

**SPECIAL MEETING MINUTES  
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL  
OF BLOOMINGTON, ILLINOIS**

**The Council convened in Special Meeting in the Council Chambers, City Hall Building, at 5:30 p.m., Monday, September 19, 2011.**

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

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

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

**Alderman absent: Bernard Anderson.**

**City Manager David Hales (participated via teleconference), Deputy City Manager Barbara Adkins, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.**

**NOTICE OF SPECIAL MEETING  
CITY OF BLOOMINGTON  
CITY COUNCIL  
SEPTEMBER 19, 2011**

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that there will be a Special Meeting of the City Council of the City of Bloomington, Illinois, in the Council Chambers at City Hall, 109 E. Olive Street, Bloomington, IL on MONDAY, SEPTEMBER 19, 2011 AT 5:30 PM.

**SPECIAL MEETING AGENDA**

1. Call to order
2. Pledge of Allegiance to the Flag
3. Remain Standing for a Moment of Silent Prayer
4. Roll Call
5. Professional Services Agreement with Clark Dietz, Inc. for Construction Observation Locust Colton St. Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project Phase 1. (That the Agreement with Clark Dietz, Inc. for Construction

Observation Locust Colton St. CSO Elimination and Water Main Replacement Project Phase 1 at a cost not to exceed \$587,000 be approved, the Mayor and City Clerk be authorized to executed the necessary documents and the Resolution adopted.)

6. Fiscal Year 2011 – 12 Budget Amendment. (Recommend that the Fiscal Year 2011 – 2012 Budget Amendment be approved and the Ordinance passed.)

7. Ordinance Authorizing Loan Agreement for Illinois Environmental Protection Agency Public Water Supply Loan Program. (Recommend that the Ordinance be passed.)

8. Adjournment

Tracey Covert  
City Clerk

Date: September 15, 2011

**CERTIFICATION OF POSTING IN ACCORDANCE WITH THE OPEN MEETINGS  
ACT**

I, Tracey Covert, as duly qualified appointed and qualified City Clerk of the City of Bloomington, McLean County, Illinois, do hereby certify that true and correct copies of the foregoing Notice of Special Meeting and Agenda have been posted in a clearly visible location in the public lobby of the Bloomington City Hall, 109 E. Olive St., Bloomington, Illinois, same being the principal office of the City of Bloomington, Illinois, on the date and time specified below.

I do further certify that the copies of the foregoing Notice of Special Meeting and Agenda have been placed in properly addressed envelopes and personally delivered to each elected official of the City of Bloomington at their home residence and to the local news media which have filed annual requests for such notices, on the date and at time specified below.

Posted: September 15, 2011  
Time: 2:00 p.m.

Delivered: September 15, 2011  
Time: 2:21 to 3:59 p.m.  
To: Home residences of the Mayor and City Council

Tracey Covert  
City Clerk

Subscribed and sworn to before me this 19<sup>th</sup> day of September, 2011.

Janice Scherff  
Notary Public

**Mayor Stockton noted that the agenda listed three (3) items related to the Locust/Colton project. He informed the Council that they could not deviate from the agenda. On August 22, 2011 the Council awarded the construction contract to DiPaolo which resulted in a \$1.9 million in savings. This contract would be the City's first experience with this vendor. This special meeting was an insurance policy to manage the risk of this complex project.**

**The following was presented:**

**SUBJECT:** Professional Services Agreement with Clark Dietz, Inc. for Construction Observation Locust St. Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project

**RECOMMENDATION:** That the Agreement with Clark Dietz, Inc. for Construction Observation Locust St. CSO Elimination and Water Main Replacement Project at a cost not to exceed \$587,000 be approved, the Mayor and City Clerk be authorized to execute the necessary documents and the Resolution adopted.

**BACKGROUND:** On August 22, 2011, Council approved Di Paolo Co. for construction of Locust St. CSO Elimination and Water Main Replacement Improvements Phase 1. This project is eligible for funding under a low interest Illinois Environmental Protection Association (IEPA) loan that includes forgiveness of twenty-five percent (25%) of principle. The cost of retaining professional construction observation services is also eligible for this funding. Council was informed at this meeting that this service would be needed.

Project construction is expected to span two (2) years. This will be a complex project, requiring close coordination with the affected residents, District 87 and Bloomington Country Club, (BCC), and a high level of construction supervision to ensure compliance with plans and specifications. Di Paolo Co. is a new contractor to the area. City staff will need time to develop a working relationship with this company. It is believed that Di Paolo Co. will have multiple crews working at one time. At least one (1) Public Works Department Engineering Technician will be assigned full time to oversee the sewer portion of the project. An additional Engineering Technician will be available to assist, if necessary. Additional manpower is needed to provide water main construction observation, perform shop drawing reviews, pay estimate approvals, and requests for information from the contractor regarding plan and specification interpretations. In addition, the City's goal is to minimize change orders.

Staff gave consideration to various options for construction observation which included hiring additional staff and/or retaining another outside engineer. Staff reached a consensus that the risk

was too great. Clark Dietz, Inc., (CDI), brings their expertise and competencies to this complex project. City staff believes that CDI brings the best people to insure project compliance due to the fact this firm wrote and drafted the project's specifications and plans. The project is time sensitive and may not interfere with the operations of BCC and/or Bloomington High School. The majority of the work involving these two (2) properties will occur during the spring and winter seasons. CDI will play a key role in coordinating the various work tasks. The City has retained CDI for construction observation in the past for a number of water main projects. This firm has controlled the hourly rates charged the City over time.

