

**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 7:31 p.m., Monday, October 25, 2010.

The Meeting was opened by Pledging Allegiance to the Flag followed by moment of silence.

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, Bernie Anderson, David Sage, John Hanson, Jennifer McDade, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

Alderman absent: Kevin Huette.

City Manager David Hales, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

Mayor Stockton recognized Boy Scouts, Troup 94, observing tonight's Council meeting to receive their Government Merit Badges.

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

The following was presented:

SUBJECT: Executive Session Minutes of September 27, 2010 and Citizen Voice Minutes of August 16, 2010

RECOMMENDATION: That the reading of the minutes of the previous Executive Session of September 27, 2010 and Citizen Voice of August 16, 2010 of be dispensed with and the minutes approved as printed.

BACKGROUND: The Executive Session Minutes of September 27, 2010 and Citizen Voice Minutes of August 16, 2010 of have been reviewed and certified as correct and complete by the City Clerk.

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 Hanson, seconded by Alderman McDade that the reading of the minutes of the previous Executive Session of September 27, 2010 and Citizen Voice of August 16, 2010 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, Schmidt, McDade, Anderson, Hanson, 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.

BACKGROUND: The list of bills and payrolls will be posted on the City's website on Thursday, October 21, 2010 by posting via the City's web site.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Total disbursements information will be provided via addendum.

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 Hanson, seconded by Alderman McDade that the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids and Approval of Contract for 2010 Sump Pump Drainage System (City Wide)

RECOMMENDATION: That the bid for 2010 Sump Pump Drainage System (City wide) be awarded to George Gildner, Inc., in an amount not to exceed \$50,000, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The current fiscal year budget includes \$50,000 for the installation of sump pump drainage system improvements throughout the City. The improvements involve the installation of drain tiles for the collection of sump pump discharges at locations throughout the City. The tiles are connected to the existing storm sewer system. Existing sump pump discharge pipes from private properties are connected and service tees are provided for future connections. The work minimizes sump pump discharge water onto City streets and sidewalks which can create hazards, especially during the winter. The locations are determined based upon problems discovered by City inspection personnel and requests from residents.

On October 4, 2010, two (2) bids were received and opened at 2:00 p.m. in the City Council Chambers. Since the low bid is under budget and the project bid documents allow the addition of sump pump improvement locations, a contract for the entire budget amount will be awarded.

George Gildner, Inc.	\$ 45,308
Stark Excavating, Inc.	\$ 66,202
Engineer's Estimate	\$ 49,994
Budget (Sump Pump Drainage System)	\$ 50,000

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The total dollars allocated for this project are \$50,000. Although the low bid and engineer's estimate differ from this amount, the project will be expanded to the total budget amount. Payment to the contractor will be from Storm Water Management Funds (X55200-72550).

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

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

Tim Ervin
Director of Finance

David A. Hales
City Manager

Motion by Alderman Hanson, seconded by Alderman McDade that the bid for 2010 Sump Pump Drainage System (City wide) be awarded to George Gildner, Inc. in an amount not to exceed \$50,000, 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, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Purchase of Automated Key Control System

RECOMMENDATION: That an Automated Key Control System be purchased from Key Trak, Inc, in the amount of \$11,238, the Purchasing Agent be authorized to issue a purchase order for same, and the Resolution adopted.

BACKGROUND: The Police Department has struggled for years to find an adequate method to secure keys to vehicles and other high security assets such as evidence storage facilities, weapons storage, and office facilities. Keys are commonly lost to vehicles which require replacement at a cost of \$30 to \$120 depending on which keys are missing. There is no accountability as to who is in possession of a key to a particular piece of equipment or facility, resulting in lost time for others attempting to use the equipment or gain access to the facility. Keys to sensitive areas are currently locked away where access when needed is greatly diminished due to a lack of a secure system to maintain and track the key's location.

Staff researched available systems that would meet the need for access and accountability of these keys. There were very few of these types of key control systems available and the proposed system met all of the needs of the Department. Those needs required that the system have the ability to have varying levels of access and that the user be required to input some form of identifying information before accessing the system.

The proposed system requires users to input identifying information by way of biometric information or a combination user name and password, which in turn allows access to the keys that have been approved for their possession. It prevents users from taking multiple keys unless they are granted permission to do so. It also allows for audit reports to track who is using keys and what time periods those keys are in use. This allows for better accountability of the equipment due to the fact that the users are known at any given time. This system also allows for keys to sensitive areas to be readily accessible in the event of an emergency situation.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: This purchase was the subject of a Public Hearing on July 9, 2010, as a part of the grant submission process. At the public hearing there were no comments in opposition to the purchase of this particular equipment.

