

**COUNCIL PROCEEDINGS  
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL  
OF BLOOMINGTON, ILLINOIS**

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:39 p.m., Monday, July 11, 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.

Deputy City Manager Barbara Adkins, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

**Staff absent:** David Hales, City Manager.

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

Alton Franklin, 5 Andy Ct., Unit 1, addressed the Council. He stated that his concern had been growing since the Council's last meeting. He noted the Council's June 13, 2011 Work Session regarding Council rules of procedure. He added that Public Comment might be moved to a different venue. He believed that speech would be restricted. He did not believe that this action would be proper. He reviewed past Council actions. He expressed his concern regarding transparency in government. He noted the result of the City's audit. He recommended that the Council reject any change to the Public Comment portion of their meeting.

Alderman Fruin read the same statement that appeared on the August 23, 2010 Council meeting prior to voting.

**The following was presented:**

**SUBJECT:** Council Proceedings of June 27, 2011

**RECOMMENDATION:** That the reading of the minutes of the previous Council Proceedings of June 27, 2011 be dispensed with and the minutes approved as printed.

**BACKGROUND:** The Council Proceedings of June 27, 2011 have been reviewed and certified as correct and complete by the City Clerk.

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

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

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

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert  
City Clerk

David A. Hales  
City Manager

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the reading of the minutes of the previous Council Meeting of June 27, 2011 be dispensed with and the minutes approved as printed.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Bills and Payroll

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

**FINANCIAL IMPACT:** Total disbursements to be approved \$2,929,189.14, (Payroll total \$1,753,397.02, and Accounts Payable total \$1,175,792.12).

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Timothy Ervin  
Director of Finance

David A. Hales  
City Manager

(ON FILE IN CLERK'S OFFICE)

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Request to Pay the Illinois Environmental Protection Agency (IEPA) for a Non Point Discharge Elimination System (NPDES) Permit for Combined Sewer Overflow (CSO)

**RECOMMENDATION:** That the payment to IEPA in the amount of \$20,000 for the City's NPDES Permit for CSO be approved.

**BACKGROUND:** The NPDES permit currently lists three (3) active CSO locations operated by the City. The discharge from these CSO locations flow into either Sugar Creek or Goose Creek. The IEPA requires that all cities, with CSO discharges, obtain a yearly permit. For a city over 25,000 in population, the permit fee is \$20,000 per year. The City has received a notice from the IEPA that the fee is now due for the period July 1, 2011 through June 30, 2012.

In order to obtain the original NPDES Permit to discharge CSO, the City was required to develop a Long Term Control Plan (LTCP). The LTCP identified an outline of action toward the goal of eliminating CSO discharge from the City sewer system. Since 1995, four (4) of the seven (7) original CSO locations have been permanently closed. The three (3) remaining CSO locations are as follows:

1. Colton Avenue - temporarily closed and monitored to determine if it may be closed permanently.
2. Locust Street - Phase 1 of a multi phase project to close the CSO at Locust Street is currently out for bid.
3. Valley CSO (Maizefield Ave.) - funds are budgeted for FY 2012 to perform a hydraulic study at this location to identify a sewer construction project which will allow this location to be closed.

Once all CSO locations are closed, this IEPA Permit will no longer be required and the \$20,000 annual fee eliminated.

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

**FINANCIAL IMPACT:** This payment to IEPA for the City's Annual NPDES Permit for CSO in the amount of \$20,000 will be made from the Storm Water Management Fund (X55100-70550).

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Jim Karch, PE, CFM  
Director of Public Works

Timothy Ervin  
Director of Finance

David A. Hales  
City Manager

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the payment to IEPA in the amount of \$20,000 for the City's NPDES Permit for CSO be approved.**

**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:** Request to Pay George Gildner, Inc. for Emergency Sewer Service Repair at 1605 E. Taylor Street (Ward 4)

**RECOMMENDATION:** That the payment in the amount of \$22,038.80 to George Gildner, Inc. for emergency sewer service repair at 1605 E. Taylor Street be approved.

**BACKGROUND:** City crews investigated a hole in the street over the fifteen inch (15”) sanitary sewer in front of 1605 E. Taylor Street. Their investigation revealed that the sewer depth exceeded the limits of City equipment. Staff retained a contractor to perform the emergency repair. This work was necessary in order to prevent sewer backup into citizen’s homes. According to Chapter 16, Section 52 of the City Code, payment for any emergency purchases over ten thousand (\$10,000) require Council approval.

George Gildner, Inc. performed the excavation, removed and replaced the deteriorated sewer service, backfilled the excavation, and performed all surface restoration. A time and materials invoice for the work in the amount of \$22,038.80 has been submitted. Staff has reviewed the bill and finds it to be in order. Staff respectfully recommends that Council approve a payment in the amount of \$22,038.80 to George Gildner, Inc. for the emergency repair with payment to be made with Sewer Maintenance & Operations Funds (X52100-70550).

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Adjacent property owners and residents.

**FINANCIAL IMPACT:** This work was not included in the current fiscal year budget. Payment in the amount of \$22,038.80 will be paid with Sewer Maintenance & Operations Funds, (X52100-70550). This fund currently has a negative fund balance as of April 30, 2010.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

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

Timothy Ervin  
Director of Finance

David A. Hales  
City Manager

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the payment in the amount of \$22,038.80 to George Gildner, Inc. for emergency sewer service repair at 1605 E. Taylor Street be approved.**

**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: Replacement Tactical Vests for Police SWAT Team**

**RECOMMENDATION:** That the Tactical Ballistic Vests for the Police SWAT Team be purchased from Diamondback Tactical in the amount of \$33,150, the Purchasing Agent be authorized to issue a Purchase Order for same and that the Resolution be adopted.

**BACKGROUND:** The Police Department SWAT Team wears a heavier tactical ballistic vest for additional protection when performing SWAT operations. The current vests that are being used are over five (5) years old and are no longer guaranteed by the manufacturer to perform as expected. The National Institute of Justice suggests that all ballistic vests should be replaced after five (5) years of use. These existing vests are expired, and it is imperative that they be replaced.

The SWAT Team had previously previewed this equipment at national conferences and at regional training. There are few vendors that met the needs of the team. Due to the specialized nature of this work and equipment, the team members sought out the major manufacturers in order to test and evaluate samples of the equipment that each vendor offered.

Representatives from First Choice, Diamondback, and Safariland, responded to this request and provided samples. During the testing and evaluation period, Diamondback was subsequently purchased by First Choice. After wearing and testing the samples the team determined which product best fit their needs at a practical cost per unit. This vest was the Diamondback UTOC vest and was judged to be superior due to the comfort, availability, and ease of changeover of accessory equipment.

While the testing and evaluation of the equipment was not completed along the formal procurement guidelines established by City policy, it did comply with the spirit of the policy in that all of the received equipment was tested and evaluated before comparing costs. These vests must provide level IIIA protection as established by the National Institute of Justice and also need to be custom fitted for each team member to ensure proper fit and protection.

Police Administration was aware of the expiration of the existing equipment. However, the first priority was to resolve anticipated changes for SWAT team staffing and personnel. These changes were necessary prior to ordering custom fitted equipment. The staffing issues have been resolved, and staff firmly believes that further delay in the procurement process is no longer appropriate considering the critical nature of this expired equipment.

The quote from Diamondback for this vest is \$2,210 per vest. A total of fifteen (15) vests are needed, for a total cost of \$33,150. The selected equipment is not the top of the line vest offered by this manufacturer or others, but was evaluated to meet the needs of the team, and reasonably priced.

This vest is only available from an authorized distributor in this geographic region. There is only one (1) quote available for this purchase. Staff respectfully requests permission to purchase this protective wear.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Representatives from First Choice Armor, Safariland Inc., and Diamondback Tactical.

**FINANCIAL IMPACT:** Funds for this purchase are available in G15110-62191 Police Protective Wear.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Randall D. McKinley  
Police Chief

Timothy Ervin  
Director of Finance

David A. Hales  
City Manager

**RESOLUTION NO. 2011 - 30**

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND  
AUTHORIZING THE PURCHASE OF TACTICAL BALLISTIC VESTS FOR THE  
POLICE SWAT TEAM FROM DIAMONDBACK TACTICAL AT A PURCHASE PRICE  
OF \$33,150**

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

1. That the bidding process be waived and the Purchasing Agent be authorized to Purchase Tactical Ballistic Vests for the Police SWAT Team from Diamondback Tactical at a Purchase Price of \$33,150.

ADOPTED this 11<sup>th</sup> day of July, 2011.

APPROVED this 12<sup>th</sup> day of July, 2011.

APPROVED:

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Alderman Stearns questioned this item and the expiration of same. Randy McKinley, Police Chief, addressed the Council. He noted the Kevlar material and the effect of temperature and perspiration on same. The vests have a five (5) year warranty. The City cannot take a chance. All vests are good for five (5) years of service which is**

based upon date of possession. He noted that there was a regional SWAT team which the City participated in.

Alderman Stearns questioned pricing from other companies. Chief McKinley had been informed of the City's procurement process by the City's administrative staff. The vests were reviewed by the City's SWAT team. Three (3) positions had been eliminated. Timing was an issue regarding replacement of the vests. The vest selected was a cost efficient option. He described the vest as flexible and a best buy for the money. He took responsibility for the acquisition of these vests.

Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Tactical Ballistic Vests for the Police SWAT Team be purchased from Diamondback Tactical in the amount of \$33,150, the Purchasing Agent be authorized to issue a Purchase Order for same, and the Resolution adopted.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Professional Services Contracts for the Bloomington Center for Performing Arts (BCPA)

**RECOMMENDATION:** That the contracts with International Creative Management and Opus 3 Artists in the amount of \$48,500 be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

**BACKGROUND:** Staff respectfully requests approval of contracts to engage persons and/or groups represented by: International Creative Management and Opus 3 Artists to perform services in the BCPA on dates agreed by staff. Contract expenses for the contracts will be \$48,500. As is standard industry practice, some artist contracts require some additional expenses for items such as travel, meals and lodging that vary from artist to artist. Travel expenses and local lodging fees occur less often, however virtually all artists are provided with meals and non-alcoholic beverages.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** The selection of these artists was coordinated with the Cultural Commission and the BCPA's Programming Advisory Committee. Staff and community advisors agree that the visiting professionals would attract



broad, positive community involvement and contribute to the public service mission of the BCPA.

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

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

John Kennedy, Director  
Parks, Recreation, & Cultural Arts

J. Todd Greenburg  
Corporation Counsel

Reviewed by:

Recommended by:

Barbara J. Adkins  
Deputy City Manager

David A. Hales  
City Manager

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

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the contracts with International Creative Management and OPUS 3 Artists in the amount of \$48,500 be approved and the Mayor and City Clerk be authorized to execute the necessary documents.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Approval of Engagement Letter and Terms of Engagement for Legal Services with Clark Baird and Smith, LLC

**RECOMMENDATION:** That the Engagement Letter and Terms of Engagement for Legal Services with Clark Baird Smith be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

**BACKGROUND:** Since 1986, public sector collective bargaining has been regulated by the Illinois Public Labor Relations Act (5 ILCS 315/1 *et seq.*). The City has ten (10) bargaining units among its employees. Three (3) of those units (police officers, police sergeants and lieutenants, and firefighters) have the ability to request interest arbitration when impasse is reached during contract negotiations.

The City has engaged outside labor council to advise management since public sector collective bargaining has been regulated. The last time the City changed law firms was May, 1997, when the City changed from its long term use of Seyfarth, Shaw, Fairweather and Garrison to Franczek & Sullivan (now known as Franczek Radelet).

Franczek Radelet has provided excellent service to the City over the years. However, several aldermen have suggested that it may be in the City's best interest to review the matter of the outside legal counsel for labor matters. Staff recommends the law firm of Clark Baird Smith, LLP. Although the law firm itself is new, the attorneys in the firm are well known in the Illinois labor law community and have extensive nationwide experience in labor law. The attorneys were some of the founding members of the Illinois Public Employer Labor Relations Association (IPELRA), which has advised Illinois municipalities for decades in Illinois labor law, and have represented Illinois municipalities in many of the seminal cases on labor law, both before the Illinois Labor Relations Board and the Illinois courts. Jim Baird would be the attorney from the firm working with the City.