CDI, the construction plan design firm, has tendered three (3) proposals to provide the additional construction observation services described above, which includes a full time engineering technician on site for the project's duration, as well as the needed office administrative work. The fee proposals are at a cost not to exceed and range from \$492,000 to \$587,000.

CDI the construction plan design firm, has tendered three (3) proposals to provide the additional construction observation services described above, which includes the following:

***Proposal 1:***

<b><i>Position Title</i></b>	<b><i>Hours</i></b>	<b><i>Rate / hour</i></b>	<b><i>Total Cost</i></b>
Resident Engineer/Engineer 3	4,275	\$110	\$470,250
Project Manager/Engineer 6	400	\$160	\$64,000
Design Engineer/Engineer 3	252	\$110	\$27,720
Draft Technical/Clerical/Technician 2	110	\$75	\$8,250
Misc. Expenses			\$16,780
		<b><i>Total:</i></b>	<b><i>\$587,000</i></b>

*The City will pay for only those services that are provided at the appropriate hourly rate at a cost not to exceed \$587,000. Resident Engineer for forty-five (45) hours/week for ninety-five (95) weeks with the assumption that the contractor goes over contract duration by eight (8) weeks and will work longer days. Percentage of project budget – six percent (6%).*

***Proposal 2.***

<b><i>Position Title</i></b>	<b><i>Hours</i></b>	<b><i>Rate / hour</i></b>	<b><i>Total Cost</i></b>
Resident Engineer/Engineer 3	3,800	\$110	\$418,000
Project Manager/Engineer 6	400	\$160	\$64,000
Design Engineer/Engineer 3	250	\$110	\$27,500
Draft Technical/Clerical/Technician2	110	\$75	\$8,250
Misc. Expenses			\$16,250
		<b><i>Total</i></b>	<b><i>\$534,000</i></b>

*The City will pay for only those services that are provided at the appropriate hourly rate at a cost not to exceed \$534,000. Resident Engineer for forty (40) hours/week for ninety-five (95)*

*weeks with the assumption that the contractor goes over contract duration by eight (8) weeks and will work longer days. Percentage of project budget – five percent (5%).*

***Proposal 3.***

<b><i>Position Title</i></b>	<b><i>Hours</i></b>	<b><i>Rate / hour</i></b>	<b><i>Total Cost</i></b>
Resident Engineer/Engineer 3	3,480	\$110	\$382,800
Project Manager/Engineer 6	374	\$160	\$59,840
Design Engineer/Engineer 3	238	\$110	\$26,180
Draft Technical/Clerical/Technician2	110	\$75	\$8,250
Misc. Expenses			\$14,930
		<b><i>Total</i></b>	<b><i>\$492,000</i></b>

*The City will pay for only those services that are provided at the appropriate hourly rate at a cost not to exceed \$492,000. Resident Engineer for forty (40) hours/week for eighty-seven (87) weeks with the assumption contract duration of 610 days to final completion. Percentage of project budget – five percent (5%).*

City staff is not available for construction observation due to a number of other projects. The Water Department staff is involved in maintenance of existing water transmission system. The Public Works Department staff is involved in the selection of consultants for the following projects: Sewer Master Plan, Storm Water Master Plan, and Inflow & Infiltration, (I & I), Study. These are multifaceted projects which included field examination, verification, and existing system assessments. In addition, these projects will involve office data collection, methodology and preparation regarding City systems including sanitary sewers, storm sewer, open channels, detention basins and other items related to City infrastructure. Finally, City staff will have full inspection responsibilities for Lafayette St. reconstruction. The project is scheduled at the same time as Locust/Colton CSO Elimination and Water Main Replacement Project, Phase 1.

At the February 14, 2011 Council Meeting, Council approved an ordinance authorizing the City to borrow up to \$10,000,000 in State Revolving Fund Water Pollution Control loan funds from the IEPA. Following is an accounting of project costs to date:

**Loan Eligible:**

<b><i>Item</i></b>	<b><i>Water</i></b>	<b><i>Sewer</i></b>
Design Engineering	\$173,600	\$292,000
Construction	\$2,298,340	\$4,768,021
Construction Engineering*	\$412,000	\$245,000
Construction Contingency***	\$69,000	\$143,000
<b><i>Total</i></b>	<b><i>\$2,952,940</i></b>	<b><i>\$5,448,021</i></b>

\* This figure includes \$70,000 from the original contract with CDI.

\*\* Bloomington Country Club (BCC)

\*\*\* IEPA allows for a three percent (3%) contingency

Total Expected IEPA Loan:\$8,400,961

Loan repayment will be paid as follows:

<i>Fund</i>	<i>Account</i>	<i>Amount</i>
Sewer Depreciation (SDF)	52100 – 70050	\$233,300*
Water Depreciation (WDF)	50100 – 70050	\$125,900*

\* Estimated Annual 20 Yr. Loan Payment

Note: The twenty (20) year loan repayment will begin after construction completed. Expected date: Fiscal Year 2014.