FINANCIAL IMPACT: This equipment would be purchased using funds from the 2010 Justice Assistance Grant (JAG) that have been approved for this purpose in account #G15110-72140. This purchase is a part of the grant application which did specify this equipment. The JAG grant received for the City's use was in the amount of \$29,417.80. The funding from this grant allows the City to purchase equipment that might otherwise not be purchased due to budget constraints. Grantees must submit a prepared list of items they wish to purchase and the list must be approved by the grantor. This grant is shared with the McLean County Sheriff's Department and also allows them purchase equipment that fits their needs. The Sheriff's Department's portion of the grant award was \$28,654.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Randall D. McKinley
Chief of Police

Tim Ervin
Director of Finance

David A. Hales
City Manager

RESOLUTION NO. 2010 - 36

A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND AUTHORIZING THE PURCHASE OF AN AUTOMATED KEY CONTROL SYSTEM FOR THE POLICE DEPARTMENT FROM KEY TRAK, INC, IN THE AMOUNT OF \$11,238

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 an Automated Key Control System for the Police Department from Key Trak, Inc, in the amount of \$11,238.

ADOPTED this 25th day of October, 2010.

APPROVED this 26th day of October, 2010.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Hanson, seconded by Alderman McDade that an Automated Key Control System be purchased from Key Trak, Inc. in the amount of \$11,238, the Purchasing Agent 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, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Change Order to a Professional Services Agreement with the Farnsworth Group, Incorporated (FGI) for Design Services for the Replacement of the Water Main on Illinois Street

RECOMMENDATION: That the Change Order in the amount of \$23,300 be approved and the Resolution adopted.

BACKGROUND: In early 2010, as part of the Illinois Street water main replacement project, staff requested changes to the plans prepared by FGI in 2008, under a professional services agreement approved by Council on April 13, 2008. These changes involved the reconfiguration of a connection to the future Dr. Martin Luther King, Jr. roadway and the realignment of the water main to avoid some utility conflicts.

The plans were approximately ninety percent (90%) complete when staff requested a change order to make the requested changes, to provide assistance with preparation of specifications, project bidding, and to provide construction observation for the job, when bid. Staff received a proposal for this work in a total amount of \$23,300, \$3,700 for the specification preparation and bidding assistance, and \$19,600 for construction observation.

Staff has worked diligently to provide construction observation in house and has been able to do so for several recent construction projects. The Prairie Street water main replacement project and the Graham Street water main replacement project were inspected by staff. The workload for inspection of the Illinois Street water main project, and its timing with other projects make it difficult to provide in house inspection services. The Graham Street water main replacement project is nearly complete, the Greenwood Avenue water main replacement project is just starting and the 2010 fire hydrant inspection program is still in progress.

Additionally, the contractor on this job is new to working in the City. Staff does not have experience with this contractor, and believes that it is critical to provide close construction observation. Staff respectfully recommends that a Change Order for professional services in the amount of \$23,300 be approved for this project to be paid for with funds from the Water Department/Depreciation Fund, Consultant Services (Account # X50200-72540).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This change order will require the payment of \$23,300 from the Water Fund, Depreciation, Consultant Services X50200-72540. The Water Fund has a positive balance. The construction of this water main project was included in the FY 2010-2011 capital budget for the Water Department in the amount of \$250,000.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Craig M. Cummings
Director of Water

Tim Ervin
Finance Director

David A. Hales
City Manager

RESOLUTION NO. 2010 - 37

A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$23,300 IN THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BLOOMINGTON AND THE FARNSWORTH GROUP, INCORPORATED (FGI) FOR DESIGN SERVICES FOR THE REPLACEMENT OF THE WATER MAIN ON ILLINOIS STREET

WHEREAS, the City of Bloomington has previously entered into a Professional Services Agreement between the City of Bloomington and the Farnsworth Group, Incorporated (FGI) for Design Services for the Replacement of the Water Main on Illinois Street; and

WHEREAS, for the reasons set forth in a staff report dated October 25, 2010 it was necessary to make the requested changes, to provide assistance in the preparation of specifications, and bidding of the project, and to provide construction observation for the job, when bid; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the October 25, 2010 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 \$23,300 in the a Professional Services Agreement between the City of Bloomington and the Farnsworth Group, Incorporated (FGI) for Design Services for the Replacement of the Water Main on Illinois Street be approved.