Staff has reviewed an Engagement Letter setting forth the matters to be handled by Clark Baird Smith. Mr. Baird would be representing the City in negotiations with the police officers union and the police sergeants and lieutenants union. The firm would also represent the City regarding possible implementation of managed competition. Mr. Baird's time would be billed at the rate of \$315 per hour, as would be the rate for all partners with the exception of Ted Clark, whose time would be billed at the rate of \$325 per hour. Associate attorney's time would be billed at the rate of \$250 to \$265 per hour, and paralegals would be billed at the rate of \$95 per hour. In addition to the matters set forth above, the firm would also be used on an as needed consulting basis by the City's Legal Department staff; which advises the City's Human Resources staff in other collective bargaining negotiations, and which represents the City in grievance arbitrations. As is the case with any legal representation, the representation may be terminated by the City at any time.

Staff recommends that the Council approve the Engagement Letter.

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

**FINANCIAL IMPACT:** The cost of the work for the City is difficult to predict because it is dependent on factors outside the control of the City, such as the length of collective bargaining negotiations. In FY 2011, the City paid outside labor counsel the sum of \$94,012.

Respectfully submitted for Council consideration.

Prepared by: Recommended by:

J. Todd Greenburg  
Corporation Counsel

David A. Hales  
City Manager

Mr. David Hales  
City Manager  
City of Bloomington  
109 East Olive Street  
Bloomington, IL 61701

**RE: Representation by Clark Baird Smith LLP**

Dear David:

You have asked Clark Baird Smith LLP to advise and represent the City of Bloomington with respect to labor relations and employment law related advice and consultation. Specifically, you have asked that I serve as the Chief Negotiator in the negotiations involving the Police and the Police Sergeants and Lieutenants Unions, and the City of Bloomington. You have also requested our advice concerning certain potential subcontracting issues.

Clark Baird Smith LLP will be very happy to provide these services and to assist with such other matters as you may refer to us from time to time. This letter, along with the attached Terms of Engagement for Legal Services, shall serve as our agreement with respect to our services. The Terms set forth additional details concerning our engagement and further explain our billing practices.

It is expected that I will be your primary contact person at the firm. I may utilize other attorneys and staff members at the firm from time to time to assist me in representing you.

Unless otherwise agreed in a specific instance, we will bill you based upon the time we spend rendering our services. We normally bill on a monthly basis, so that you will see the extent of the legal fees and disbursements as they are incurred. My billing rate will be \$315 per hour, as will be the rate for all partners, except Ted Clark, whose rate is \$325 per hour. The hourly rate for associates will be \$250-\$265, and our paralegals are billed at \$95 per hour.

To evidence concurrence with the scope of services to be rendered, the arrangements for billing and payment of fees and expenses, and our Terms of Engagement for Legal Services, please return a signed copy of this letter to the undersigned. If there are any questions at any time about our billing practices or a particular fee or cash disbursement or any other aspect of our legal services, please bring it to the attention of the undersigned as soon as possible.

We sincerely appreciate the opportunity to represent you and will endeavor to provide prompt and responsive legal services at all times.

Very truly yours,

**CLARK BAIRD SMITH LLP**

By  
James Baird

JB:ds  
Enc.

The City of Bloomington understands and agrees to the terms of this engagement letter and the attached Terms of Engagement for Legal Services.

CITY OF BLOOMINGTON

By: Stephen F. Stockton

Date: July 12, 2011

#### **TERMS OF ENGAGEMENT FOR LEGAL SERVICES**

The following is an explanation of the basis on which Clark Baird Smith LLP bills for its services and the expenses and advances incurred on behalf of its clients, and details various practices and policies at the Firm which govern the relationship between Clark Baird Smith LLP, and its clients. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this statement carefully and contact us promptly if you have any questions.

#### **BILLING ARRANGEMENTS, FEES AND TERMS OF PAYMENT**

We normally submit invoices to our clients monthly during our engagement unless otherwise agreed. This procedure ensures that our clients have a current understanding of our charges and can intelligently budget legal expenses. Invoices are usually most influenced by the amount of time expended and the current hourly billing rates of the lawyers involved in the matter. Each invoice is ordinarily reviewed by the attorney who has primary billing responsibility for that particular client prior to its submission to the client for payment. The attorney reviews the time recorded to the client's account since the last billing. The purpose of the review is to determine whether the invoice should be calculated solely on the basis of the time recorded or should be adjusted according to the circumstances.

We will keep accurate records of the time we devote to your work, including conferences (both in person and over the telephone), negotiations, factual and legal research and analysis, document preparation and revision, and other related matters. Normally we record our time in

units of one quarter of an hour. The normal current hourly billing rates of attorneys in our Firm are \$325.00 to \$250.00 per hour. Typically, the more experience an individual has, the higher the hourly rate. Ordinarily, we review and adjust our billing rates annually to reflect current levels of legal experience, changes in overhead costs, and other factors. Changes in rates will be reflected in the monthly invoices.

Clients are also billed for direct expenses incurred in connection with handling their matters, such as special mail services, messenger and overnight delivery services; for advances incurred on behalf of a client such as filing fees, court reporters, arbitrators, consulting fees, printing, computerized legal research and travel expenses; and for items purchased and used exclusively in connection with a particular client's matters. Where significant advances are involved, we may request that the client pay the costs directly.

We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Whenever possible, we will furnish such an estimate based upon our professional judgment, but always with a clear understanding that it is not a maximum or fixed-fee quotation unless a fixed-fee is specifically negotiated. The ultimate cost may be more than the amount estimated.

We ask and expect payment of our invoices within thirty (30) days of the date of the invoice since delayed payment adds to our overall costs of providing services. In addition, we reserve the right to discontinue performance and to withdraw as your attorneys, regardless of the status of any matter in which we may be involved and subject to only our ethical obligations if any invoice remains unpaid for more than ninety (90) days after the date of the invoice.

It is of the utmost importance for us to know at all times that you are satisfied with the legal services being provided by Clark Baird Smith LLP. So that there will always be full and open communication between us, and so that we may clearly understand and promptly deal with any concerns a client may have about our services, any questions concerning a particular invoice or about our legal services should be raised within thirty (30) days of the date of the invoice or the occurrence of the event which causes you concern.

### **THE PROVISION OF LEGAL SERVICES**

Customarily, each client of Clark Baird Smith LLP is served by a principal lawyer contact. The principal lawyer should be someone in whom you have confidence and with whom you enjoy working. You are free to request a change of principal lawyer at any time. Clark Baird Smith LLP, also may utilize other attorneys and paralegals in the Firm to work on a client's matters. These individuals operate under the supervision of the principal lawyer for the client. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on the most efficient and timely basis. Whenever practicable, we will advise our client of the names of those lawyers and legal assistants who work on the client's matters.

The retention of a lawyer does not insure that the desired outcome will be achieved. Accordingly, Clark Baird Smith LLP cannot guarantee the results of its services. Rather, Clark

Baird Smith LLP will at all times act on your behalf to the best of our ability, and will provide competent representation to its clients. Competent representation requires the legal knowledge, skill, thoroughness and preparation necessary to handle the client's matters. Any expression on our part regarding the outcome of our legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed.

### **YOUR RESPONSIBILITIES**

We expect our clients to be actively involved with the matters we are handling for them, to participate in meetings and to provide whatever information and cooperation may be necessary. We also expect that the information we receive from our clients will be accurate and complete. If a client does not cooperate with us or provides us with information which is incomplete or inaccurate, we reserve the right to withdraw as attorneys for that client.

### **MISCELLANEOUS**

In connection with audits of a client's financial statements, Clark Baird Smith LLP may be requested from time to time to furnish certain information or to confirm information. By engaging us, you are authorizing us to respond to such requests in a reasonable manner and to furnish such information as is consistent with reasonable requests from the auditors and the attorney-client privilege. Time spent responding to such requests will be charged at our regular rates.

Where we have been asked to represent more than one individual or entity in a matter, the Rules of Professional Conduct promulgated by the Illinois Supreme Court require us to disclose that representation of multiple clients is permitted so long as the clients do not have directly adverse interests. However, we may not represent multiple clients if the representation of one or more of those clients may be materially limited by the Firm's responsibilities to another client or to a third person, or by the Firm's or a lawyer's own interests. More simply stated, we can represent multiple parties in a matter so long as each party has similar interests. At such time as those interests diverge, we may no longer be able to represent any of the affected clients. If the matter which is the subject of the engagement letter involves the representation of multiple clients or entities, the execution and delivery of the engagement letter to Clark Baird Smith LLP, by each client is an acknowledgement that the clients have similar interests and that each consents to our representation of the other clients. In addition, where representing multiple clients or parties, unless otherwise agreed in writing by Clark Baird Smith LLP, the clients are jointly and severally obligated with respect to the payment of our invoices.

Internal Revenue Service regulations require that certain types of written advice include a disclaimer. To the extent that the engagement letter or these Terms of Engagement for Legal Services contain written advice relating to a Federal tax issue, the written advice is not intended nor written to be used and cannot be used by the recipient or any other taxpayer for the purposes of avoiding Federal tax penalties or to support the promotion or marketing of the transaction or matters discussed herein.

## TERMINATION

You may terminate our representation at any time, with or without cause, by notifying us. Your termination of our services will not affect your responsibility for payment of legal services rendered and additional charges incurred before termination and in connection with an orderly transition of the matter.

We are subject to the rules of professional responsibility for the jurisdictions in which we practice, which list several types of conduct or circumstances that require or allow us to withdraw from representing a client, including for example nonpayment of fees or costs, misrepresentation or failure to disclose material facts, action contrary to our advice, and conflicts of interest with another client. We try to identify in advance and discuss with our clients any situation which may lead to our withdrawal and, if withdrawal ever becomes necessary, we give the client written notice of our withdrawal.

Except for original corporate records or any records or files which we receive from you or third parties with the understanding that they belong to you, it is agreed that all of our files, copies of documents, correspondence or other materials which we may accumulate in connection with our representation of you, including copies of materials filed with any regulatory agency, shall be the property of Clark Baird Smith LLP. You may have copies at any time during our representation of you. Upon the termination of the engagement and upon request, we will return your property to you within thirty (30) days of such termination. However, it is specifically agreed that we have the right to dispose of our files at such time as we determine that such files no longer need to be retained. After disposal, these materials will no longer be available.

Your agreement to this engagement constitutes your acceptance of the foregoing terms and conditions as well as any additional terms and conditions set forth in the accompanying engagement letter. If any of them is unacceptable to you, please advise us now so that we can resolve any differences and proceed with a clear, complete, and consistent understanding of our relationship.

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Terms of Engagement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Suspension of Ordinances to Allow Consumption of Alcohol at Miller Park Pavilion on March 17, 2012

**RECOMMENDATION:** That the Ordinance suspending Section 26(d) of Chapter 6 and Section 701 of Chapter 31 to allow the suspension and consumption of alcohol at the Miller Park Pavilion on March 17, 2012 be passed.

**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of Matthew McConnell and Megan Sanders to allow moderate consumption of alcohol at their March 17, 2012 wedding union reception to be held at Miller Park Pavilion. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Steve Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief, and Tracey Covert, City Clerk, and Matthew McConnell, request representative.

Commissioner Stockton opened the liquor hearing and requested that Matthew McConnell, request representative, address this request. Matthew McConnell, 202 Ivanhoe Way, addressed the Commission. The request was for his wedding reception. The reception and alcohol service would cease at 10:00 p.m. The building had to be vacated by 11:00 p.m.

Commissioner Stockton expressed support for this request. In March, the park would be relatively empty.

Commissioner Buchanan noted that March 17th was St. Patrick's Day. Mr. McConnell stated that on their first, Megan Sanders, his fiancé, mentioned that she hoped to be married on St. Patrick's Day. The wedding ceremony would be at St. Patrick's Catholic Church. The wedding would occur during Lent (church calendar). The Catholic Church allows celebrations on St. Patrick's Day. He added that both he and his fiancé were of Irish descent.

Commissioner Gibson questioned the alcoholic beverage provider. Mr. McConnell stated Budget Liquors, 200 S. Linden, Normal. Liquor service would be limited to beer and wine with a champagne toast.

Commissioner Tompkins questioned if Budget Liquors held a catering license. Tracey Covert, City Clerk, was instructed to verify same with the Town of Normal.