**Non-loan Eligible:**

<i>Item</i>	<i>Water</i>	<i>Sewer</i>	<i>Storm Water</i>	<i>Pavement</i>
Right of Way/Easements	0		\$52,000	
Pavement – Country Club Pl./Mercer Ave.	0			\$805,946
BCC Irrigation	0	\$5,300		
BCC Restoration	0		\$10,000	
BCC Seeding, Sod & Trees		\$24,200		
	<b>Total</b>			<b>\$897,446</b>

Total Expected Non-loan Eligible Cost:\$897,446

Grand Total: \$9,298,407

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** City staff has had a number of conversations with IEPA staff. IEPA staff noted that the City's project was complex as it involves both water and sewer replacement work. At this time there are fifty-three (53) loan applications which must be processed and signed by September 30, 2011. The IEPA staff member assigned to the City currently has nine (9) loan applications to be completed by this deadline. IEPA staff has requested that all required documentation be provided by Tuesday, September 20, 2011. City staff will hand deliver these documents on said date.

**FINANCIAL IMPACT:** The cost of this service is not included in the current fiscal year budget, but is eligible for funding under the IEPA loan. Terms of the twenty (20) year loan include 1.25% interest and twenty-five percent (25%) principle forgiveness. Repayment of this portion of the loan will be split between the following funds:

<i>Fund</i>	<i>City Department</i>	<i>Contract</i>	<i>Principal Added to Loan</i>	<i>Annual Addition to Loan Payment</i>
SDF	Public Works	\$234,800	\$176,100	\$10,000
WDF	Water	\$352,200	\$264,150	\$15,00
<i>Total</i>		<i>\$440,250*</i>		

*\* Cost less principle forgiveness*

If the cost of construction observation is not included in the IEPA loan, then the City will have to cover this cost with General Fund revenue.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial review by:

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

Craig Cummings  
Director of Water

Timothy Ervin  
Director of Finance

Recommended by

Barbara J. Adkins  
Deputy City Manager

#### **RESOLUTION NO. 2011 - 41**

### **A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND AUTHORIZING THE AGREEMENT WITH CLARK DIETZ, INC. FOR CONSTRUCTION OBSERVATION LOCUST ST. CSO ELIMINATION AND WATER MAIN REPLACEMENT PROJECT PHASE 1**

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

1. That the bidding process be waived and the Mayor and City Clerk be authorized to executed the necessary for construction observation Locust Colton St. CSO Elimination and Water Main Replacement Project Phase 1 at a cost not to exceed \$587,000.

ADOPTED this 19<sup>th</sup> day of September, 2011.

APPROVED this 19<sup>th</sup> day of September, 2011.

APPROVED:

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

Mayor Stockton noted that City staff had presented the Council with three (3) options related to this project. Clark Dietz, Inc., design engineering firm, would supervise the project. He noted the price range. City staff had given consideration to performing this work with in house staff. He noted the full time commitment needed for this project. There were not enough people on staff to dedicate to this project. He cited the IEPA's, (Illinois Environmental Protection Agency), program which offered the City 1.25% interest and twenty-five percent (25%) principal forgiveness. This program was advantageous to the City. The IEPA had expressed its preference that the documents be delivered by tomorrow. This action would insure the City's access to loan funds.

The Council had a number of options. It could choose to do nothing. It could select one of the options provided by staff. Finally, it could decide to hire additional staff. This option would not be eligible for loan funds. The Council needed to assess risk. A key question for the Council would be how much they were willing to spend.

David Hales, City Manager, addressed the Council. He made some introductory comments. Construction observation was always intended to be a part of this project. He described this project as challenging, complex and unique. The City has used City staff and has contracted with engineering firms to perform contract observation.

Barbara Adkins, Deputy City Manager, addressed the Council. She apologized to the Council for the need to call this special meeting. She also cited the IEPA loan and the project's complexity. She noted the number of loans that the IEPA has to process by the end of the month. IEPA staff had requested that the City submit all paperwork related to this loan by tomorrow. The loan deadline was September 30, 2011.

Jim Karch, Director – Public Works, addressed the Council. Construction inspection was risk mitigation. There were a number of unknowns. He noted the bid price. He believed the process used by the City was strong. He cited the challenges and time constraints related to this project. He stated the projects stakeholders: Bloomington Country Club, Bloomington High School, and Washington St. This project would impact the City's residents. It would impact arterial/collector streets. He noted Clark Dietz's experience with the City and DiPaolo. Clark Dietz had years of experience. This firm had

**drafted the specifications and plans. Clark Dietz's staff was familiar with the City and this project.**

**Craig Cummings, Director – Water, addressed this project's complexity. The City's project involved an IEPA loan. This program involved federal dollars. The water main and sewer would be replaced at the same time. This project involved a school zone and a state control highway. The water main was on school property. He informed the Council that in the last three to four (3 – 4) years the City had retained Clark Dietz to perform water main contract inspection for ten (10) projects. The City has paid \$350,000 for contract inspection on capital projects with a value of over \$5 million. Clark Dietz's hourly rates had remained stable over the last two to three (2 – 3) years. He cited the City's working relationship with Clark Dietz. Inspection dollars were within the state's program guidelines.**