ADOPTED this 25th day of October, 2010.

APPROVED this 26th day of October, 2010.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Hanson, seconded by Alderman McDade that the Change Order in the amount of \$23,300 be approved and the Resolution adopted.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Extension of Fuel Agreement for Fleet Vehicles and Equipment

RECOMMENDATION: That the Fuel Purchasing Agreement with Evergreen FS be extended for one (1) year and the Purchasing Agent authorized to issue a Purchase Order for same.

BACKGROUND: In 1999, the City fuel contract was let out for bid and awarded to Evergreen FS for a three (3) year period. From 2002 to 2008, the contract was extended in two (2) year intervals after checking with other vendors to see if the current vendor was competitive. On February 11, 2008, Council approved an extension with Evergreen FS until April 30, 2009. On December 9, 2008, a bid package was let out for the City's annual fuel purchase and only one (1) bid package was returned. At the January 12, 2009 Council meeting, the bid was opened and staff recommended the bid be awarded to Evergreen FS from May 1, 2009 to December 31, 2010 with four (4), one (1) year renewal options. Staff emphasized the best time to purchase fuel was January and February.

Evergreen FS has met all specifications of the current contract. These services include, bulk fuel transport to the bulk tank at the Public Works fuel station, deliveries to various smaller fuel tanks at the parks, golf courses, emergency generators, and to fire apparatus at working fires. It also includes a fuel card to purchase fuel from local FS stores when the Public Works Department fuel station is out of service for maintenance. Evergreen FS offers a fuel risk management program that allows schools and municipalities to pool their fuel purchases for volume discounts and guaranteed fuel costs. Evergreen FS provides fuel storage tank sampling and testing with storage tank maintenance recommendations at no charge to the City on an annual basis.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: \$1,267,200 of gasoline and diesel will need to be purchased for all Fleet vehicles and equipment. \$1,267,200 is budgeted in Fleet Management G16310-71070 for this purchase.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Recommended by:

Jim Karch, PE CFM
Director of Public Works

Tim Ervin
Director of Finance

David A. Hales
City Manager

Alderman Anderson expressed concern with the dollar amount of this contract. He questioned if there were no other vendors to meet the City's fuel needs. He questioned outreach to McLean County, Town of Normal and/or Unit 5. Jim Karch, Director of Public Works, addressed the Council. Research had been completed and local government entities were contacted. There was no competition and other entities used the same vendor. He believed their pricing had been fair.

Alderman Anderson planned to vote no on this item. He believed there were other vendors available.

Alderman Hanson requested an explanation of the services provided by Evergreen FS. Mr. Karch stated Evergreen FS provided different types of fuel, tank wagons, and biodiesel fuel made with 100% soy oil. They also sampled tanks and provided daily market updates to track fuel trends.

Motion by Alderman Hanson, seconded by Alderman McDade that the Fuel Purchasing Agreement with Evergreen FS be extended for one (1) year and the Purchasing Agent authorized to issue a Purchase Order for same.

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

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

Nays: Alderman Anderson.

Motion carried.

The following was presented:

SUBJECT: Mutual Aid Agreement with the Illinois Public Works Mutual Aid Network

RECOMMENDATION: That the Mutual Aid Agreement with the Illinois Public Works Mutual Aid Network be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: In response to Hurricane Katrina and more recent severe wind, snow and ice storms across the state, member agencies of the American Public Works Association of Illinois have implemented a mutual aid network modeled after the Illinois Mutual Aid Box Alarm System (MABAS) and the Illinois Law Enforcement Alarm System (ILEAS).

The Illinois Public Works Mutual Aid Network (IPWMAN) provides a formalized system for government agencies to enter into a written mutual aid agreement to provide and receive emergency assistance in the event of a natural or man-made disaster or other situations that require action or attention beyond the normal capabilities of an agency. This organization embodies the concept of “community helping community” by providing an organized process for response to an emergency. An agency requesting assistance receives the type of equipment, materials and personnel services that are needed to react to the event.

The formation of IPWMAN complies with criteria established by the Federal Emergency Management Agency (FEMA) for recognizing the eligibility of costs under the Public Assistance Program incurred through mutual aid agreements between applicants and other entities. (FEMA Disaster Policy Number DAP9523.6, August 13, 2007) IPWMAN provides a network to help

others with personnel, equipment, materials, and other resources for natural and man-made disaster response.

