999	\$ 33,520	\$ -	1.1485	\$ 384.97	\$ 7,4999	\$ 2,513.95	\$ -		
Exemption removed	2000	\$ 34,542	\$ -	1.1058	\$ 381.97	\$ 7,4244	\$ 2,564.56	\$ -		
	2001	\$ 36,134	\$ -	1.0498	\$ 379.34	\$ 7,2990	\$ 2,637.41	\$ -		
	2002	\$ 37,622	\$ -	1.0173	\$ 382.74	\$ 7,3482	\$ 2,764.57	\$ -		
	2003	\$ 41,384	\$ 3,500	1.0106	\$ 382.87	\$ 7,4383	\$ 2,817.90	\$ 35.37		
	2004	\$ 43,064	\$ 5,000	1.0071	\$ 383.34	\$ 7,5227	\$ 2,863.42	\$ 50.36		
	2005	\$ 44,356	\$ 5,000	0.9990	\$ 393.17	\$ 7,5216	\$ 2,960.20	\$ 49.95		
	2006	\$ 45,288	\$ 5,000	0.9973	\$ 401.79	\$ 7,5753	\$ 3,051.94	\$ 49.87		
	2007	\$ 36,670	\$ 5,000	1.0067	\$ 318.81	\$ 7,6198	\$ 2,413.18	\$ 50.33		
	2008	\$ 36,670	\$ 5,500	0.9954	\$ 310.27	\$ 7,6459	\$ 2,383.24	\$ 54.75		
Requested Exemption Removal	2009	\$ 36,956	\$ 6,000	1.0762	\$ 333.14	\$ 7,7414	\$ 2,396.44	\$ 64.57		
Exemption Removed										
				\$ 4,415.99		\$ 355.19				
21-04-209-011 310 E LOCUST	1999	\$ 17,530	\$ -	1.1485	\$ 201.33	\$ 7,4999	\$ 1,314.74	\$ -		
No History of Exemption on this parcel since ownership in 1999.										
21-04-209-014 316 E LOCUST	2009	\$ 28,926	\$ 6,000	1.0762	\$ 246.72	\$ 7,74141	\$ 1,774.80	\$ 64.57		
2009 requested transfer from 306										
				\$ 246.72		\$ 64.57				
21-04-210-010 801 N MCLEAN	1996	\$ 48,233	\$ -	1.2210	\$ 588.94	\$ 7,54201	\$ 3,637.75	\$ -		
No Exemptions	2010	\$ 61,671	\$ -	-	\$ 653.79	\$ 0	\$ 4,806.46	\$ -		
21-04-229-027 522 E Chestnut	2006	37961	0	0.9973	378.59	7.57528	2875.66	\$ -		
No Exemptions										
21-04-253-014 401 E Locust	2001	\$ 63,000	\$ -	1.0173	\$ 640.91	\$ 7,3482	\$ 4,629.37	\$ -		
No Exemptions	2010	\$ 58,333	\$ -	-	\$ 618.41	\$ -	\$ 4,546.30	\$ -		
21-09-152-004 1008 Summit	1994									
	1995									
	1996	19643	3500	1.2210	197.11	7.5420	1217.51	42.74	39.99 79.97	
	1997	20610	3500	1.1626	198.91	7.5403	1290.15	40.69		
	1998	21065	3500	1.1672	205.22	7.5877	1332.79	40.85		
	1999	21276	3500	1.1485	204.15	7.4999	1333.17	40.20		
	2000	21925	3500	1.1058	203.74	7.4244	1367.95	38.70		
	2001	22935	3500	1.0498	204.03	7.2990	1418.56	36.74		
Exemption Removed	2002	23880	0		242.94		1754.77			
				1456.1		\$ 239.92				
21-11-253-003 704 ARCADIA DR	1994									
	1995									
No Exemptions	\$ 1,996	\$ 62,664.0000	0	1.2210	\$ 765.15	\$ 7.54	\$ 4726.13	\$ -		
				\$ 765.15		\$ -				
Grand Total All								\$ 1,256.67	\$ 1,456.60	