**Tim Ervin, Finance Director, reviewed the project's financing history. Initially, the IEPA offered the City three percent (3%) interest. Today, the offer was 1.25% interest with twenty-five percent (25%) principal forgiveness. The state had offered the City favorable financing.**

**Ms. Adkins added that the loan was up to an amount based upon eligible expenses. There would be state and federal dollars involved in this project. There were document reporting requirements.**

**Mayor Stockton requested that the Council consider the risk and determine a level of action.**

**Alderman Fazzini stated that the City could use a local contractor and City staff would oversee. Mr. Karch reminded the Council that there would be a full time Engineering Technician dedicated to this project. The City would be working with a contractor with whom it had no history. Alderman Fazzini noted the various levels of the observation contract. He questioned the level of construction observation needed with a local vendor.**

**Ms. Adkins restated that City staff would have requested construction observation for this project regardless of the vendor selected. City staff would have to research the level needed dependent upon the contractor.**

**Alderman Fazzini expressed his belief that there were four (4) firms in town that were capable of performing this work. Mr. Karch noted that Public Works staff typically performed contract inspection work. Mr. Cummings added that the City had also retained the Farnsworth Group to perform contract observation. Alderman Fazzini noted that the recommendation was to retain Clark Dietz. Ms. Adkins added that the City must provide a signed contract to the IEPA. The documents need to be delivered to Springfield tomorrow.**

**Alderman Sage stated that the Council had been provided with three (3) options. He believed that the difference between the options was the time allocation of the Resident**

Engineer. He questioned the difference if internal staff was used. Mr. Karch referred the Council to the three (3) options. The cost difference was related to the time spent at the job site. The City would have one (1) full time Engineering Technician dedicated to this project. This contract would set a dollar threshold. The City would only pay for work performed. This contract was loan eligible and required Council action. Alderman Sage noted that City staffing level would be the same with each proposal. Mr. Karch noted that the work would be balanced between in house staff and the outside contractor. He added that there would be questions of priorities based upon the number of projects.

Ms. Adkins expressed her support of City staff. An Engineering Technician would be assigned to this project on full time basis. Clark Dietz would also bring engineers to this project.

Mayor Stockton restated that the contract is for an amount not to exceed. Mr. Cummings restated that the City would only pay for services used. The cost would be dependent upon time. He wanted the Council to be realistic as this was a large project. He restated that the cost would be based upon time. There was no difference in quality.

Alderman Purcell read from the August 22, 2011 Council Proceedings. He expressed his opinion that if this contract had been awarded to Stark Excavating then no inspectors would be needed. He expressed his surprise at the costs provided by Clark Dietz. He also cited change orders. He questioned the number of change orders for the Six Points Rd. project. The Council was informed that this service was needed. He noted that the cost difference between the proposals was based upon projected hours. He questioned the recommendations.

Ms. Adkins noted that City staff prepared the recommendations.

Alderman Purcell questioned the cost. Todd Greenburg, Corporation Counsel, addressed the Council. Staff made their concerns known at the Council's August 22, 2011 meeting. The goal of this contract was to manage and reduce change orders. There would be a City representatives, (Clark Dietz staff), in the field. They would resolve disputes in the field. This was an important role which would control the City's costs. He recommended that the City accept Clark Dietz's \$587,000 proposal. He noted that the City would still be saving \$1.3 million over the next lowest bid. Alderman Purcell read from Clark Dietz's contract. He believed that their role was to watch and observe. Mr. Greenburg stated that Clark Dietz would not be responsible for a breach of contract. Clark Dietz would be the City's agent in the field.

Alderman McDade expressed a different opinion. She believed the need for construction observation was well documented. The City was not familiar with this contractor. There was no guarantee that there would not be any change orders. Di Paolo had admitted to the City that their bid provided a small profit margin. The Council had been told that Di Paolo can be difficult to work with. The City needed construction oversight. This project involved considerable risk. She noted the substantial dollar savings and the fact that the City had attracted an outside bidder. The Council had been informed

about the risk. The goal should be to mitigate same. The contract was for an amount not to exceed. She acknowledged the financial aspects. She added that this project went beyond cost. She cited neighborhood impact, the long term nature of the project, and impact upon the City's infrastructure. She believed City staff's response to be appropriate.

Alderman Fazzini acknowledged three (3) things. First: he did not believe that DiPaolo intended to be one and done. This firm was interested in other City projects. Secondly: there was a difference between above and below grade projects. He had spoken with other engineering firms. This project was complex and there were potential problems. The cost to inspect below grade work can be five to six (5 – 6) times the cost of above grade work. He expressed his belief that the cost of the proposals were reasonable. Finally, he addressed the twenty-five percent (25%) principal forgiveness. He noted that dollars would be reserved based upon the contract amount. The loan would be for actual costs.

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

Randy Vanderwerf, Clark Dietz's Project Manager, addressed the Council. He stated that this was a difficult project. The work would be performed below grade. The contract came with a one (1) year warranty. This contract was a small percentage to pay to insure the work is done correctly. Clark Dietz's staff would be the City's right hand man. The cost difference between the three (3) proposals was based upon hours. There was only a ten percent (10%) chance that the work would be completed on time. Loan dollars would be set aside. He recommended that the Council approve the maximum amount. The loan dollars would be determined upon the project's completion.