Commissioner Petersen thanked Mr. McConnell for this presentation of this request to the Commission. He added that they would be setting an example for other requests.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** The Agenda for the June 14, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** None.



July 11, 2011

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Respectfully,

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

Randall D. McKinley  
Police Chief

**ORDINANCE NO. 2011 - 30****AN ORDINANCE SUSPENDING PORTIONS OF SECTION 701 OF CHAPTER 31 AND SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE FOR A WEDDING RECEPTION AT THE MILLER PARK PAVILION**

Whereas, Matthew McConnell and Megan Sanders are planning to hold their wedding reception at the Miller Park Pavilion from 4:00 p.m. to 11:00 p.m. on March 17, 2012; and

Whereas, Matthew McConnell and Megan Sanders have requested permission from the City to serve beer and wine during this event; and

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

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

Section 1: That Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, are suspended for the duration of the wedding reception at the Miller Park Pavilion on March 17, 2012 under the conditions set forth in the rental agreement.

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

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

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

PASSED this 11<sup>th</sup> day of July, 2011.

APPROVED this 12<sup>th</sup> day of July, 2011.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

**Alderman Purcell stated that he had concerns regarding this item. He believed that a precedent was being sent. He had a reason for voting no on this item. He added that this item would suspend City ordinance and allow alcohol consumption at Miller Park. He was opposed to same during the summer months. He questioned if there were guidelines and/or requirements for same. Mayor Stockton informed the Council that there were guidelines. There would not be alcohol service in the park from May through November.**

**Todd Greenburg, Corporation Counsel, addressed the Council. He stated that historically the City has allowed an Alderman to vote no on individual items listed on the Consent Agenda.**

**Alderman McDade questioned the Commission's vote on this item. Tracey Covert, City Clerk, addressed the Council. She noted that the Council's recommended motion mirrored the Commission's action. Unless stated the vote on same was unanimous.**

**Alderman McDade noted that Budget Liquor was located in Normal, IL. She questioned the liquor license classification. Tracey Covert, City Clerk, stated that Budget Liquors held a catering license with the Town. There would not be a cash bar.**

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Ordinance suspending Section 26(d) of Chapter 6 and Section 701 of Chapter 31 to allow the suspension and consumption of alcohol at the Miller Park Pavilion on March 17, 2012 be approved.**

**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: Request from Taken, Inc., d/b/a A. Renee, located at 306 N. Center St., currently holding a TAP liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged alcohol for consumption off the premises six (6) days a week for a change of classification to a RAPO liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged alcohol for consumption off the premises six (6) days, and an outdoor sidewalk cafe**

**RECOMMENDATION:** Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that a change of classification from a TAP to a RAPO liquor license for Taken, Inc., d/b/a A. Renee, located at 306 N. Center St., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) the sale of packaged beer and wine only for consumption off the premises.

**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of Taken, Inc., d/b/a A. Renee, located at 306 N. Center St., currently holding a TAP liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged alcohol for consumption off the premises six (6) days a week for a change of classification to a RAPO liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged alcohol for consumption off the premises six (6) days, and an outdoor sidewalk cafe. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Steve Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief, and Tracey Covert, City Clerk, and Amy Calhoun and Cindy Beier, owner/operators and License holder representatives.

Commissioner Stockton opened the liquor hearing and requested that the License holder explain this request. He noted that this request was for a change of classification. He added that if approved the License holder would need to obtain the permission from the City's engineering staff. Cindy Beier, owner/operator and License holder representative, addressed the Commission. A. Renee's retail shop had been open seven (7) years. During this time, the business had expanded its premise. Approximately one (1) year ago, A. Renee changed its license classification from a PB, (Packaged, Beer and wine only) to a TAP, (Tavern, All types of alcohol, Packaged). The goal was for A. Renee to operate a cafe.

Amy Calhoun, owner/operator and License holder representative, addressed the Commission. At that time, the intention was set to return to the Commission to request another change of classification. The business was able to apply for an R, Restaurant, license as the kitchen is complete. She noted that the City had expressed an interest in additional restaurants in the Downtown.

Ms. Beier cited the various events which have been held at A. Renee. She noted small wedding receptions, wedding and baby showers, and other private events. A. Renee had become a social cafe. Patrons have a wonderful time there. She added that only R, Restaurant, liquor license holders were eligible to request an O, Outdoor, license classification. A. Renee wanted to offer outdoor seating.

Ms. Calhoun believed that A. Renee built relationships with its customers. Sidewalk cafes beautify the Downtown. The sidewalk cafe would be an extension of the cafe's design. Finally, she requested that the City Code be amended to allow outdoor liquor service to commence at 9:00 a.m. Currently, liquor service is not allowed until 10:00 a.m. Their plan included Saturday breakfast during the Farmer's Market. Ms. Beier added that customers have enjoyed Bloody Marys and Mimosas with breakfast. Patrons would be able to sit outside and enjoy the Market and people watching.

Commissioner Stockton stated that the Commission supported the idea of sidewalk cafes. Commissioner Buchanan noted the importance of shade. Ms. Beier added that the area would be roped off and there would be umbrella tables.

Commissioner Tompkins questioned off premise sales. Ms. Beier noted that the retail shop offered beer and wine.

Commissioner Petersen questioned the rules for sidewalk cafes. Commissioner Stockton stated that the license holder must obtain the approval from the City's engineering staff. Staff had drafted the requirements. Ms. Beier informed the Commission that there was a plan.

Commissioner Buchanan noted that there were two (2) requests: 1.) change of classification and 2.) text amendment to change the start time from 10:00 a.m. to 9:00 a.m. He added that requests for reclassification were within the Commission's responsibilities. He questioned if this request would be placed on a Council meeting agenda.

Commissioner Stockton recommended that the Commission also prohibit the sale of packaged spirits. He added that all Downtown requests would be placed before the Council.

Commissioner Stockton opened the hearing to public comment. No one came forward to address the Commission.

The Commission also supported a text amendment to Chapter 6. Alcoholic Beverages to allow outdoor service of alcohol commencing at 9:00 a.m. Staff was directed to prepare the Text Amendment for Council approval.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** The Agenda for the June 14, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** Neutral. This request was for a change of classification. Annual fee for a RAPO liquor license is \$1,760. Current amount paid by Taken, Inc. for a TAP is \$1,760.

Respectfully,

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

Randall D. McKinley  
Police Chief

**Alderman Purcell stated that he had concerns regarding this item. He believed that a precedent was being sent. He had a reason for voting no on this item. He noted that alcohol service would be allowed at 9:00 a.m. He questioned the change to time frame. Mayor Stockton noted that it would apply to other days of the week as well.**

Todd Greenburg, Corporation Counsel, addressed the Council. He stated that historically the City has allowed an Alderman to vote no on individual items listed on the Consent Agenda.

George Boyle, Asst. Corporation Counsel, addressed the Council. He noted that A. Renee would be the third sidewalk café in the Downtown. Mayor Stockton noted that a sidewalk café/"O", Outdoor liquor license, was limited to "R", Restaurant liquor license holders in the Downtown. In addition, the City's Engineering staff must approve the sidewalk café application.

Alderman McDade questioned the Commission's vote on this item. Tracey Covert, City Clerk, addressed the Council. She noted that the Council's recommended motion mirrored the Commission's action. Unless stated the vote on same was unanimous.

Alderman McDade noted that an "R", Restaurant, liquor license required that fifty-one percent, (51%), of total sales to come from items other than liquor. She was not pleased with the methodology.

Motion by Alderman Fazzini, seconded by Alderman Schmidt that a change of classification from a TAP to a RAPO liquor license for Taken, Inc., d/b/a A. Renee, located at 306 N. Center St., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) the sale of packaged beer and wine only for consumption off the premises.

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

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

**Nays:** Aldermen Purcell and Sage.

**Motion carried.**

**The following was presented:**

**SUBJECT:** Application of C & K Hotel Group, LLC, d/b/a Hawthorn Suites Hotel, located at 1 Lyon Ct., 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

**RECOMMENDATION:** Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that an RAS liquor license for C & K Hotel Group, LLC, d/b/a Hawthorn Suites Hotel, located at 1 Lyon Ct., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) the premise is restricted to the lobby/lounge/bar area as shown on the floor plan submitted with the Application.

**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of C & K Hotel Group, LLC d/b/a Hawthorn Suites Hotel, located at 1 Lyon Ct., requesting an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Steve Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief, and Tracey Covert, City Clerk, and Quinton Staker, General Manager, and Chanchal Sandu, owner, and Applicant representatives.

Commissioner Stockton opened the liquor hearing and requested that the License holder explain this request. Quinton Staker, Hawthorn Suites Hotel's General Manager and Applicant representative, addressed the Commission. This request would allow the hotel to offer an added value for its guests. The hotel had received feedback from its guests requesting beverage and sandwich availability. The hotel lobby would be modernized and renovated.

Commissioner Stockton questioned where the beverages would be consumed. Mr. Staker noted that the hotel lobby and lounge/bar area. Signs would be posted. The area would be supervised by hotel staff. Guests would also be informed by same.

Commissioner Stockton noted that hotel management would be responsible for the entire premise.

Commissioner Tompkins questioned the adjacent conference area and management of same. He specifically questioned alcohol consumption in this area. Mr. Staker described this area as the Conference Center. Hotel management did not intend to serve alcohol in this area of the hotel. Commissioner Tompkins stated that private functions have been hosted in the area with alcohol service provided. Mr. Staker responded affirmatively. These events were not sponsored by the hotel and the responsible party must provide the hotel with proof of liquor liability coverage.

Commissioner Stockton opened the hearing to public comment. No one came forward to address the Commission.

Commissioner Gibson restated that the hotel ownership would be responsible if alcohol left the lobby/lounge/bar area. He wanted to acknowledge this risk. Mr. Staker responded affirmatively. He compared the restriction for alcohol service to enforcement of a smoke free facility.

Commissioner Stockton noted that a floor plan had been provided.

Commissioner Petersen questioned hours of service. Mr. Staker responded that alcoholic beverage service would commence at 4:00 p.m. and cease in compliance with the City Code. Commissioner Petersen questioned food service. Mr. Staker noted that the hotel was ready to begin work on a plan to add this service.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately two (2) courtesy copies of the Public Notice were mailed. In addition, the

Agenda for the June 14, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** This application would be a new liquor license holder. Annual fee for an RAS liquor license is \$2,210.

Respectfully,

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

Randall D. McKinley  
Police Chief

**Alderman McDade questioned the Commission's vote on this item. Tracey Covert, City Clerk, addressed the Council. She noted that the Council's recommended motion mirrored the Commission's action. Unless stated the vote on same was unanimous.**

**Alderman McDade described this item as a new opportunity. She expressed her concern regarding the hotel's plans for food sales. The issue was consistency.**

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that an RAS liquor license for C & K Hotel Group, LLC, d/b/a Hawthorn Suites Hotel, located at 1 Lyon Ct., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) the premise is restricted to the lobby/lounge/bar area as shown on the floor plan submitted with the Application.**

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

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

**Nays: Alderman McDade.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Request of OSI Restaurants, Inc., d/b/a Outback Steakhouse, located at 1407 N. Veterans Pkwy., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week for a change of ownership to Outback Steakhouse of Florida, LLC

**RECOMMENDATION:** Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that the change of ownership for OSI Restaurants, Inc., to Outback Steakhouse of Florida, LLC, d/b/a Outback Steakhouse, located at 1407 N. Veterans Pkwy., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week be approved.



**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of OSI Restaurants, Inc., d/b/a Outback Steakhouse, located at 1407 N. Veterans Pkwy., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week for a change of ownership to Outback Steakhouse of Florida, LLC. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Steve Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief, and Tracey Covert, City Clerk, and Harlan Powell, Webster Powell PC, License holder's attorney and Duane Davis, Managing Partner and License holder's representatives.

Commissioner Stockton opened the liquor hearing and requested that the License holder explain this request. He noted that the request involved a change of ownership. Harlan Powell, Webster Powell PC, License holder's attorney, addressed the Commission. This change of ownership involved a privatization process. The company had acquired a number of properties which were known by a variety of business entities. The goal was to simplify what had become a complex business structure. The general public would not see any difference in the operation of Outback Steakhouse.

Commissioner Stockton questioned the corporation's location as these were not franchise stores. He questioned who held the trademarks. Mr. Powell noted that two (2) ownership models had been provided. The parent company held all trademarks.