This organization was formed to coordinate resources for local municipal public works departments, public waste water agencies, township road districts, unit road districts, county highway departments and any other governmental entity that performs a public works function as they respond to emergency situations.

Members of IPWMAN are expected to receive the following benefits:

1. In an emergency, members receive assistance from other members with appropriate resources. There is no cost for the first five days of assistance.
2. Provide a network of responding agencies with more diverse resources.
3. Have access to various resources for all areas within the state, not just limited to the areas in close proximity to the event.
4. Promote educational workshops and training to prepare agencies for emergencies and disasters.
5. Have a membership agreement that provides reimbursement protocols after the first five days or if the disaster becomes eligible for FEMA or IEMA aid.
6. Have a defined operation plan that expedites the arrival of aid.
7. Have access to a list of emergency contacts.
8. Have added peace of mind knowing that your community has access to aid during time of need when local resources are overwhelmed.

The idea behind the mutual aid agreement is that members are available to help each other when an unusual situation needs an immediate response beyond resources. There will be times when an agency may call for assistance, but another neighboring agency is unable to respond. They may be experiencing effects of the same disaster events, or may be fully committed to other work, or may not be in the financial position to assist. The mutual aid agreement does not obligate any agency to respond, nor does it require an explanation as to why it chose not to respond.

An agency is not expected to send resources if it impacts its own ability to effectively manage daily operations or response to its own emergency. Resources remain under the authority of the responding agency and can be recalled at any time.

Dues in a minimal amount are a necessity to enable the organization to cover the operating costs for processing applications, maintaining resource records, updating and maintaining a website, to provide support for the IPWMAN dispatch center, and costs to sustain the operation of the network. The dues paid by an agency are based upon the population of the area the agency serves. Currently, the dues for Bloomington would be \$500.

IPWMAN is supported by the American Public Works Association (APWA), the Illinois Emergency Management Agency (IEMA), the Illinois Terrorism Task Force (ITTF), Illinois MABAS and ILEAS.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The amount of \$500 has been budgeted under item 1001-16110-70780.

Respectfully submitted for Council consideration.

Prepared by:

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

Reviewed by:

Craig Cummings
Director of Water

Reviewed by:

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

Illinois Public Works Mutual Aid Network Agreement

This Public Works Agreement (hereinafter “Agreement”) is entered into by the City of Bloomington which has, by executing this Agreement, manifested its intent to participate in an Intrastate Program for Mutual Aid and Assistance, hereinafter entitled the “Illinois Public Works Mutual Aid Network (IPWMAN)”;

WHEREAS, the Constitution of the State of Illinois, 1970, Article VII, Section 10, (hereinafter “Act”) authorizes units of local government to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and

WHEREAS, any community that is a home rule unit of local government under the 1970 Constitution of the State of Illinois and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Act provides that any one or more public agencies may contract with any one or more other public agencies to set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting Parties; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., provides that any power or powers, privileges or authority exercised or which may be exercised by a unit of local government may be exercised and enjoyed jointly with any other unit of local government including a unit of local government from another state; and

WHEREAS, the Parties to this Agreement may voluntarily agree to participate in mutual aid and assistance activities conducted under the State of Illinois Intrastate Mutual Aid and Assistance

Program and the Interstate Emergency Management Assistance Compact (EMAC). Parties may voluntarily agree to participate in an interstate Mutual Aid and Assistance Program for public works related agencies including, but not limited to; local municipal public works departments, township road districts, unit road districts, county highway departments, public water agencies and public wastewater agencies or any other governmental entity that performs a public works function through this Agreement if such a program were established.

WHEREAS, the Parties hereto are units of local government as defined by the Constitution of the State of Illinois and the Intergovernmental Cooperation Act; and

WHEREAS, the Parties recognize that they are vulnerable to a variety of potential, natural and man-made disasters; and

WHEREAS, the Parties to this Agreement wish to provide mutual aid and assistance to one another during times of disaster or public works emergencies.

NOW, THEREFORE, the Parties agree as follows:

SECTION I: PURPOSE

The Illinois Public Works Mutual Aid Network (IPWMAN) program is hereby established to provide a method whereby public works related agencies, including, but not limited to, local municipal public works departments, township road districts, unit road districts, county highway departments, public water agencies and public wastewater agencies or any other governmental entity that performs a public works function in need mutual aid assistance may request aid and assistance in the form of personnel, equipment, materials and/or other associated services as necessary from other public works related agencies. The purpose of this Agreement is to formally document such a program.