Mayor Stockton restated Alderman Fazzini's comments. Alderman Fazzini acknowledged the danger of approving the larger amount was the chance that the dollars would be spent. However if the Council approved a lower amount and went over, then the City would lose the twenty-five percent (25%) principal forgiveness. He believed that penalties would be applied if the project went beyond a certain date. Clark Dietz had some experience with Di Paolo. There was a twenty (20) month project schedule. Clark Dietz could track Di Paolo's progress on a monthly basis. Mayor Stockton added that the number of weeks may not be consecutive.

Mr. Vanderwerf restated that the City would only pay for actual hours spent in the field. Mayor Stockton noted that the City was purchasing a package of hours.

Alderman Mwilambwe questioned what items would be charged under miscellaneous expenses. Mr. Vanderwerf cited copies of specifications and plan drawings, travel related expenses, CAD (Computer Aided Design) drawings, etc.

Alderman Mwilambwe questioned Clark Dietz's plan to control costs. Mr. Vanderwerf noted that field hours would be dictated by the contractor. The proposals contained a set number of hours, plus pay out review, change order requests, etc.

Alderman Mwilambwe acknowledged the twenty-five percent (25%) principal forgiveness. Mayor Stockton added that there would be no discount beyond the dollar amount requested. Mr. Vanderwerf added that the City would be reserving a dollar amount with the IEPA.

Ms. Adkins stated that the dollar value of this contract would be incorporated into the City's loan. Any amount over this figure would be at the City's expense. The \$587,000 figure provided a cushion in an attempt to address the risk. Mayor Stockton encouraged City staff to review the man hours as someone (taxpayers) was covering this cost.

Alderman Fruin described the project as important, large and costly. He described the staff report as excellent. He believed that the Council needed to take action on this item.

Alderman Purcell questioned how the work would be tracked. Mr. Vanderwerf stated that the number of work crews was unknown at this time. Clark Dietz anticipated that Di Paolo would bring three (3) work crews. There would be at least two (2) full time individuals on site, (one from the City and the other from Clark Dietz). Staffing adjustments would be made if necessary. Mr. Karch restated that this project was a priority. Mr. Vanderwerf added that Clark Dietz's design work would be followed by construction observation. The lead person for this portion of the project would be a Resident Engineer employed by Clark Dietz.

Alderman Purcell questioned if this was a standard construction observation contract. Mr. Vanderwerf responded affirmatively.

Alderman Stearns questioned if dollars had been included for a city resident liaison. Mr. Karch noted that this contract addressed project management and was focused on inspections. City staff would also be involved in this project. Clark Dietz and the City would have a shared effort. City staff would also focus on the function of City Code and communications with residents.

Alderman Stearns expressed her confusion. She noted that the bid was awarded by the Council at its August 22, 2011 meeting. She questioned if construction observation was an oversight by City staff. Mr. Karch readdressed the IEPA's needs. This was a final clean up item to meet the IEPA's requirements. The Council awarded the contract to Di Paolo, then City staff contacted Clark Dietz regarding a scope of services. Alderman Stearns expressed her opinion that if City staff knew that construction observation would be needed, then there was the ability to bid this work. Mr. Karch noted Public Work's quality based selection process.

Ms. Adkins restated that the Council was informed at its August 22, 2011 meeting that construction observation would be needed. There was insufficient time to complete a formal bid process. City staff planned to place this item on the Council's September 26, 2011 meeting agenda. She restated that IEPA staff had requested that all paperwork be

completed and provided to them by Tuesday, September 20, 2011. She had been contacted by IEPA management staff and informed of their needs and requirements.

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

**Motion carried.**

Alderman Stearns expressed her understanding of the situation. The City had no option. She questioned staff's recommendation. David Hales, City Manger, recommended that the contract be approved at the \$587,000 figure.

Alderman Fazzini expressed his preference that the firm who performed the design work not be allowed to perform the inspection work. He expressed his hope that in the future local firms be given the opportunity to participate in a competitive bid process. He added his support to approve this item at the \$587,000 figure.

Alderman Purcell expressed his support of Alderman Fazzini's comments. He believed that the Council was setting a precedent. He questioned inspection contracts. Ms. Adkins restated that the Council had approved similar contracts in the past. This was nothing new. She noted the project's complexity. She understood the Council's reservations. The City needed to have additional personnel on site. Alderman Purcell noted his expectations that there would not be any change orders. He hoped that the City would not expend the total amount approved.

Mayor Stockton stated that this contract was risk mitigation not a warranty. He added that the Council had addressed a number of items. He cited the following: providing local firms with an opportunity in the future and a hope that the cost for this service would be lower than the amount approved.

**Motion by Alderman Fruin, seconded by Alderman McDade that the Agreement with Clark Dietz, Inc. for Construction Observation Locust St. CSO Elimination and Water Main Replacement Project at a cost not to exceed: \$587,000 be approved, the Mayor and City Clerk be authorized to execute the necessary documents and the Resolution adopted.**

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

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

**Nays: Alderman Stearns.**

**Motion carried.**

**The following was presented:**

SUBJECT:Fiscal Year 2012 Budget Amendment

**RECOMMENDATION:** That the Fiscal Year 2012 Budget Amendment be approved and the Ordinance passed.

**BACKGROUND:** State of Illinois statutes require expenditures incurred within each individual fund not to exceed the appropriation amount set forth in the annual budget of an established fiscal period. In an effort to strengthen the fiscal controls of the budgetary process, staff has prepared this budget amendment for the current fiscal year.