PIN	Tax Year	Total Assessment 14-35-406-026	Exemption Amount	City Rate	City Taxes	City Library	COB Township	Total Rate	Total Taxes	Taxes Owed on Exemption to City				Total ALL Rate*Exemption Amount	COB Library Totals	COB Township Totals
14-35-406-026 1708 WILDWOOD RD	1991		\$ 3,500	\$ 1.23540		\$ 0.23040	\$ 0.12470	\$ 7.7811		\$ 43.24				\$ 272.34	\$ 8.0640	\$ 4.3645
	1992		\$ 3,500	\$ 1.26350		\$ 0.23490	\$ 0.11930	\$ 7.7171		\$ 44.22				\$ 270.10	\$ 8.2215	\$ 4.1755
	1993		\$ 3,500	\$ 1.31020		\$ 0.23220	\$ 0.21610	\$ 7.8036		\$ 45.86				\$ 273.13	\$ 8.1270	\$ 7.5635
	1994		\$ 3,500	\$ 1.23930		\$ 0.23200	\$ 0.18460	\$ 7.6413		\$ 43.38				\$ 267.45	\$ 8.1200	\$ 6.4610
	1995		\$ 3,500	\$ 1.30730		\$ 0.22550	\$ 0.10220	\$ 7.5840		\$ 45.76				\$ 219.68	\$ 7.8925	\$ 3.5770
	1996	\$ 22,698	\$ 3,500	\$ 1.22104	\$ 234.31	\$ 0.21401	\$ 0.17620	\$ 7.5420	\$ 1,447.25	\$ 42.74				\$ 221.23	\$ 7.4904	\$ 6.1670
	1997	\$ 23,805	\$ 3,500	\$ 1.16255	\$ 236.07	\$ 0.23256	\$ 0.17154	\$ 7.5403	\$ 1,531.13	\$ 40.69				\$ 223.22	\$ 8.1396	\$ 6.0039
	1998	\$ 24,332	\$ 3,500	\$ 1.16719	\$ 243.15	\$ 0.23358	\$ 0.23675	\$ 7.5877	\$ 1,580.68	\$ 40.85				\$ 224.72	\$ 8.1753	\$ 8.2863
	1999	\$ 25,730	\$ 3,500	\$ 1.14847	\$ 255.30	\$ 0.23650	\$ 0.21995	\$ 7.4999	\$ 1,667.21	\$ 40.20				\$ 222.30	\$ 8.2775	\$ 7.6983
	2000	\$ 26,514	\$ 3,500	\$ 1.10580	\$ 254.49	\$ 0.23650	\$ 0.21995	\$ 7.4244	\$ 1,708.66	\$ 38.70				\$ 221.15	\$ 8.2775	\$ 7.6983
	2001	\$ 27,736	\$ 3,500	\$ 1.04982	\$ 254.43	\$ 0.22462	\$ 0.14473	\$ 7.2990	\$ 1,769.97	\$ 36.74				\$ 218.72	\$ 7.8617	\$ 5.0656
	Exemption Removed	2002	\$ 28,879	\$ -	\$ 1.01732	\$ 293.79	\$ 0.27621	\$ 0.13441	\$ 7.3482	\$ 2,122.09	\$ -			\$ -	\$ -	\$ -
	Totals					\$ 1,771.54				\$ 462.37				\$ 2,634.04	\$ 88.65	\$ 67.06
	21-03-152-008															
21-03-152-008 903 E LOCUST	2002	\$ 24,256	\$ -	\$ 1.0173	\$ 246.76	\$ 0.27621	\$ 0.13441	\$ 7.3482	\$ 1,782.38	\$ -				\$ -	\$ -	\$ -
Exemption Removed																
21-03-304-012																
21-03-304-012 1015 E JEFFERSON	1996	\$ 23,482	\$ 3,500	\$ 1.2210	\$ 243.99	\$ 0.21401	\$ 0.17620	\$ 7.5420	\$ 1,507.05	\$ 42.74				\$ 221.23	\$ 7.4904	\$ 6.1670
	1997	\$ 24,637	\$ 3,500	\$ 1.1626	\$ 245.73	\$ 0.23256	\$ 0.17154	\$ 7.5403	\$ 1,593.80	\$ 40.69				\$ 223.22	\$ 8.1396	\$ 6.0039
	1998	\$ 25,181	\$ 3,500	\$ 1.1672	\$ 293.91	\$ 0.23358	\$ 0.23675	\$ 7.5877	\$ 1,910.67	\$ 40.85				\$ 224.72	\$ 8.1753	\$ 8.2863
Exemption Removed	1999	\$ 27,100	\$ -	\$ 1.1485	\$ 311.24	\$ 0.23650	\$ 0.21995	\$ 7.4999	\$ 2,032.46	\$ -				\$ -	\$ -	\$ -
					\$ 1,094.87					\$ 124.28				\$ 669.17	\$ 23.81	\$ 20.46
21-03-428-005																
21-03-428-005 1509 E WASHINGTON	1997	\$ 36,781	\$ 3,500	\$ 1.1626	\$ 386.91	\$ 0.23256	\$ 0.17154	\$ 7.5403	\$ 2,509.00	\$ 40.69				\$ 223.22	\$ 8.1396	\$ 6.0039