Duane Davis, Managing Partner and License holder's representative, addressed the Commission. He had operated Outback Steakhouse for the past twelve (12) years and held an ownership interest in the restaurant.

Commissioners Gibson and Buchanan noted that the restaurant was well operated. They were glad to see that Outback Steakhouse was remaining in the community.

Commissioner Stockton opened the hearing to public comment. No one came forward to address the Commission.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph in accordance with City Code. In addition, the Agenda for the June 14, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** None. Request is for a change of ownership. Annual fee for an RAS liquor license is \$2,210.

Respectfully,

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

Randall D. McKinley  
Police Chief

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the change of ownership for OSI Restaurants, Inc., to Outback Steakhouse of Florida, LLC, d/b/a Outback Steakhouse, located at 1407 N. Veterans Pkwy., currently holding an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week be approved.**

**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:** Application of Richard Services, Inc., d/b/a Parkview Inn, located at 1003 S. Morris Ave., for an RAPS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged liquor for consumption off the premises seven (7) days a week

**RECOMMENDATION:** Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that an RAPS liquor license for Richard's Services, Inc., d/b/a Parkview Inn, located at 1003 S. Morris Ave., be created, contingent upon compliance with all applicable health and safety codes.

**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of Richard Services, Inc., d/b/a Parkview Inn, located at 1003 S. Morris Ave., requesting an RAPS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises and the sale of all types of packaged liquor for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Steve Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief, and Tracey Covert, City Clerk, and Rick McCormick, Applicant representative.

Commissioner Stockton opened the liquor hearing and requested that the Applicant explain this request. He noted that the request involved the consolidation of Red Bird Catering and the Parkview Inn. It was noted the Linda McCormick, Mr. McCormick's mother, has recently passed away. Mr. McCormick had served as the Secretary/Treasurer for L R & R, Inc., d/b/a Parkview Inn.

Commissioner Buchanan questioned the need for the "P", Packaged, liquor license. Rick McCormick, Applicant representative, addressed the Commission. He noted that customers have requested packaged sales. He described packaged sales as limited.

Commissioner Stockton reviewed the existing liquor license filed for Redbird Catering and Parkview Inn. Commissioner Petersen questioned the liquor license classification held by L R & R, Inc., d/b/a Parkview Inn. It was noted that this request matched the current license classification for the Parkview Inn.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately four (4) courtesy copies of the Public Notice were mailed. In addition, the Agenda for the June 14, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** None. This application involved a change of ownership. Annual fee for an RAPS liquor license is \$2,210.

Respectfully,

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

Randall D. McKinley  
Police Chief

**Alderman McDade questioned the Commission's vote on this item. Tracey Covert, City Clerk, addressed the Council. She noted that the Council's recommended motion mirrored the Commission's action. Unless stated the vote on same was unanimous.**

**Alderman McDade questioned the requested license classification compared to the existing one. Ms. Covert responded affirmatively both were RAPS, (Restaurant, All types of alcohol, Packaged sales, Sunday sales).**

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that an RAPS liquor license for Richard's Services, Inc., d/b/a Parkview Inn, located at 1003 S. Morris Ave., be created, contingent upon compliance with all applicable health and safety codes.**

**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:** Request from R.I.P. Oil, Inc., d/b/a Six Points Fast Stop, located at 1001 Six Points Rd., currently holding a GPBS liquor license which allows the sale of packaged beer and wine for consumption off the premises seven (7) days a week for a change of classification to a PAS liquor license which would allow the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week

**RECOMMENDATION:** Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that a change of classification from a GPBS to a PAS liquor license for R.I.P. Oil, Inc., d/b/a Six Points Fast Stop, located at 1001 Six Points Rd., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) that the License holder must appear before the Commission prior to an increase of ten percent (10%) in the liquor sales area and/or self service sales of spirits.

**BACKGROUND:** The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of R.I.P. Oil, Inc., d/b/a Six Points Fast Stop, located at 1001 Six Points Rd., currently holding a GPBS liquor license which allows the sale of packaged beer and wine for consumption off the premises seven (7) days a week for a change of classification to a PAS liquor license which would allow the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Steve Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Bob Wall, Asst. Police Chief, and Tracey Covert, City Clerk, and Karen Anderson, Vice President Operations, and Stephanie Hatten, Store Manager, and License holder representatives.

Commissioner Stockton opened the liquor hearing and requested that the License holder explain this request. He noted that this request for a change of classification had been laid over by the Commission at their April 12, 2011 meeting. Stephanie Hatten, Store Manager, addressed the Commission. She noted that the store no longer sold gasoline. The state had taken land for the Veterans Pkwy. road project. This request would allow the store to offer all types of alcohol for sale. Items offered for sale would be limited. Top brands would be offered and sales would be secure. Fast Stop had a petition in support of the change of classification to present to the Commission. Store staff had also spoken with the Goose Creek Apartment management. There were no issues.

Commissioner Stockton noted that the Commission had encouraged Ms. Anderson to work with the neighbors. He added that the Commission had not received the Downtown Entertainment Task Force's (DETF) report. Karen Anderson, Vice President Operations and License holder representative, addressed the Commission. Petitions had been prepared to present to the Commission. The financial reports for May 2011 had been completed. Sales from packaged beer and wine equaled \$13,800 or twenty-six percent (26%) of total sales. Fast Stop had paid \$553.05 in packaged liquor tax to the City. She anticipated an increase in alcohol sales from ten to twenty percent (10 - 20%). Alcohol sales could total forty percent (40%).

Commissioner Tompkins noted that the state had caused the removal of the gasoline pumps. The request for a change in classification was to offset the loss of gasoline sales. It was hoped that this change would assist the business to survive.

Commissioner Buchanan noted that Fast Stop hoped to offer spirits. He questioned if other products would be offered for sale. Ms. Anderson responded affirmatively. Commissioner Buchanan noted that sales of spirits would be secure. Hard liquor would be stocked behind the counter. Ms. Anderson noted the size of the counter area. No refrigeration was needed. 375 ml and smaller bottles would be stocked behind the counter. Larger sizes would be open shelved. Additional security would be required, such as bottle tags and video cameras. Commissioner Buchanan requested that Ms. Anderson inform the City of any change in liquor stock and/or stocking location.

Commissioner Stockton questioned the petition. It was noted that there were 134 signatures on the customer listing and fourteen (14) signatures on the resident listing. It was noted that the majority of those who signed the resident listing were apartment dwellers. Commissioner Buchanan read the text contained on the petitions.

Commissioner Petersen questioned the DETF's report and its impact on the Commission's decision regarding this request. He believed that the focus of this report would be on the Downtown. Commissioner Stockton believed the report would be available within the week.

Commissioner Stockton opened the hearing to public comment. Amy Calhoun, 2 Goose Creek, #3322, addressed the Commission. She spoke in favor of this request. She added that her signature was not contained on either petition.

Commissioner Stockton restated that the Commission had not received the DETF's report as of this date. He added that the sale of spirits near residential areas had become more controversial. He noted that City had eliminated the GPA, (Gasoline, Packaged, All types of alcohol), license classification. He questioned RIP's, liquor license holder, investment in the property. Ms. Anderson described same a substantial. The security system upgrade would cost \$7,000.

Commissioner Stockton added that the Commission could wait for the DETF's report. There might be a change in policy. Ms. Anderson stated that initially there would be little change. The store would start with the smaller sizes stocked behind the counter. She noted that summer was the busy season. Commissioner Stockton wanted to acknowledge the potential for a change in policy.

Commissioner Buchanan expressed his opinion that beer sales were the issue. He questioned the Town of Normal's liquor code.

Commissioner Stockton informed the Commission that he addressed the DETF at their initial meeting. He added his interest in assurances from the License holder that spirits would be displayed behind the counter.

Commissioner Buchanan requested that if the License holder wanted to increase the sales area for liquor by ten percent (10%) that the Commission be informed prior to. In addition, any change of sales methodology, (self service), the License holder must appear before the Commission.

Commissioner Gibson questioned future gasoline sales. Ms. Anderson noted that such action was not foreseen. The state's project time line was five (5) years. Commissioner Stockton added that resumption of gasoline sales would necessitate another change of classification. The License holder would appear before the Commission to return to a GPB liquor license.

Commissioner Buchanan noted that liquor sales appeared to be a profit center. Ms. Anderson responded affirmatively.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Approximately five (5) courtesy copies of the Notice were mailed. In addition, the Agenda for the June 14, 2011 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

**FINANCIAL IMPACT:** This request was for a change of classification. Annual fee for a PAS liquor license is \$1,410. Current amount paid by R.I.P. Oil, Inc. for a GPBS is \$1,180. Total change in revenue \$230.

Respectfully,

Reviewed and concur:

Stephen F. Stockton  
Chairman of Liquor Commission

Randall D. McKinley  
Police Chief

**Alderman Purcell stated that he had concerns regarding this item. He believed that a precedent was being sent. He had a reason for voting no on this item.**

**Todd Greenburg, Corporation Counsel, addressed the Council. He stated that historically the City has allowed an Alderman to vote no on individual items listed on the Consent Agenda.**

**Alderman Purcell noted that the gasoline pumps had been removed. Fast Stop would become a liquor store in a residential neighborhood. He believed that this item was the same as Price Rite located at 706 N. Clinton St. Mayor Stockton believed that each application was unique. A key issue was the neighborhood.**

**Alderman Schmidt expressed her concern regarding the conditions placed upon the liquor license and the monitoring of same. She planned to vote for this item. Mayor Stockton noted that the Liquor Commission would look at this issue, (condition monitoring), and find an answer.**

**Alderman McDade questioned the Commission's vote on this item. Tracey Covert, City Clerk, addressed the Council. She noted that the Council's recommended motion mirrored the Commission's action. Unless stated the vote on same was unanimous.**

**Alderman McDade addressed neighborhood concerns. This has become a common theme – gasoline stations which were no longer selling gasoline.**

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that a change of classification from a GPBS to a PAS liquor license for R.I.P. Oil, Inc., d/b/a Six Points Fast Stop, located at 1001 Six Points Rd., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) that the License holder must appear before the Commission prior to an increase of ten percent (10%) in the liquor sales area and/or self service sales of spirits.**

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

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

**Nays: Aldermen McDade, Purcell and Sage.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Lake Bloomington Lease Transfer Petition for Lot 5 and the East ½ of Lot 6 in Block 0 of Camp Peoria Point from Charles Robert Silvey to Linda L. Thorson, Trustee of the Bob Silvey Trust

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

**BACKGROUND:** Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 5 and the East ½ of Lot 6 in Block 0 of Camp Peoria Point from Charles Robert Silvey to Linda L. Thorson, Trustee of the Bob Silvey Trust. The sewage disposal system inspection was completed in mid April, 2011 and there were no major concerns. The lake lease transfer paperwork is in order.

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

**FINANCIAL IMPACT:** This petition will have a positive financial impact in that the lease will move from the previous formula of \$0.15 per \$100 of Equalized Assessed Value to the current formula of \$0.40 per \$100 of Equalized Assessed Value for determining the Lake Lease Fee.

The current lease rate is \$182. This will increase to \$485.20 next year. This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590. Additionally, since the

lease was not transferred at the time of the original leaseholder's death in August of 2008, calculations for the Lake Lease fee for 2009 2010, and 2011 in the amount of \$937.08 were made with the current formula of \$0.40 per \$100 of Equalized Assessed Value and was paid to the City.

The term of this lease is until December 31, 2131, the same term as other lease renewals since 1998.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed as to legal sufficiency:

Craig M. Cummings  
Director of Water

Timothy Ervin  
Director of Finance

J. Todd Greenburg  
Corporation Counsel

Recommended by:

David A. Hales  
City Manager

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Lake Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.**

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Text Amendment to Chapter 6. Alcoholic Beverages

**RECOMMENDATION:** That the Text Amendment be approved and the Ordinance passed.

**BACKGROUND:** At the June 14, 2011 Liquor Commission meeting Taken, Inc., d/b/a A. Renee, located at 306 N. Center St., appeared before the Commission to request a change license classification from a TAP, (Tavern All types of alcohol, Packaged sales), to an RAPO, (Restaurant, All types of alcohol, Packaged sales, Outdoor). This business also requested the



ability to commence outdoor liquor service at 9:00 a.m. on Saturdays due to the Farmer's Market.