On August 22, 2011, the City Council awarded the Locust Colton Street Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project, Phase 1 to Di Paolo Co. Included in this project is the reconstruction of the Country Club Pl. and Mercer Ave. The reconstruction of these streets is not eligible for the Illinois Environmental Protection Agency (IEPA) loan. The City will have to fund \$927,546 of non-eligible expenditures. Council's decision to approve this contract altered the funding mechanism for street reconstruction. The City is unable to use Motor Fuel Tax (MFT) dollars for street reconstruction as originally proposed. The Capital Improvement Fund must be used which would be similar to other road projects. Since this project was not included within the Capital Improvement Fund Fiscal Year (FY) 2012 Budget, additional funds from the General Fund need to be transferred to the Capital Improvement Fund to offset the cost of this project. The budget amendment proposes an additional \$805,946 be transferred from the General Fund to the Capital Improvement Fund and \$29,500 from the Sewer Fund to cover non-eligible expenses of this project and \$92,100 from MFT for design services.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** IEPA staff.

**FINANCIAL IMPACT:** The unbudgeted transfer of \$805,946 from the General Fund to the Capital Improvement Fund will significantly limit the use of General Fund resources for other unbudgeted expenditures for the rest of FY 2012. Thus resources will not be available to immediately fund other projects such as the fire training tower or additional unbudgeted capital projects in FY 2012. The City can finance this transfer in three (3) ways which include: 1.) drawing down funds from Unreserved Fund Balance; 2.) offset the transfer by reductions in other General Fund Departments; or 3.) delay other capital expenditures in the Capital Improvement Fund. The City will allocate \$92,100 to MFT from MFT Fund and allocate \$29,500 from the Sewer Fund.

Staff recommends the City use the reserves to fund this capital project. As part of this plan, the FY 2013 budget will reserve funds to replenish the drawdown of the funds. In the current year, staff will examine whether other capital or operating expenditures can be delayed to offset this expenditure.

Respectfully submitted for Council consideration.

September 19, 2011

527

Prepared by:

Recommended by:

Timothy L Ervin  
Director of Finance

Barbara J Adkins  
Deputy City Manager

**ORDINANCE NO. 2011 - 40****AN ORDINANCE AMENDING THE BUDGET ORDINANCE  
FOR THE FISCAL YEAR ENDING APRIL 30, 2012**

WHEREAS on April 11, 2011 by Ordinance Number 2011 - 17, the City of Bloomington passed a Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2012, which Ordinance was approved by Mayor Stephen F. Stockton on April 11, 2011; and

WHEREAS a budget amendment is needed as detailed below;

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

Section One: Ordinance Number 2011 - 17 (the Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2012) is further hereby amended by inserting the following line items and amount, \$805,946, \$29,500 of Sewer Fund and \$92,100 of MFT Funds, presented as follows in the appropriate place in said Ordinances.

From: 1001-19180-80120 – General Fund -- to Capital Improvement Fund;

To: 4010-40100-81140 – Capital Improvement Fund -- from General Fund;

Add: 2030-20300-72530 –Motor Fuel Tax Fund;

Add 5210-52100-72530 – Sewer Fund.

Section Two: Except as provided for herein, Ordinance Number 2011 - 17 shall remain in full force and effect, provided, that any budgeted or appropriated amounts which are changed by reason of the amendments made in Section One of this Ordinance shall be amended in Ordinance Number 2011 - 17.

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

PASSED the 19<sup>th</sup> day of September, 2011.

APPROVED the 19<sup>th</sup> day of September, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

**Mayor Stockton introduced this item. He added that the IEPA had requested that the Council appropriate the dollars.**

**Barb Adkins, Deputy City Manager, addressed the Council. She described this item as housekeeping. She noted the street resurfacing portion of this project. The City had planned to use MFT (Motor Fuel Tax) dollars. The design portion would be paid for with MFT funds. The pavement portion would be paid for with General Fund dollars.**

**Alderman McDade questioned the financial impact of this housekeeping item. Ms. Adkins noted that funds had not been allocated for the Fire Training Tower. There were not any funds available in the Capital Improvement budget. Staff had examined other options which included reductions to department budgets. Funds would be transfer from the Unreserved Fund Balance, (UFB). Alderman McDade restated that the information was not clear. Ms. Adkins restated that funds had not been allocated to reconstruct the roads. Mayor Stockton added that the IEPA required that the dollars be appropriated.**

**Tim Ervin, Finance Director, addressed the Council. City staff has attempted to manage the City's financial resources to address this need. General Fund dollars would be used to address this cost. The City was unable to use MFT funds. The City needed to watch expenditures and the UFB. Mayor Stockton added that MFT funds would be used for other street projects. Mr. Ervin added that these funds would be budgeted as part of the City's Fiscal Year (FY) 2013 budget. MFT funds are directed towards street resurfacing. There will be limited General Fund dollars available for street resurfacing in FY 2013.**

**Alderman Sage stated that in the end the UFB would be made whole. Mr. Ervin stressed that dollars would have to be set aside in FY 2013.**

**Alderman Fazzini clarified that the purpose of a reserve fund was to provide the City with flexibility.**

**Motion by Alderman Fruin, seconded by Alderman Schmidt that the FY 2012 Budget Amendment be approved and the Ordinance passed.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Ordinance Authorizing Loan Agreement for Illinois Environmental Protection Agency (IEPA) Water Supply Loan Program

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

**BACKGROUND:** The IEPA is requiring the City to pass the subject ordinance authorizing the City to borrow funds from its Public Water Supply Program in an amount sufficient to cover the Phase 1 water main work. The IEPA provided the City with a model ordinance.