	1998	\$ 37,594	\$ 3,500	\$ 1.1672	\$ 397.94	\$ 0.23358	\$ 0.23675	\$ 7.5877	\$ 2,586.95	\$ 40.85				\$ 224.72	\$ 8.1753	\$ 8.2863
	1999	\$ 39,380	\$ 3,500	\$ 1.1485	\$ 400.59	\$ 0.23650	\$ 0.21995	\$ 7.4999	\$ 2,615.95	\$ 40.20				\$ 222.30	\$ 8.2775	\$ 7.6983
	2000	\$ 39,550	\$ 3,500	\$ 1.1058	\$ 398.64	\$ 0.23650	\$ 0.21995	\$ 7.4244	\$ 2,676.51	\$ 38.70				\$ 221.15	\$ 8.2775	\$ 7.6983
	2001	\$ 41,373	\$ 3,500	\$ 1.0498	\$ 397.60	\$ 0.22462	\$ 0.14473	\$ 7.2990	\$ 2,764.33	\$ 36.74				\$ 218.72	\$ 7.8617	\$ 5.0656
	2002	\$ 43,077	\$ 3,500	\$ 1.0173	\$ 438.23	\$ 0.27621	\$ 0.13441	\$ 7.3482	\$ 3,165.38	\$ 35.61				\$ -	\$ -	\$ -
Exemption Removed	2003	\$ 44,800	\$ -	\$ 1.0106	\$ 452.77			\$ 7.4383	\$ 3,332.35	\$ -				\$ -	\$ -	\$ -
					\$ 2,872.68					\$ 232.79				\$ 1,110.11	\$ 40.73	\$ 34.75
21-04-209-010																
21-04-209-010 306 E LOCUST	1998	\$ 31,150	\$ -	\$ 1.1672	\$ 363.58			\$ 7.5877	\$ 2,363.58	\$ -					\$ 13.34	\$ 10.07
Previous Owner	1999	\$ 33,520	\$ -	\$ 1.1485	\$ 384.97			\$ 7.4999	\$ 2,513.95	\$ -					\$ 13.34	\$ 10.07
Exemption removed	2000	\$ 34,542	\$ -	\$ 1.1058	\$ 381.97			\$ 7.4244	\$ 2,564.56	\$ -					\$ 13.34	\$ 10.07
	2001	\$ 36,134	\$ -	\$ 1.0498	\$ 379.34			\$ 7.2990	\$ 2,637.41	\$ -					\$ 13.34	\$ 10.07
	2002	\$ 37,622	\$ -	\$ 1.0173	\$ 382.74			\$ 7.3482	\$ 2,764.57	\$ -					\$ 13.34	\$ 10.07
	2003	\$ 41,384	\$ 3,500	\$ 1.0106	\$ 382.87	\$ 0.27325	\$ 0.15620	\$ 7.4383	\$ 2,817.90	\$ 35.37				\$ 224.97	\$ 9.56	\$ 5.47
	2004	\$ 43,064	\$ 5,000	\$ 1.0071	\$ 383.34	\$ 0.27359	\$ 0.18862	\$ 7.5227	\$ 2,863.42	\$ 50.36				\$ 325.78	\$ 13.68	\$ 9.43
	2005	\$ 44,356	\$ 5,000	\$ 0.9990	\$ 393.17	\$ 0.27284	\$ 0.23686	\$ 7.5216	\$ 2,960.20	\$ 49.95				\$ 326.13	\$ 13.64	\$ 11.84
	2006	\$ 45,288	\$ 5,000	\$ 0.9973	\$ 401.79	\$ 0.27099	\$ 0.22972	\$ 7.5753	\$ 3,051.94	\$ 49.87				\$ 328.90	\$ 13.55	\$ 11.49
	2007	\$ 36,670	\$ 5,000	\$ 1.0067	\$ 318.81	\$ 0.26601	\$ 0.22080	\$ 7.6198	\$ 2,413.18	\$ 50.33				\$ 330.66	\$ 13.30	\$ 11.04
	2008	\$ 36,670	\$ 5,500	\$ 0.9954	\$ 310.27	\$ 0.26108	\$ 0.18683	\$ 7.6459	\$ 2,383.24	\$ 54.75				\$ 365.78	\$ 14.36	\$ 10.28
Requested Exemption Removal	2009	\$ 36,956	\$ 6,000	\$ 1.0762	\$ 333.14	\$ 0.25467	\$ 0.18217	\$ 7.7414	\$ 2,396.44	\$ 64.57				\$ 399.92	\$ 15.28	\$ 10.93
					\$ 4,415.99					\$ 355.19				\$ 2,302.12	\$ 160.07	\$ 120.81
21-04-209-011																
21-04-209-011 310 E LOCUST	1999	\$ 17,530	\$ -	\$ 1.1485	\$ 201.33	\$ 0.24	\$ 0.22	\$ 7.4999	\$ 1,314.74	\$ -				\$ -	\$ -	\$ -
No History of Exemption on this parcel since ownership in 1999.																
21-04-209-014																
21-04-209-014 316 E LOCUST	2009	\$ 28,926	\$ 6,000	\$ 1.0762	\$ 246.72	\$ 0.25	\$ 0.18	\$ 7.7414	\$ 1,774.80	\$ 64.57				\$ 399.92	\$ 15.28	\$ 10.93
2009 requested transfer from 306					\$ 246.72					\$ 64.57				\$ 399.92	\$ 15.28	\$ 10.93
21-04-210-010																