The Commission supported a text amendment to Chapter 6. Alcoholic Beverages to allow outdoor service of alcohol commencing at 9:00 a.m. Staff was directed to prepare the Text Amendment for Council approval.

By definition a Class O liquor license is limited to the B – 3, Central Business District, (Downtown). To be eligible to apply for a class O, an establishment must also hold a class R, (Restaurant) liquor license. Sidewalk cafes are not allowed on state routes. At this time, two (2) Downtown restaurants hold a Class O license.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED** Text amendment requested during Liquor Hearing for a change of liquor license classification for Taken, Inc., d/b/a A. Renee, located at 306 N. Center St., currently holding a TAP liquor license and requesting an RAPO liquor license.

**FINANCIAL IMPACT:** None.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

George Boyle  
Asst. Corporation Counsel

David A. Hales  
City Manager

**ORDINANCE NO. 2011- 31****AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 6**

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

SECTION 1. That a portion of Bloomington City Code Chapter 6, Section 7A, be amended to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

(10)Class “O” (Outdoor) - authorizes the retail sale of alcoholic liquor by any person holding a Class R license upon a sidewalk designated in a sidewalk cafe permit adjacent to the licensed premises during the hours of 9:00 ~~10:00~~ a.m. to 12:00 o’clock midnight, Monday through Saturday, and 12:00 noon to 12:00 o’clock midnight on Sunday, provided that a valid sidewalk cafe permit has been issued, pursuant to Article IX of Chapter 38. During the times when alcoholic liquor may be served under the Class O license, the licensee shall: (1) Not allow or permit any customer, employee or other person to remove alcoholic liquor from the area designated in the sidewalk cafe permit or the service premises of the licensee. (2) Not serve, allow or permit any person to be served, be in possession of, or consume alcoholic liquor in the area designated in the sidewalk cafe permit unless that person is utilizing the seating which has been provided in accordance with the site plan approved with the sidewalk cafe permit. (3) Comply with all requirements set forth in Article IX of Chapter 38. (4) Provide table service, which shall include food service, in the sidewalk cafe area during the hours when alcoholic liquor is permitted to be served. The sidewalk cafe area shall be subject to all provisions of this chapter as though the sidewalk cafe area was part of the licensee's service premises during the times permitted by this section for alcoholic liquor sales. Prior to the issuance of a Class O license the licensee shall provide proof of dram shop insurance. The policy shall name the City of Bloomington as an additional insured, and will indemnify and hold it harmless from any action, proceeding or claim of liability asserted against it as a result of the operation of a sidewalk cafe. Failure by the licensee to maintain the insurance required by this section shall result in the revocation of the license.

SECTION 2. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 5. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 11<sup>th</sup> day of July, 2011.

APPROVED this 12<sup>th</sup> day of July, 2011.

APPROVED:

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Alderman Purcell stated that he had concerns regarding this item. He believed that a precedent was being sent. He had a reason for voting no on this item.**

**Todd Greenburg, Corporation Counsel, addressed the Council. He stated that historically the City has allowed an Alderman to vote no on individual items listed on the Consent Agenda.**

**Alderman McDade questioned the Commission's vote on this item. Tracey Covert, City Clerk, addressed the Council. She noted that the Council's recommended motion mirrored the Commission's action. Unless stated the vote on same was unanimous.**

**Alderman McDade noted the Downtown Entertainment Task Force report. The Council and Liquor Commission needed to come together on the management of liquor. She had concerns about this item. She planned to vote no.**

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Text 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, Fazzini, and Fruin.**

**Nays: Aldermen McDade, Purcell and Sage.**

**Motion carried.**

**The following was presented:**

**SUBJECT: An Ordinance Amending the Composition of the Bloomington Normal Public Transportation System (BNPTS) Board**

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

**BACKGROUND:** On September 18 and 25, 1972, the City and the Town of Normal passed identical Ordinances establishing the Bloomington Normal Public Transportation System. The Ordinance, among other things, established a seven (7) member Board of Trustees; three (3) trustees were to be from the City, three (3) from the Town, and one (1) trustee position was to be appointed alternately by the City or Town. In 1980, the composition of the Board was reduced to five (5) persons, with two (2) trustees being the assistant City Managers of the City and Town, with the other three (3) being citizens who were not to be employees or officers of either municipality. Of the citizen trustees, one (1) was to be from the City, one (1) from the Town, and one (1) to be appointed alternately. In 1985, the Ordinance was again amended so that the City Managers, rather than the Assistant City Managers, serve on the Board of Trustees.

A disagreement exists between the municipalities regarding whether it is now the City's turn to appoint one of its citizens to the alternate trustee position. For several years, the municipalities have permitted the person serving in the alternate trustee position to continue in that position until he or she wishes to resign. However, the Ordinances do not specifically address this issue. The alternate trustee position has been held by a citizen of the Town since 2005. In May 2011, Council appointed a citizen of the City to the position. Later that month, the Town reappointed the person who has been serving since 2005.

The staffs of the City and Town have agreed on the wording of an Ordinance which would expand the number of trustees on the Transit System Board to seven (7). Four (4) trustees would be appointed by the corporate authorities of the City, and three (3) would be appointed by the corporate authorities of the Town. The terms of the trustees will be of four (4) years duration. In order to establish a system where the terms would be staggered, the trustees will determine by lot whether their initial terms will be of four (4) years duration (two (2) trustees), three (3) years duration (two (2) trustees) or two (2) years duration (three (3) trustees). Thereafter, all terms shall be of four (4) years duration. Terms shall expire at the end of June of the applicable year.

Staff respectfully recommends passage and approval of this Ordinance.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** The Town of Normal and the BNPTS Board of Directors.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

J. Todd Greenburg  
Corporation Counsel

Recommended by:

David A. Hales  
City Manager

**ORDINANCE NO. 2011 – 32**

**AN ORDINANCE AMENDING THE COMPOSITION OF THE  
BLOOMINGTON-NORMAL PUBLIC TRANSPORTION SYSTEM BOARD**

**BE IT ORDAINED BY THE CITY COUNCILS OF THE CITY OF BLOOMINGTON,  
ILLINOIS, AND THE TOWN OF NORMAL, ILLINOIS:**

Section One: The following portions of Section 3 of “An Ordinance Providing for the Creation, Operation, and Control of a Public Transit System” are hereby amended as follows:

Section 3 BOARD OF TRUSTEES

(a). General. The powers of the Bloomington Normal Public Transit System shall repose in and be exercised by a Board of Trustees consisting of seven members. The Board shall not have any direct input into the day-to-day administration of the System. Four of the trustees shall be citizens of the City of Bloomington and three shall be citizens of the Town of Normal.

(b). Method of Selection. Four trustees shall be appointed by the corporate authorities of the City of Bloomington and three trustees shall be appointed by the corporate authorities of the Town of Normal. Vacancies shall be filled for an unexpired term in the same manner an original appointment. Re-appointment shall be at the discretion of the appointing body. A Certificate of Appointment of any trustee shall be filed with the Clerk of each municipality and shall be conclusive proof of the due and proper appointment of such Trustee.

(c). Term of Office. The terms of trustees shall be of four years duration. In order to promote orderly succession in the replacement of trustees, the terms of trustees appointed as of the effective date of this ordinance shall be staggered by lot, with two current trustees to serve a term of four years, two current trustees to serve a term of three years, and three current trustees to serve a term of two years. Terms of trustees appointed thereafter shall be four years in duration. Terms of trustees shall be deemed to expire at the end of the last day of June in the year they are to expire; however, trustees shall be permitted to hold over in their terms until their successors have been appointed.

Section Two: All provisions of previous ordinances in conflict with Section One of this ordinance shall be and the same are hereby repealed.

Section Three: This ordinance shall take effect upon passage and approval by both the City of Bloomington and the Town of Normal.

Section Four: This ordinance is passed pursuant to the home rule authority granted to the City of Bloomington and the Town of Normal under Article VII, Section 6 of the 1970 Illinois Constitution, and their authority to enter into intergovernmental agreements pursuant to Article VII, Section 10 of the 1970 Illinois Constitution and the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON  
THIS 11<sup>th</sup> DAY OF JULY, 2011.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

PASSED AND APPROVED BY THE CITY COUNCIL OF THE TOWN OF NORMAL THIS  
6<sup>th</sup> DAY OF July, 2011.

Chris Koos  
Mayor

ATTEST:

Wendellyn J. Briggs  
Town Clerk

**Mayor Stockton introduced this item. He reviewed the history of same. The Board would update its membership to seven (7). The City would appoint four (4) Board members.**

**Barbara Adkins, Deputy City Manager, addressed the Council. She informed them that Dave Anderson, Interim Transit Director, and Judy Buchanan, Transit Board Chair, were present at this evening's meeting. Staff from the City and the Town of Normal, (City Managers and Corporation Counsels), had worked with Mr. Anderson on this ordinance. She described same as a win win.**

**Mayor Stockton noted that the City had already appointed Bill Wilson. He requested the Council's assistance to identify potential appointees to this Board.**

**Alderman Fazzini noted that the City Managers would continue on the Board as non voting members. Todd Greenburg, Corporation Counsel, addressed the Council. He responded affirmatively. Staff, (Town and City), planned to review the entire Transit System ordinance. The issue before the Council this evening was the Transit Board Trustees.**

**Alderman Schmidt was pleased with the proposed ordinance.**

**Alderman Sage expressed his appreciation regarding Section 3 (c) Term of Office. It provided for an orderly succession planning process.**

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

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

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

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT: Request from the Bloomington Normal Public Transit Board (BNPTS) for a One (1) Time \$50,000 Grant to Continue Operation of the Teal J Bus Route**

**RECOMMENDATION:** That the Grant in the amount of \$50,000 be approved.

**BACKGROUND:** The BNPTS is requesting a one (1) time \$50,000 grant from the City in order to continue operating the Teal J Bus Route. The BNPTS approved its fiscal year 2012 budget on June 28, 2011.

On June 6, 2011 a public hearing was held regarding elimination of the Teal J Route. Based on route data, the Teal J Route is currently the least travelled and least productive route in monetary gains.

BNPTS interim General Manager, Dave Anderson believes that the Teal J Route is still essential to the community, noting that that the most important consideration for the continuation of this route are the number of riders that are disabled and rely on it to visit medical facilities; the Centre for Independent Living, United Cerebral Palsy, and various business located along the route for employment. The number of riders overall on the Teal J Route did increase from .18 riders per mile in Fiscal Year 2010 to .22 riders per mile in Fiscal Year 2011.

In order to continue operating this route BNPTS will have to borrow funds from the capital account to meet operating expenditures. This year the City and Town of Normal will contribute \$540,371 and \$301,693 respectfully. Both of these contributions go directly to the capital account and are needed to continue capital improvements. By August, 2011, the capital account will decrease to \$1.6 million and is estimated to be depleted by Fiscal Year 2013. BNPTS is requesting a contribution to the operating fund for fiscal year 2012 of \$50,000. If finances improve, these monies will be returned.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** BNPTS.**FINANCIAL IMPACT:** \$50,000 will come from account #1001 19190 74060.

Respectfully submitted for Council consideration.

Recommended by:

David A. Hales  
City Manager

Date: June 30, 2011

To: City Managers David Hales & Mark Peterson

From: Dave Anderson, B-NPTS Interim General Manager

Re: Funding Request from B-NPTS

The B-NPTS Trustees approved the FY2012 Budget (copy attached) on Tuesday, June 28, 2011, which can best be described as “bare bones”. The budget is an increase of 2.71% from last year. Most of the increase in the budget is a result of the new facilities for increased utility costs (+\$21,681), one maintenance service person going from part-time to full time (+\$25,000), motor fuel (+\$204,000), tires (+\$14,000), garage equipment (+\$19,143), drivers wages (+\$206,500), administrative salaries (- \$89,622) and advertising (-\$27,250).

Attached is revised personnel listing for FY 2012, which accurately shows an increase of 1.5 persons. This list includes three part-time bus operators (FTE) to reduce the overtime of \$217,661, caused by having eight people on extended leave at one time, one less Operations Assistant and the elimination of the Marketing Director position.