The City sewer system operates Combined Sewer Overflow (CSO) outlets near the intersection of Locust Street and Colton Avenue. These CSO outlets operate under a permit from the IEPA which includes a Long Term Control Plan to eliminate CSO. The City conducted a Locust Colton CSO Elimination Study which identified a multiphase construction plan to eliminate these CSO outlets by completely separating the storm and sanitary flows in this area. Phase 1 includes building new sanitary sewer across Bloomington High School (BHS) property, Bloomington Country Club (BCC) property, and through neighborhoods south of BHS and BCC. Construction is scheduled to begin this fall.

On February 14, 2011 Council approved borrowing IEPA loan funds in an amount of \$10,000,000 to cover the cost of Phase 1. The City is eligible for loan terms that included 1.25% interest on a twenty (20) year repayment schedule and twenty-five percent (25%) principle forgiveness. The project scope was enhanced due to the favorable loan terms. The original Council approval date for this project was May 11, 2009.

At the time the previous ordinances were passed, the entire project was to be funded with an IEPA Water Pollution Control Program loan. However, a portion of the project includes replacement of existing water mains within the project limits. Subsequently, the IEPA has required that the water main portion of the work be funded with a loan from the IEPA Public Water Supply Program.

All current loan eligible costs related to Phase 1 water main total \$2,952,940. In order to allow for additional loan funds to be utilized should unknown field conditions result in loan eligible added cost, it is recommended that this ordinance authorize the City to borrow up to \$3,500,000 in IEPA Public Water Supply Program loan funds.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public meetings were held on June 9, 2009 and July 26, 2011 for affected residents to learn about the CSO Elimination project and to ask questions. The City has been meeting individually with District 87 Schools and BCC.

**FINANCIAL IMPACT:** Twenty (20) year loan repayment, beginning in FY 2014, estimated on \$3,500,000 in Water Supply loan eligible project costs, as follows:

\$149,200 per year Water Depreciation Fund (50100-70050) Water Funds.

September 19, 2011

531

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial reviewed by:

Jim Karch  
Director of Public Works

Craig Cummings  
Director of Water

Timothy Ervin  
Director of Finance

Reviewed as to legal sufficiency:

Recommended by:

Todd Greenberg  
Corporation Counsel

Barbara J. Adkins  
Deputy City Manager

**ORDINANCE NO. 2011 - 41****AN ORDINANCE AUTHORIZING THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS TO BORROW FUNDS FROM THE PUBLIC WATER SUPPLY LOAN PROGRAM**

WHEREAS, the CITY OF BLOOMINGTON, MCLEAN COUNTY, Illinois the (“CITY”) operates its public water supply system (“the System”) and in accordance with the provisions of Illinois Municipal Code (65 ILCS 5/11-129-1 et seq.); the Local Government Debt Reform Act, (30 ILCS 350/1 et seq.), the Illinois Municipal Code and 65 ILCS 5/8-4-1 et seq.), (collectively the “Act”), as well as the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1970 Illinois Constitution.

WHEREAS, the MAYOR AND CITY COUNCIL of the CITY (“the Corporate Authorities”) have determined that it is advisable, necessary and in the best interests of public health, safety and welfare to improve the System, including the following:

Construction of a new water main as part of the Locust Street Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project Phase 1 together with any land or rights in land and all electrical, mechanical or other services necessary, useful or advisable to the construction and installation (“the Project”), all in accordance with the plans and specifications prepared by consulting engineers of the Clark Dietz, Inc.; which Project has a useful life of seventy-five (75) years; and

WHEREAS, the estimated cost of construction and installation of the Project, including engineering, legal, financial and other related expenses is \$3.1 million, and there are insufficient funds on hand and lawfully available to pay these costs; and

WHEREAS, the loan shall bear an interest rate as defined by 35 Ill. Adm. Code 662, which does not exceed the maximum rate authorized by the Bond Authorization Act, as amended, 30 ILCS 305/0.01 et seq., at the time of the issuance of the loan; and

WHEREAS, the principal and interest payment shall be payable semi-annually, and the loan shall mature in 20 years, which is within the period of useful life of the Project; and

WHEREAS, the costs are expected to be paid for with a loan to the CITY from the Public Water Supply Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from revenues of the System and the loan is authorized to be accepted at this time pursuant to the Act; and

WHEREAS, in accordance with the provisions of the Act, the CITY is authorized to borrow funds from the Public Water Supply Loan Program in the aggregate principal amount of \$3.5 million to provide funds to pay the costs of the Project;

WHEREAS, the loan to the CITY shall be made pursuant to a Loan Agreement, including certain terms and conditions, between the CITY and the Illinois Environmental Protection Agency;

NOW THEREFORE, be it ordained by the MAYOR AND CITY COUNCIL of the CITY OF BLOOMINGTON, MCLEAN COUNTY, Illinois, as follows:

### **Section 1. Incorporation of Preambles**

The Corporate Authorities hereby find that the recitals contained in the preambles are true and correct, and incorporate them into this Ordinance by this reference.