PIN	Tax Year	Total Assessment 14-35-406-026	Exemption Amount	City Rate	City Taxes	City Library	COB Township	Total Rate	Total Taxes	Taxes Owed on Exemption to City				Total ALL Rate*Exemption Amount	COB Library Totals	COB Township Totals
21-04-210-010 801 N MCLEAN	1996	\$ 48,233	\$ -	\$ 1.2210	\$ 588.94	\$ 0.21	\$ 0.18	\$ 7.5420	\$ 3,637.75	\$ -				\$ -	\$ -	\$ -
No Exemptions	2010	\$ 61,671	\$ -	\$ -	\$ 653.79			0	\$ 4,806.46	\$ -				\$ -	\$ -	\$ -
21-04-229-027																
21-04-229-027 522 E Chestnut	2006	37961	0	0.9973	\$ 378.59			\$ 7.5753	\$ 2,875.66	\$ -				\$ -	\$ -	\$ -
No Exemptions																
21-04-253-014																
21-04-253-014 401 E Locust	2001	\$ 63,000	\$ -	\$ 1.0173	\$ 640.91			\$ 7.3482	\$ 4,629.37	\$ -				\$ -	\$ -	\$ -
No Exemptions	2010	\$ 58,333	\$ -	\$ -	\$ 618.41			\$ -	\$ 4,546.30	\$ -				\$ -	\$ -	\$ -
21-09-152-004																
21-09-152-004 1008 Summit	1994		\$ 3,500	\$ 1.23930		\$ 0.23200	\$ 0.18460	\$ 7.6413						\$ 267.45	\$ 8.12	\$ 6.46
	1995		\$ 3,500	\$ 1.30730		\$ 0.22550	\$ 0.10220	\$ 7.5840						\$ 265.44	\$ 7.89	\$ 3.58
	1996	19643	\$ 3,500	\$ 1.22104	197.11	\$ 0.21401	\$ 0.17620	\$ 7.5420	1217.51	\$ 42.74	\$ 39.99			\$ 221.23	\$ 7.49	\$ 6.17
	1997	20610	\$ 3,500	\$ 1.16255	198.91	\$ 0.23256	\$ 0.17154	\$ 7.5403	1290.15	\$ 40.69				\$ 223.22	\$ 8.14	\$ 6.00
	1998	21065	\$ 3,500	\$ 1.16719	205.22	\$ 0.23358	\$ 0.23675	\$ 7.5877	1332.79	\$ 40.85				\$ 224.72	\$ 8.18	\$ 8.29
	1999	21276	\$ 3,500	\$ 1.14847	204.15	\$ 0.23650	\$ 0.21995	\$ 7.4999	1333.17	\$ 40.20				\$ 222.30	\$ 8.28	\$ 7.70
	2000	21925	\$ 3,500	\$ 1.10580	203.74	\$ 0.23650	\$ 0.21995	\$ 7.4244	1367.95	\$ 38.70				\$ 221.15	\$ 8.28	\$ 7.70
	2001	22935	\$ 3,500	\$ 1.04982	204.03	\$ 0.22462	\$ 0.14473	\$ 7.2990	1418.56	\$ 36.74				\$ 218.72	\$ 7.86	\$ 5.07
Exemption Removed	2002	23880	\$ -		242.94				1754.77	\$ -				\$ -	\$ -	\$ -
														\$ 1,864.23	\$ 64.23	\$ 50.96
21-11-253-003																
21-11-253-003 704 ARCADIA DR	1994															
	1995															
No Exemptions	1996	\$ 62,664	0	\$ 1.2210	\$ 765.15	\$ 0.2140	\$ 0.1762	\$ 7.5420	4726.13	\$ -						
														\$ -	\$ -	\$ -
Grand Total All												\$ 1,479.12	\$ 8,979.59	\$ 392.77	\$ 304.97	
Totals Library and Township														\$ 697.74		