At the Trustee meeting on June 28, 2011 you received information on the Teal J Route. There was a Public Hearing on June 6, 2011 regarding the elimination of this route and several proposed fare increases. This route produces the least amount of money per route mile (10 cents per mile) compared to an average of 49 cents per mile. The number of riders on this route has been increasing an average of 0.22 passengers per mile in FY11 compared to 0.18 in FY10. Ridership and revenue are continuing to improve on this route. The most important considerations for the continuation of this route are the number of riders on this route that are disabled and rely on this route to go to medical facilities, the Center for Independent Living, United Cerebral Palsy, and various businesses located along the route for employment. The Transit Trustees approved the continuation of the Teal J Route with the direction to the staff to continue studying the route to improve ridership and efficiency. The FY12 budget, although shown to balance, is extremely tight. In fact within two weeks, we will need to borrow money from the capital account to meet operational expenditures. This year Bloomington and Normal



will contribute \$540,371.00 and \$301,693 respectfully. These funds are placed into the capital account and are not used for operations. The capital fund reserve is dwindling as well and with the delivery of four new buses in August and the final payment to CORE Construction the capital fund will have a balance of only \$1.6 million and be virtually depleted by FY13.

Based on the budget and estimated revenue the B-NPTS is requesting a contribution to the operation fund for FY12 of \$50,000.00 each. If finances improve, these monies will be returned to each municipality.

In the near future I would hope the municipalities would commission a study committee to investigate funding alternatives for the B-NPTS. As you probably are aware the primary election is March 20, 2012.

**Mayor Stockton introduced this item. He cited the impact of the recession. There were citizens who relied upon the Bloomington Normal Public Transit System, (BNPTS), for transportation to work. This was a one (1) time request for \$50,000.**

**Barbara Adkins, Deputy City Manager, addressed the Council. This request was for the J – Teal route. This route was needed but not self sufficient. BNPTS staff would evaluate its operations over the next year. She requested that Mr. Anderson, Interim Transit Director, be allowed to address the Council.**

**Dave Anderson, Interim Transit Director, addressed the Council. He commenced his duties at the end of January 2011. At the Transit Board's June 28, 2011 meeting, the Board approved hiring Andrew Johnson, new General Manager. Mr. Johnson had come highly recommended. He would look at the entire operation. The J – Teal route may be reconfigured. Transit staff would look at the options. He added that as an Interim Director he was instructed to not change the routes. The J – Teal had been a poor producer. A public hearing was held regarding this route and sixty (60) individuals were in attendance. They addressed their need for this route (employment). In addition, a number of handicapped individual also relied upon this route. He realized any change to the J – Teal was not a good idea. This route was within the City. The Board decided to request \$100,000 from the City and Town.**

**The new Director would examine all routes for efficiency and effectiveness. The Town as already approved a \$50,000 grant. The Board hoped to refund these dollars if the BNPTS became profitable.**

**Mayor Stockton did not believe that these dollars would be returned to the City. There were a number of citizens who were dependent upon this route. He hoped that some of businesses whose employees were dependent upon this route might also be willing to make a contribution.**

**Mr. Anderson informed the Council that a proposed new revenue stream would be advertisement on the buses. He added that this would be a policy change. The BNPTS had**

two (2) million riders last year. It was expensive to operate a transit system. He cited the cost to operate a new facility.

Alderman Purcell understood the use of the J – Teal route. He had reviewed the spreadsheets which were provided to the Council. He did not believe that the \$50,000 would be returned to the City.

Mr. Anderson informed the Council that the BNPTS budget showed income and expenses being equal. The budget was balanced with little room for error. The budget had been increased by 2.7%. At this time, the BNPTS has had to borrow from its capital fund while it waits for state and federal funding.

Alderman Purcell questioned the BNPTS' operating reserve. Mr. Anderson noted that there were little reserve dollars. The BNPTS had ordered four (4) new buses. He recommended that in the spring 2012, the City and Town needed to form a study committee to address the long term funding of the BNPTS. A sustainable revenue stream was needed. There were a variety of options, (property taxes, sales taxes, etc.).

Alderman Purcell addressed ridership. He questioned the use of a different vehicle. Mr. Anderson thought eliminating the J – Teal was a perfect solution. He added that John Zeunik, previous Interim Director, had the same idea. He addressed safety hazards, the need for lifts, the impact of mileage upon life expectancy, miles per gallon/fuel economy, fixed routes and vehicle wear and tear.

Alderman Purcell questioned the coming year. Mr. Anderson restated that the new Director would look at the entire system. He restated his concern regarding a revenue stream.

Alderman Mwilambwe thanked the BNPTS for the reconsideration. He addressed the promise of a return of these dollars. He questioned if this was a life time promise or if there was a sunset date. Mayor Stockton restated that it was unlikely that the City would see these dollars again.

Mr. Anderson reminded the Council that the Town and the City founded the BNPTS in 1972. Dollars from these two (2) entities have been placed in the BNPTS' Capital Fund. He restated the need for a solid consistent revenue stream for the BNPTS. If there were any excess funds, the dollars would be returned to the Town and City.

Alderman Mwilambwe noted the over time costs and the extended leaves. He questioned how the BNPTS planned to address same. Mr. Anderson noted that the leaves were medical related. For the first time in the BNPTS's history, eight (8) drivers were on leave at the same time. Three (3) part time drivers were hired. Union rules impacted the BNPTS' ability in this area.

Mayor Stockton noted that the main promise was that the new manager would complete a review of the systems operations. Mr. Anderson stated that the Board and new

Director were committed to same. Mayor Stockton requested that the new Director be introduced to the Council.

Alderman Fazzini noted that the J – Teal helped a certain number of people and employers.

Alderman Schmidt questioned the role of the special services bus. Mr. Anderson noted that the individual must have medical clearance. An appointment was needed. The system would be automated in the next sixty (60) days. This system would improve the efficiency/effectiveness of this program. Alderman Schmidt questioned if the special services bus could be used to replace the J – Teal. Mr. Anderson noted that there were too many individuals who qualify for special services. There was not enough capacity.

Alderman Schmidt questioned the subsidy level. Mr. Anderson did not have this information. He believed the figure would be high, (comparison of ridership to total expenses).

Alderman Sage requested clarification regarding bus route information. He specifically addressed the J – Teal. Route ridership was 1,600 or thirty (30) riders per week. He questioned self sustainability and revenue options. He questioned if there had been a discussion of priorities. There needed to be funds to cover expenses. He questioned the Board's actions prior to this request. Mr. Anderson stated that as many cuts as possible were made. Two (2) positions were eliminated, (Operations and Marketing).

Alderman Sage questioned delaying expenses. He questioned the Board's rigor and diligence before appearing before the Council. He wanted to be sure that all options had been explored. He also questioned the BNPTS' procurement policy. Mr. Anderson noted that the BNPTS had joined the State of Illinois Joint Purchasing Program. Part time drivers were hired to control overtime. Retreaded tires were being utilized.

Alderman Stearns questioned the cost of the new facility. Mr. Anderson stated \$8.3 million. Alderman Stearns questioned when it became obvious that the J – Teal route would need to be subsidized. She also cited the capital costs. Mr. Anderson noted that the J – Teal was an easy target. He restated that he became the Interim Director in January 2011. The budget had been reworked six (6) times. It had been a time consuming process.

Alderman Stearns addressed ridership and the actual number of people served. She expressed her appreciation for the BNPTS but she would not support this item. She noted the small number of people served. She described the J – Teal as a train wreck that was going to happen. Mr. Anderson recalled the public hearing and the people who attended same. This route was needed and the BNPTS decided to request a subsidy from the Town and the City.

Alderman Stearns questioned fare increases. Mr. Anderson stated that there would be a .50 increase for handicapped individuals. There was no fare increase for senior citizens.

Alderman McDade wanted to clarify her position. The BNPTS was moving forward. The City had a more complete picture of same. She requested that the Council continue to receive updates in the future. The Board had made a number of difficult decisions. The BNPTS was in a transition period. She described the BNPTS' position as unfortunate. The Board and BNPTS staff needed to address financial stability. The residents who need the system the most needed to be balanced with the funding gap. The BNPTS needed to determine best practices and funding subsidy. She planned to support this item and look forward to the future. She suggested that the BNPTS file an annual report with the Council. A joint work session could be scheduled in an effort to keep the Council apprised. She thanked Mr. Anderson for addressing the Council and hoped to see more of the BNPTS in the future.

Motion by Alderman Fazzini, seconded by Alderman Mwilambwe that the Grant be approved.

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:

Presentation - Financing for the Locust/Colton Combined Sewer Overflow Elimination and Water Main Replacement Project and Motor Fuel Tax Funding for Change Order #3.

Barbara Adkins, Deputy City Manager, introduced this item. She presented a brief history of this project. Tim Ervin, Finance Director, would make a presentation regarding the MFT (Motor Fuel Tax) Funding.

Mr. Ervin addressed the Council. In 1977, the State of Illinois began MFT funding in addition to sales taxes. MFT funds are restricted tax dollars. The dollars provided to the City are limited to road projects. The allocation is per capita which is based upon the US Census. The current rate was .20. These came from three (3) areas: 1.) .19 Motor Fuel Tax; 2.) .003 underground storage; and 3.) .008 environmental impact. A home rule community can levy an additional tax which could be used to fund street improvements. The accounting for this special revenue fund was audited by the City and the state. The City's allocation was flat. He cited the impact of fuel efficient vehicles. Under state statute, the City may not have a deficit in its MFT Fund. It cannot over spend MFT dollars, (i.e. \$2 million in revenue equaled \$2 million in expenditures). He reviewed the chart of significant projects. The City must build up the fund prior to the expenditure. He addressed the 2013 – 2014 fiscal year. He presented the accounting by line for the next three (3) years. He noted the recent \$325,000 distribution from the state's capital bill.

Alderman Fazzini stated that the City could follow the City of Champaign and add a City MFT tax. He questioned how many gallons of gasoline would need to be sold to generate \$1 million. He hoped consideration would be given to this idea.

Mayor Stockton believed that the timing was bad to consider such a tax. He cited fuel costs. He acknowledged that such a tax could be tied to street repair projects.

Alderman Stearns believed that such a tax would impact gasoline sales. Jim Karch, Director – Public Works, addressed the Council. Champaign started with .02 and has added .02 per year. There had not been a major impact. Restrictions were placed upon these funds.

Ms. Adkins noted that no research had been done by City staff. This tax could be a part of the Fiscal Year (FY) 2013 budget discussion.

Mayor Stockton questioned if the City could complete all of the projects and maintain a positive fund balance. Mr. Ervin stated it would only be possible with additional dollars from the state. Mayor Stockton recommended that the Council readdress this issue in the future.

Alderman McDade addressed street conditions. With the exception of FY 2013, there would be no increase in funding. She cited the needed street repairs. There would not be additional MFT dollars available. In addition, there would not be any funds available for street resurfacing. MFT Funds would not be an available funding source during FY 2012 and FY 2013. The City needed to find a revenue source for road projects.

Mayor Stockton believed that there were other revenue sources for street resurfacing. Mr. Ervin noted that the City has used General Fund dollars in addition to MFT funds. FY 2012 would use \$2.5 million in General Fund dollars. The City has used expenditure reduction and needed to consider revenue enhancement. Mayor Stockton believed that future MFT projects needed to be defined.

Alderman Purcell noted that the City had General Fund dollars budgeted for street projects. He questioned the impact of this change order on the General Fund and MFT Fund. He recommended that if there were dollars remaining this year, these funds should be used for road projects. Mr. Ervin stressed that using fund balance dollars as a revenue source for street resurfacing was not sustainable. The Council needed a plan for street resurfacing.

Alderman Anderson expressed his opinion that the MFT Fund needed to be rebuilt.

Alderman Fazzini cited deferred maintenance costs. Mr. Karch stated that \$40 million was needed. He recommended that the annual expenditure for street projects be set at \$4 – 5 million. This would allow the City to maintain streets at a fair rating. MFT dollars were needed for larger infrastructure projects. There were a number of wants versus needs. The City cannot do all. The City needed to look for a funding source for

street projects. Alderman Fazzini restated that the City should look at an increase to MFT as a possibility. The City's goal should be to maintain streets at an average rating. Mr. Karch noted that these figures were eighteen (18) months old. The numbers would change. Alderman Fazzini added that all City streets had been rated. He encouraged the Council to think big picture.