### **Section 2. Determination to Borrow Funds**

It is necessary and in the best interests of the CITY to construct the Project for the public health, safety and welfare, in accordance with the plans and specifications, as described; that the System continues to be operated in accordance with the provision of the Act; and that for the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the CITY in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$3.5 million.

### **Section 3. Additional Ordinances**

The Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for entering into the Loan Agreement with the Illinois Environmental Protection Agency, prescribing all the details of the Loan Agreement, and providing for the collection, segregation and distribution of the System, so long as the maximum amount of the Loan Agreement as set forth in this Ordinance is not exceeded and there is no material change in the Project or purposes described herein. Any additional ordinances or proceedings shall in all instances become effective in accordance with the Act or other applicable law. This Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for entering into the Loan Agreement under applicable law.

However, notwithstanding the above, the CITY may not adopt additional ordinances or amendments which provide for any substantive or material change in the scope and intent of this Ordinance, including but not limited to interest rate, preference, or priority of any other ordinance with this Ordinance, parity of any other ordinance with this Ordinance, or otherwise alter or impair the obligation of the CITY to pay the principal and interest due to the Public Water Supply Loan Program without the written consent of the Illinois Environmental Protection Agency.

### **Section 4. Loan not Indebtedness of CITY**

Repayment of the loan to the Illinois Environmental Protection Agency by the CITY pursuant to this Ordinance is to be solely from the revenue derived from operation of the System,

and the loan does not constitute an indebtedness of the CITY within the meaning of any constitutional or statutory limitation.

### **Section 5. Application for Loan**

The MAYOR is hereby authorized to make application to the Illinois Environmental Protection Agency for a loan through the Public Water Supply Loan Program, in accordance with the loan requirements set out in 35 Ill. Adm. Code 662.

### **Section 6. Acceptance of Loan Agreement**

The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Public Water Supply Loan Program, including all terms and conditions of the Loan Agreement as well as all special conditions contained therein and made a part thereof by reference. The Corporate Authorities further agree that the loan funds awarded shall be used solely for the purposes of the project as approved by the Illinois Environmental Protection Agency in accordance with the terms and conditions of the Loan Agreement.

### **Section 7. Reserve Account**

A reserve account shall be established by the CITY designated the "Waterworks Reserve Account". There shall be deposited in said account with an equal to one half of one annual payment required to be made by the CITY on the Loan pursuant to the terms of the Loan Agreement. Said account may be funded by the CITY by making twelve monthly installments over a year.

### **Section 8. Authorization of MAYOR to Execute Loan Agreement**

The MAYOR is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency. The Corporate Authorities may authorize by resolution a person other than the MAYOR for the sole purpose of authorizing or executing any documents associated with payment requests or reimbursements from the Illinois Environmental Protection Agency in connection with this loan.

### **Section 9. Severability**

If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

### **Section 10. Repealer**

All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

PASSED by the City Council of the CITY OF BLOOMINGTON, Illinois on the 19<sup>th</sup> of September, 2011.

APPROVED on the 19<sup>th</sup> day of September, 2011.

Stephen F. Stockton  
MAYOR of the CITY OF  
BLOOMINGTON, McLean County, Illinois

AYES: 8  
NAYS: 0  
ABSENT: 1

ATTEST:

Tracey Covert  
CITY CLERK  
CITY OF BLOOMINGTON, McLean County, Illinois

**Alderman McDade questioned the dollar figure included in the ordinance. She believed that the cost for the water main portion of this project was \$2.9 million. Barb Adkins, Deputy City Manager, stated that an ordinance which addressed the water main portion of this project was required by the IEPA. She added that the estimate for the water main portion was \$2.9 million. The IEPA staff recommended that the ordinance be written with the \$3.5 million. She noted that this figure was an up to amount and provided a cushion. Any expenditure over \$2.9 million would require Council action.**

**Alderman McDade questioned the sewer ordinance. Ms. Adkins restated that the total projected cost for this project was \$10 million. Jim Karch, Director – Public Works, addressed the Council. The sewer ordinance included the \$10 million figure. IEPA staff informed the City staff of the error. A separate ordinance was needed for the water portion of this project due to the fact that the loan dollars were in two (2) different funds. IEPA staff recommended that the Council pass an ordinance to correct this error.**

**Alderman Purcell questioned if this was a guideline or the law. Mr. Karch restated that the funding source was the issue. The previously passed sewer ordinance only granted the City access to the IEPA's sewer program. This ordinance was needed to provide the City with access to the IEPA's water program.**

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Ordinance be passed.**

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

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

**Nays: None.**

**Motion carried.**

**Motion by Alderman Purcell, seconded by Alderman McDade, that the meeting be adjourned. Time: 7:10 p.m.**

**Motion carried.**

**Tracey Covert  
City Clerk**