City of Bloomington
Oath of Office Ceremony for Newly Elected
Member of the City Council

City Hall, 109 E. Olive St.
Monday, June 13, 2011

1. Opening remarks – Mayor Stephen Stockton
2. Oath of Office – Tracey Covert, City Clerk
3. Closing remarks – Mayor Stephen Stockton
4. Adjourn

Newly Elected Member of the City Council, Alderman for Ward 4 will be given the Oath of Office prior to the Council Meeting at the flag pole area on the north side of City Hall (weather permitting) - estimated time 7:30 p.m.

**CITY OF BLOOMINGTON
COUNCIL MEETING AGENDA
109 E. OLIVE
MONDAY, JUNE 13, 2011, 7:30 P.M.**

- 1. Call to order.**
- 2. Pledge of Allegiance to the Flag.**
- 3. Remain Standing for a Moment of Silent Prayer**
- 4. Roll Call**
- 5. Public Comment**
- 6. Appointments**
- 7. “Consent Agenda”**

(All items under the Consent Agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda, which is Item #8.)

The City’s Boards and Commissions hold Public Hearings prior to some Council items appearing on the Council’s Meeting Agenda. Persons who wish to address the Council should provide new information which is pertinent to the issue before them.

The Council may vote to suspend the rules to allow citizen input on Regular Agenda items. If this occurs, public input will be limited to three (3) persons in support of and three (3) persons in opposition to said item. Input will be limited to five (5) minutes per person. Said person must provide their name and address for the record.)

- A. Council Proceedings of May 23, 2011 and Special Meeting of May 9, 2011. (Recommend that the reading of the minutes of the previous Council Meeting of May 23, 2011 and Special Meeting of May 9, 2011 be dispensed with and the minutes approved as printed.)**

- B. Bills and Payroll. (Recommend that the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.)**
- C. Appointments/Reappointments to Various Boards and Commissions. (Recommend that the appointments be approved.)**
- D. Donation of Trees and Tree Spade Equipped Truck from Jack O. Snyder. (Recommend that the Agreement between the City and Jack O. Snyder for the donation of trees and a truck equipped with a tree spade be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)**
- E. Change Order and Motor Fuel Tax (MFT) Resolution for the Resurfacing of Ireland Grove Road from Veterans Parkway to the Kickapoo Creek Bridge (Recommend that the Change Order in the amount of \$17,221.93 in Motor Fuel Tax Funds for the Resurfacing of Ireland Grove Road from Veterans Parkway to the Kickapoo Creek Bridge be approved and the Resolution adopted.)**
- F. Ratification of Contract with Local 49 Firefighters. (Recommend that the Tentative Agreements with Local 49 (Fire) be ratified and incorporated in a new collective bargaining agreement along with the arbitrators decision on wages and health insurance.)**
- G. Annual Renewal of Software Maintenance Agreement for Bentley Systems, Inc., for CADD, Civil Engineering & Design Software, and Support. (Recommend that the payment to Bentley Systems, Inc. in the amount of \$13,995 be approved and the Resolution adopted.)**
- H. Cisco Network Equipment Maintenance and Support Agreement. (That the Agreement with Sentinel Technologies for support of the City's Cisco network hardware and software in the amount of \$51,923 be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.)**
- I. Banner Software Remote Database Administration Contract Renewal. (Recommend that the support agreement with ACS Government Solutions in the amount of \$18,000 to provide remote database administration (DBA) for the City's Banner Financial/HR/Payroll system be renewed for a period of one (1) year, beginning June 1, 2011, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.)**
- J. Agreement for Regional Planning Services. (Recommend that the Agreement with the McLean County Regional Planning Commission (MCRPC) for the Regional Planning Services in the amount of \$24,244 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.)**