Alderman Stearns noted that the figures were sizeable. She added that the FY 2012 budget included \$2 million in MFT Funds and \$2.5 million in General Funds. Any project savings could be directed towards streets.

**The following was presented:**

SUBJECT: Change Order No. 3 to the Professional Services Agreement with Clark Dietz, Inc. for the Phase 1 Locust Street Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project Design

**RECOMMENDATION:** That the Change Order to the Contract with Clark Dietz, Inc. for the Phase 1 Locust Street Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project Design in the amount of \$116,800 be approved and the Resolutions adopted.

**BACKGROUND:** On June 27, 2011, Council had discussion regarding the improvement of Country Club Pl., and Mercer Ave. as part of the Phase 1 Locust Street CSO Elimination and Water Main Replacement Project, two (2) options were presented.

**Option 1:**

Complete street reconstruction of approximately 4,000 feet of Country Club Pl. and Mercer, from Towanda to Washington.

Cost of complete street reconstruction -	\$2,100,000	
Costs already covered under IEPA loan project -	<u>\$1,300,000</u>	(1.25% interest, 25% principal forgiveness)
Cost remaining to be covered by non-loan funds -	\$800,000	(\$610,000 pavement, \$190,000 street lights)

**Option 2:**

Includes all of Option 1 plus Perrin Ave. to Jefferson St. and 400' of North Country Club Pl., for a total of approximately 5,700 feet.

Cost of complete street reconstruction -	\$2,500,000	
Costs already covered under IEPA loan project -	<u>\$1,450,000</u>	(1.25% interest, 25% principal forgiveness)
Cost remaining to be covered by non-loan funds -	\$1,050,000	(\$850,000 pavement, \$200,000 street lights)

Previously, the Illinois Environmental Protection Agency (IEPA) was not allowing loan funds to repair street surface that was outside the trench for proposed sewer and water main construction. However, the IEPA has recently changed their decision and will now allow loan funds to restore the entire street surface when excessive trench width leaves only narrow strips of existing pavement. The IEPA has now approved complete surface repair on Country Club Pl., and Mercer, between Perrin and Washington. IEPA has also approved loan funds for replacement of the north curb & gutter of Country Club Pl., between Perrin and Mercer.

Staff recommends that Option 1 be included in the IEPA loan project to provide complete street reconstruction following the extensive underground sewer and water main installation that will cut up Country Club Pl. and Mercer Ave.

This takes advantage of the favorable loan terms from the IEPA that includes an interest rate of one and a quarter percent (1.25%) and forgiveness of a quarter percent (25%) of the loan principle.

Country Club Pl., and Mercer Ave. have pavement ratings of 3 (Poor). As a reference, simply overlaying this stretch of Country Club Pl., on the City's Resurfacing Contract, would cost approximately \$300,000. The existing stone curb & gutter is broken in several locations, and asphalt has been filled into the flow line of the gutter. It does not perform well in conveying storm water to the inlets. Street light replacement is also recommended as the existing system is functionally obsolete. Replacement bulbs for the existing poles are available from only one (1) source, and new bulbs are burning out in about thirty (30) days. The new street light poles would be the standard black ornamental of the type that is in use in the Downtown area.

In order to incorporate complete street reconstruction plans in the project, the engineering design consultant, Clark Dietz Inc., will have to expend additional effort to survey and design the improvements. Clark Dietz has provided a proposal to provide this additional survey and design work, for Option 1, at a cost not exceed \$92,100. This amount is not loan eligible, but will be paid with Motor Fuel Tax (MFT) Funds. In addition, the design fee amendment also includes easement appraisal and acquisition work in the amount of \$24,700. This amount *is* loan eligible, (25% principle forgiveness and 1.25% interest), and will be reimbursed by the IEPA.

Staff has reviewed the charges for additional design services and found them to be reasonable. The increased design cost is necessary to include complete Country Club Pl., reconstruction plans in the bidding documents. To pay Clark Dietz, Inc. for these increases in design scope, the current agreement with the firm now needs to be updated to include the additional \$116,800 in design cost, summarized as follows:

<b>Fund</b>	<b>Account</b>	<b>Original Contract 10/22/2007</b>	<b>Change Order 1 10/11/2010</b>	<b>Change Order 2 02/28/2011</b>	<b>Change Order 3 07/11/2011</b>	<b>Total</b>
Water	50100-70050	\$175,000	\$27,300	\$31,300	\$0	\$233,600
Sewer	52100-70050	\$100,000	\$51,400	\$59,000	\$12,350	\$222,750
Storm Water	55100-70050	\$30,000	\$17,200	\$19,700	\$12,350	\$79,250
MFT	20300-72530	\$0	\$0	\$0	\$92,100	\$92,100
<b>Total</b>		<b>\$305,000</b>	<b>\$95,900</b>	<b>\$110,000</b>	<b>\$116,800</b>	<b>\$627,700</b>

The non-loan eligible cost for construction of Option 1 (\$800,000) is not in the City budget. Staff has explored the use of MFT Funds to pay construction costs. In order to receive IEPA loan funds, bids must be presented to IEPA for approval by the end of August, 2011. While the use of MFT Funds for design cost is permissible, the normal procedure for utilizing MFT Funds for construction cost includes a time frame for Illinois Department of Transportation (IDOT) plan review that extends beyond the IEPA deadline for presenting bids.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** A public meeting was held on June 9, 2009 for affected residents to learn about the CSO Elimination project and to ask questions. Another public meeting will be scheduled in July, 2011 to update the residents on the project and allow them to ask questions. The City has been meeting individually with District 87 Schools and the Bloomington Country Club.

**FINANCIAL IMPACT:** The Professional Services Agreement with Clark Dietz, Inc., for the Phase 1 Locust Street CSO Elimination and Water Main Replacement Project design, needs to be increased \$116,800 to a total cost not to exceed of \$627,700. Payment for this design will be made from City funds as follows, with \$24,700 of these costs later being reimbursable under the IEPA loan when it is awarded:

SDF (52100-70050)	\$ 12,350	Public Works Department
SWDF (55100-70050)	\$ 12,350	Public Works Department
MFT (20300-72530)	<u>\$ 92,100</u>	Public Works Department

Total Increase in Design Fee \$116,800. The increase in design fee is not included in the FY 2012 budget. The estimated construction cost of this project is not included in the FY 2012 budget.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

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

Timothy Ervin  
Director of Finance

David A. Hales  
City Manager



**RESOLUTION NO. 2011 - 31**

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$116,800 WITH CLARK DIETZ, INC., FOR THE PHASE 1 LOCUST STREET COMBINED SEWER OVERFLOW (CSO) ELIMINATION AND WATER MAIN REPLACEMENT PROJECT DESIGN**

WHEREAS, the City of Bloomington has previously entered into a contract with Clark Dietz, Inc. for the Phase 1 Locust Street Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project Design; and

WHEREAS, for the reasons set forth in a staff report dated July 11, 2011 it was necessary to complete street reconstruction of approximately 4000 feet of Country Club Pl., and Mercer, from Towanda to Washington; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the July 11, 2011 memo was in the best interest of the citizens of the City of Bloomington.

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

That a change order in the amount of \$116,800 with Clark Dietz, Inc. for the Phase 1 Locust Street Combined Sewer Overflow (CSO) Elimination and Water Main Replacement Project Design be approved.

ADOPTED this 11<sup>th</sup> day of July, 2011.

APPROVED this 12<sup>th</sup> day of July, 2011.

APPROVED:

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

(IDOT RESOLUTION 2011 – 32 ON FILE IN CLERK’S OFFICE)

**Jim Karch, Director – Public Works, addressed the Council. He cited the June 27, 2011 presentation to the Council regarding this item. He noted the impact upon Country Club Pl. Loan funds would be used to reconstruct the street. The City needed to move**

quickly due to the September 2011 timeframe. MFT Funds would be used to address the difference. Option 1 included the street, curb & gutter and street lights. He provided additional information regarding street lights. There were twelve (12) existing street lights. Approximately ten (10) bulbs were replaced each month. Looking long term, these bulbs will not be available. He estimated the annual costs at \$7,000. He also noted the dangerous voltages. There is another similar system left in the City. The new system would cost \$190,000.

Alderman Sage noted the thirty (30) year pay back. Mr. Karch restated that the existing system was not maintainable long term.

Alderman Sage cited the improved communication and cooperation between the departments. He appreciated staff's efforts.

Alderman Stearns questioned the street lights' appearance. Mr. Karch noted that they would be decorative. The system would be similar to those in the Downtown, (single bulb posts). Alderman Stearns was pleased with this project. She questioned if input had been sought from the residents along Country Club Pl. Mr. Karch noted that a public meeting was scheduled for Tuesday, July 26, 2011 from 5:30 to 7:30 p.m. at the Bloomington Center for the Performing Arts. City staff's goal was consistency for alternative light systems.

Alderman Stearns wanted to make clear that IEPA loan funds would be used to address what would have been an unsightly patched street. This change order would address what would have been a missed opportunity.

Mayor Stockton believed that the Council may have felt pushed into this item. In the long term, this was the best decision. In the short term, there were cash concerns.

Motion by Alderman Stearns, seconded by Alderman Fazzini that the Change Order be approved and the Resolutions adopted.

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: Amendment to Chapter 40 of the Bloomington City Code Regulating Vehicles for Hire

**RECOMMENDATION** That the Text Amendment be approved and the Ordinance passed.

**BACKGROUND:** Chapter 40 of the City Code regulates taxicabs, vehicles for hire and limousines operating within the City. Chapter 40 requires that taxicabs and vehicles for hire be registered, obtain permits to operate, and be inspected twice annually to ensure safe and sanitary operation. (Limousines, while defined under the ordinance, are largely regulated by State law.)

The proposed ordinance amends Chapter 40 as follows:

- Sections 501 and 1010 are amended to provide for inspections of vehicles to occur in the months of December and June rather than in January and July of each year.
- The penalty for illegal operation of a taxicab is increased to require a fine of from \$250 to \$1,000 for the first offense and fines of from \$500 to \$3,000 for second and subsequent offenses. The amendment further provides that vehicles operating as illegal taxicabs may be impounded by the police and shall not be released prior to the payment of a release fee of \$10, an impoundment fee of \$250 and all towing company fees. The ordinance presently has a minimum fine of \$10. The increased penalties will serve to encourage compliance and deter illegal operation.
- Fines pertaining to other offenses listed in Article VII, which pertains to taxicabs, are increased to provide for minimum fines of not less than \$100 per offense. At present, this section of the ordinance, which was last amended in 1989, provides for a minimum fine of not less than \$10 per offense.
- Section 1031 is deleted as being in conflict with Section 1011.

The proposed ordinance also amends Chapter 1, Section 9 which provides for settlement of ordinance violations by payment of fines at City Hall, to increase fines consistent with those provided for in the proposed amendments to Chapter 40.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** On May 18, 2011, these proposed changes were discussed without objection at the quarterly meeting of the Vehicles for Hire owner's group, which includes both taxicabs and vehicles for hire owners.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

George D. Boyle  
Asst. Corporation Counsel

Barbara J. Adkins  
Deputy City Manager

David A. Hales  
City Manager

**ORDINANCE NO. 2011 - 33**

**AN ORDINANCE AMENDING BLOOMINGTON  
CITY CODE CHAPTERS 1 and 40**

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

SECTION 1. That Bloomington City Code Chapter 1, Section 9 shall be and the same is hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

	<u>Chp.</u>	<u>Sec.</u>	<u>Amount</u>
28. Taxicabs.	40	All*	<del>\$50.00</del> <u>\$100.00</u>
*Except as noted below.			
a. Certificate of Convenience Required.	40	201	\$250.00
b. Vehicles for Hire	40	Article X	\$250.00
c. <u>Illegal Operation of a Taxicab</u>	40	701	\$250.00

SECTION 2. That Bloomington City Code Chapter 40, Article V, Section 501 shall be and the same is hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

**SEC. 501 VEHICLES - LICENSE REQUIRED.**

(a) Vehicles Must be Licensed. Prior to the use and operation of any vehicle under the provisions of this Ordinance and during the months of December ~~January~~ and June ~~July~~ of each year, every vehicle shall be thoroughly examined and inspected by the Police Department and found to be satisfactory in regard to the following:

- (1) Steering;
- (2) Brakes;
- (3) Speedometer;
- (4) Lights;
- (5) Tires;
- (6) Horn;
- (7) Exhaust system;
- (8) Rear view mirror;

- (9) Windshield wipers;
- (10) Approved taximeter in good condition;
- (11) Properly licensed by State of Illinois;
- (12) Rate card;
- (13) Otherwise clean, sanitary and safe for the transportation of passengers;
- (14) State Sticker showing proof of insurance;
- (15) Seat belts for all authorized passengers which seat belts must not be pushed under seats where they would not be in plain view;
- (16) No crack in a window which cannot be covered by a 1" disk (State law - a quarter);
- (17) No body damage or condition shall be allowed to remain which would cost in excess of \$250.00 on the regular body work market or which presents sharp edges or other dangerous conditions to passengers;
- (18) Every vehicle shall have a lighted sign on its roof identifying it as a taxi and it shall be regulated by the meter to the extent that it is on when the meter is not running and off when the meter is running.