- K. Professional Services Contracts for the Bloomington Center for Performing Arts. (Recommend that the contracts be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)**
- L. Approval of Contract for the Construction of Gaelic Park be awarded to Stark Excavating, Inc., in the amount of \$933,725.50, and the Mayor and City Clerk be authorized to execute the necessary documents.)**
- M. Application of East Island, Inc., d/b/a Lucky Garden, located at 706 S. Eldorado Rd., for an RAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. (Recommend that an RAS liquor license for East Island, Inc., d/b/a Lucky Garden, located at 706 S. Eldorado Rd. be created, contingent upon compliance with all applicable health and safety codes.)**
- N. Application of Kobe Hibachi Steakhouse, Inc., d/b/a Kobe Hibachi Steakhouse & Sushi, located at 401 N. Veterans Pkwy., Suite 7 & 8, for an RAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. (Recommend that an RAS liquor license for Kobe Hibachi Steakhouse, Inc., d/b/a Kobe Hibachi Steakhouse & Sushi, located at 401 N. Veterans Pkwy., Suite 7 & 8, be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) that Mr. Chen provide contact information for himself and Mr. Martin, (local address and telephone number), and any other information that the Commission believes is needed prior to the Council's June 13, 2011 meeting.)**
- O. Application of Tailwind BMI, LLC, d/b/a Tailwind Deli News & Gifts, located at 3201 CIRA Dr., for an RAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. (Recommend that an RAS liquor license for Tailwind BMI, LLC, d/b/a Tailwind Deli News & Gifts, located at 3201 CIRA Dr., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) that the BNAA approve a new lease agreement with the Applicant.**
- P. Text Amendment to Section 92 of Chapter 17 – Emergency Medical Services. (Recommend that the Text Amendment be approved and the Ordinance passed.)**
- Q. Lake Bloomington Lease Transfer Petition for Lot 18, Block 5 of Camp Kickapoo from Joan Brown, as Trustee of the Joan Brown 2002 Declaration of Trust to Melvin E. and Joan Brown. (Recommend that the Lake Lease Transfer be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)**

- R. Petition submitted by Irving S. Tick Trust, requesting the Rezoning of land from R-3A, Multiple Family Residence District to S-2, Public Lands, and Institutions District for Property located at 104 S. State Street. (Recommend that the Rezoning be approved and the Ordinance passed.)

8. “Public Hearings ”

9. “Regular Agenda”

- A. Kickapoo Creek Restoration and Engineering Fee Agreement. (Recommend that the Kickapoo Creek Restoration and Engineering Fee Agreement between the City and Eastlake, LLC be approved in the total amount of \$554,162.05, and the Mayor and City Clerk be authorized to execute the necessary documents.)
- B. Amendment of Project Scope of Maple Street Work to be Included in Lafayette/Maple Reconstruction Project. (Recommend that the Maple St. portion of the Lafayette/Maple Reconstruction Project be revised to include only asphalt overlay of the existing Maple St. pavement, from Lafayette to Lincoln, and to include asphalt overlay of Redwood Ave., from Maple to Morrissey.)
- C. Vehicle Noise Enforcement. (Recommend that a Text Amendment is not warranted at this time.)

10. Mayor’s Discussion

11. City Manager’s Discussion

12. City Aldermen’s Discussion

13. Executive Session - cite section

14. Adjournment

15. Notes