As part of this examination, every vehicle must pass the safety test provided by an official Illinois testing station as established by the Illinois Compiled Revised Statutes. A Bloomington Police Officer and the person who brings the vehicle to the Police Department for testing shall both go to the official testing station for said test and the test shall be paid for at that time by said person. If the taxicab passes both the City test and the official Illinois test, the sticker of safety by the official testing station or at the election of the Police Department a sticker issued by the City shall be affixed to said taxicab and it shall at all times be displayed on said taxicab. No sticker issued during the first six (6) months of any year shall be of any effect after ~~July~~ August 1st of that year and no such certificate issued during the second six (6) months of any year shall be of any effect after ~~January~~ February 1st of the following year. No taxicab shall be operated upon the streets, alley, or public places of said City without having been tested as herein required or without having said sticker displayed on said taxicab.

When the Police Department finds that a vehicle has met the standards the Department shall also issue a certificate to that effect, which shall also state the authorized seating capacity of said vehicle.

(b) Periodic Inspections. Every vehicle operating under this Ordinance shall be inspected every six (6) months by the Police Department as provided for herein. However, the

City Manager shall have authority to order an inspection at any time to insure the continued maintenance of safe operating conditions.

(c) Vehicles Must be Kept in a Clean and Sanitary Condition. Every vehicle operating under this Ordinance shall be kept in a safe, clean and sanitary condition at all times to conform to the standards above.

SECTION 3. That Bloomington City Code Chapter 40, Article VII, Sections 701, 702, 703, and 704 shall be and the same is hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

SEC. 701 ~~704~~ ILLEGAL OPERATION OF TAXICAB.

~~It is illegal for and a~~ A person commits the offense of illegal operation of a taxicab if:

(a) Without a valid effective certificate of public convenience the person operates or drives a taxicab or allows another person to operate or drive a taxicab; or

(b) The person operates or drives a taxicab without a valid operator's license from the State of Illinois or without a valid taxicab driver's permit from the City of Bloomington, or allows another person to do so; or

(c) The person operates or drives or allows another to operate or drive a taxicab which lacks proper State of Illinois license plates or City of Bloomington taxicab plates; or

(d) The person operates or drives or allows another to operate or drive a taxicab with a taximeter which is disconnected from the transmission or front wheels.

SEC. 702 ~~704~~ FILING FALSE APPLICATION.

A person commits the offense of filing a false application if he knowingly makes a misstatement of fact on any application for a certificate of public convenience or a taxicab driver's permit. Based on the applicant's access to such information, any misstatement of fact on any such application shall be presumed to have been knowingly made unless the applicant can prove that such misstatement was not knowingly made. (Ordinance No. 1978-76)

SEC. 703 ~~702~~ ILLEGAL TRANSFER OF CERTIFICATE.

It is illegal for and a person commits the offense of illegal transfer of certificate if he assigns, sells, pledges, gives, or otherwise transfers his certificate of public convenience to another person other than in compliance with Section 209.

For purposes of this Section, the following shall be deemed to be a transfer within the meaning of this Section:

(a) Corporations: The addition, removal, or substitution of any officer or director, or the transfer of 25% or more of any class of stock.

(b) Partnerships: The addition, removal, or substitution of any partner. (Ordinance No. 1989-31)

SEC. ~~704~~ ~~703~~ ILLEGAL USE OF TAXICAB LICENSE PLATES.

It is illegal for and a person commits the offense of illegal transfer of plates if he transfers or allows to be transferred a City taxicab license plate from one vehicle to another other than in compliance with Section 302.

SECTION 4. That Bloomington City Code Chapter 40, Article VII, Section 718 shall be and the same is hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

SEC. 718 PENALTY.

(a) The penalty for operation of an illegal taxicab as described in Section 701 of this Article shall be a fine of not less than \$250.00 nor more than \$1,000.00 for the first offense and a fine of not less than \$500.00 nor more than \$3,000.00 for second and subsequent offenses. Vehicles operating as illegal taxicabs may be impounded by the police and shall not be released prior to the payment of a release fee of \$10.00, an impoundment fee of \$250.00 and the paying of all towing company fees. In addition, anyone found to have illegally operated a taxicab is subject to having their certificate or driver's permit suspended or revoked. A separate offense shall be deemed committed each day during or which an offense occurs or continues.

(b) For all offenses enumerated in this Article, with the exception of Section 701, the penalty shall be a fine of no less than \$100.00 and no more than \$500.00 for each offense. In addition to said fine, violators may have their certificate or driver's permit suspended or revoked. It is illegal for any person to commit any offense enumerated in this Article, and instead of or in addition to having one's certificate or driver's permit suspended or revoked a person may be fined not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) for each offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

SECTION 5. That Bloomington City Code Chapter 40, Article X, Section 1010 shall be and the same is hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

SEC. 1010 VEHICLES FOR HIRE - LICENSE REQUIRED.

(a) Vehicles Must be Licensed. Prior to the use and operation of any vehicle under the provisions of this Article and during the months of December ~~January~~ and June ~~July~~ of each year, every vehicle shall be thoroughly examined and inspected by the Police Department and found to be satisfactory in regard to the following:

- (1) Steering;
- (2) Brakes;
- (3) Lights;
- (4) Tires;
- (5) Horn;
- (6) Exhaust system;
- (7) Rear view mirror;
- (8) Windshield wipers;
- (9) Properly licensed by State of Illinois;
- (10) Otherwise clean, sanitary and safe for the transportation of passengers;
- (11) State Sticker showing proof of insurance;
- (12) No crack in a window which cannot be covered by a 1" disk (State law - a quarter);
- (13) No body damage or condition shall be allowed to remain which would cost in excess of \$250.00 on the regular body work market or which presents sharp edges or other dangerous conditions to passengers.

As part of this examination, every vehicle must pass the safety test provided by an official Illinois testing station as established by the Illinois Compiled Statutes. If the vehicle complies with the City standards set forth above and passes the official Illinois test, the sticker of safety by the official testing station and a sticker issued by the City shall be affixed to said vehicle and it shall at all times be displayed on said vehicle. No sticker issued during the first six (6) months of any year shall be of any effect after July ~~August~~ 1st of that year and no such certificate issued during the second six (6) months of any year shall be of any effect after January ~~February~~ 1st of the following year. No vehicle for hire shall be operated upon the streets, alley, or public places of said City without having been tested as herein required or without having said sticker displayed on said vehicle. A fee of \$10.00 shall be paid to the City for each such certificate.

- (b) Periodic Inspections. Every vehicle operating under this Ordinance shall be inspected every six (6) months by the Police Department as provided for herein. However, the City Manager shall have authority to order an inspection at any time to insure the continued maintenance of safe operating conditions.
- (c) Vehicles Must be Kept in a Clean and Sanitary Condition. Every vehicle operating under this Ordinance shall be kept in a safe, clean and sanitary condition at all times to conform to the standards above.

SECTION 6. That Bloomington City Code Chapter 40, Article X, Section 1031 shall be repealed: (additions are indicating by underlining; deletions are indicated by strikeouts):



~~SEC. 1031 PENALTY.~~

~~It is illegal for any person to commit any offense enumerated in this Article, and instead of or in addition to having one's certificate or driver's permit suspended or revoked a person may be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.~~

SECTION 7. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 8. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 9. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 10. This Ordinance shall go into full effect 10 days after the date of its publication.

PASSED this 11<sup>th</sup> day of July, 2011.

APPROVED this 12<sup>th</sup> day of July, 2011.

APPROVED:

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Barbara Adkins, Deputy City Manager, addressed the Council. She provided a brief history of this item. She cited the quarterly meetings involving City staff and the taxicab and vehicle for hire companies. The Text Amendment addressed vehicle for hire units which have been operated as a taxicab. The time line for vehicle inspection has been approved. She cited illegal operations on Thursday, Friday and Saturday nights plus additional approved days. The fine would act as a deterrent. The Police Department would have the authority to impound a vehicle until the fine is paid. The fine would increase to \$100.**

**George Boyle, Asst. Corporation Counsel, addressed the Council. The Text Amendment would clean up inconsistency. It would also insure compliance regarding inspection and registration. It addressed safety.**

**Alderman Sage expressed his appreciation of staff's efforts on this item. There had been a change in the City's culture. Stakeholders have been engaged. Staff used a balanced approach. He acknowledged staff's efforts. Ms. Adkins noted the team approach used which included the City's Corporation Counsel Office, Clerk's Office and Police Department.**

**Alderman Purcell believed that the Text Amendment would improve operations and lead to safe transportation.**

**Motion by Alderman Fazzini, seconded by Alderman Schmidt that the Text 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.**

**MAYOR'S DISCUSSION: Mayor Stockton had heard positive comments about the Fourth of July Fireworks which included crowd and traffic control.**

**He informed the Council that the Liquor Commission would be meeting the next day. He reviewed the meeting agenda and invited the Council to attend same. This would be the Commission's first meeting since the Council's June 27, 2011 meeting. He hoped to have a discussion with the Commission. He believed that conditions could be broken down into three (3) categories: 1.) prelicense; 2.) operating; and 3.) display limitations. An additional discussion item was enforcement by the Commission. He also addressed restaurant license revenues and a requirement for an annual report. The Commission would have the authority to require a follow up audit. This work would require retaining a professional outside auditor.**

**CITY MANAGER'S DISCUSSION: None.**

**ALDERMEN'S DISCUSSION: Alderman Mwilambwe thanked the City's department heads for the time spent with him. He was impressed by same.**

**Alderman Stearns extended her appreciation to Randy McKinley, Police Chief. She cited the solutions/results achieved on a block of E. Monroe St.**

**Alderman McDade was impressed with the Public Works crews. She cited the employees' attitudes. These employees performed well.**

**Alderman Schmidt thanked the Liquor Commission for reviewing the Downtown Entertainment Task Force (DETF) report. She had also been contacted by David Hales, City Manager. She appreciated the response by City staff.**

**Alderman Purcell thanked the Public Works Department for the street projects being completed in his ward.**

**Alderman Fazzini recognized Randy McKinley, Police Chief, for the Police Department's effort regarding Todd Dr.**

**He echoed Alderman Mwilambwe's comments regarding the City's department heads.**

**Finally, he noted the Council/City department head challenge in the Mile Per Day Employee Wellness Challenge.**

**Alderman Fruin had several comments regarding the liquor items that had appeared on this evening's meeting agenda. Direction for the Liquor Commission and City Council would wait for another evening.**

**Alderman Fruin noted the interesting dynamics. The Commission's discussion should address various concerns. There were several issues which needed to be addressed. He hoped that the Commission would progress quickly. He believed that the Council's action on the application of Sidetracked (laid over until August 8, 2011), was correct. He acknowledged that the interim involved uncertainty.**

**Mayor Stockton noted the time spent on this application. The Commission was interested the Council's specific concerns. He had reviewed the Joint Meeting minutes. The DETF had been formed and a report had been filed.**

**Alderman Fruin believed that the issue was consistency. He cited Price Rite and Fast Stop. He acknowledged that there was subjectivity involved.**

**Mayor Stockton noted that Commission recommendations were dependent upon the area. The Commission considered the environment. Conditions can vary with the application. He cited cold single serve sales as an example.**

**Motion by Alderman Purcell, seconded by Alderman Fazzini, that the meeting be adjourned. Time: 10:11 p.m.**

**Motion carried.**

**Tracey Covert  
City Clerk**