SECTION II: DEFINITIONS

The following definitions will apply to the terms appearing in this Agreement.

A. "AGENCY" means any municipal public works agency, township road district, unit road district, county highway departments, publicly-owned water organization and publicly-owned wastewater organization or any other governmental entity that performs a public works function that abides by the provisions as found in this Agreement.

B. "AID AND ASSISTANCE" includes, but is not limited to, personnel, equipment, facilities, services, materials and supplies and any other resources needed to provide mutual aid response.

C. "AUTHORIZED REPRESENTATIVE" means a Party's employee who, by reason of his or her position, has been authorized, in writing by that Party, to request, offer, or provide aid and assistance pursuant to this Agreement. Each Party's initial authorized representative, and the representative's title, is listed on the contact list. If the title of the authorized representative as listed by name on the contact list has changed, such change shall have no effect on the authority

of the authorized representative and the named person shall continue to be the authorized representative until a different person is named as the authorized representative in writing by the Party. In the event that the person who is listed as authorized representative is no longer employed by the Party, the successor in the office formerly held by the authorized representative shall automatically become the authorized representative unless the Party indicates otherwise in writing. Each Party's authorized representative shall be responsible to designate someone to supervise that Party's employees who are engaged in the receipt or furnishing of aid and assistance, including, but not limited to, opening of public ways; removal of debris; building of protective barriers; management of physical damage to structures and terrain; transportation of persons, supplies, and equipment; and repair and operation of municipal utilities.

D. "BOARD OF DIRECTORS" is a group of representatives from the Parties to the IPWMAN Agreement elected to organize and maintain the program. The Board of Directors shall consist of members of the IPWMAN. Qualifications and terms for the Board members shall be defined in the By-Laws of the Illinois Public Works Mutual Aid Network, Inc.

E. "BOARD MEMBER" is a representative of the Association (IPWMAN) serving on the Board of Directors.

F. "DISASTER" means a calamitous incident threatening loss of life or significant loss or damage to property, including, but not limited to flood, winter storm, hurricane, tornado, dam break, or other naturally-occurring catastrophe or man-made, accidental, military, or paramilitary incident, or biological or health disasters or a natural or manmade incident that is, or is likely to be, beyond the control of the services, personnel, equipment and facilities of a Party that requires assistance under this Mutual Aid and Assistance Agreement, but must be coordinated through the appropriate local accredited/certified Emergency Management Agency coordinator.

G. "IPWMAN" is the acronym for the Illinois Public Works Mutual Aid Network.

H. "LOCAL EMERGENCY" is defined as an urgent need requiring immediate action or attention beyond normal capabilities, procedures and scope for aid and assistance by an agency.

I. "MUTUAL AID RESOURCE LIST" means the list of the equipment, personnel and other resources that each Party has available for the provision of aid and assistance to other Parties. This list shall be periodically updated in accordance with the Operational Plan.

J. "NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)" a Presidential directive that provides a consistent nationwide approach that allows federal, state, local and tribal governments as well as private-sector and nongovernmental organizations to work together to manage incidents and disasters of all kinds.

K. "PARTY" means an agency which has adopted and executed this Agreement.

L. "PERIOD OF ASSISTANCE" means a specified period of time when a Responding Agency assists a Requesting Agency. The period commences when personnel, equipment, or supplies depart from a Responding Agency's facility and ends when the resources return to their

facility (portal to portal). All protections identified in the Agreement apply during this period. The specified Period of Assistance may occur during response to or recovery from an emergency, as previously defined.

M. “RESPONDING AGENCY” means the Party or Agency which has received a request to furnish aid and assistance from another Party and has agreed to provide the same.

N. “REQUESTING AGENCY” means the Party or Agency requesting and receiving aid and assistance from a Responding Agency.

SECTION III: RESPONSIBILITY OF PARTIES

A. PROVISION OF AID. Each Party recognizes that it may be requested to provide aid and assistance at a time when it is necessary to provide similar aid and assistance to the Party’s own constituents. This Agreement shall not be construed to impose any unconditional obligation on any Party to provide aid and assistance. A Party may choose not to render aid and assistance at any time, for any reason.

B. RECRUITMENT. The Parties hereby encourage each other to enlist other agencies to adopt and execute this Agreement.

C. AGREEMENT FOR BENEFIT OF PARTIES. All functions and activities performed under this Agreement are for the benefit of the Parties to this Agreement. Accordingly, this Agreement shall not be construed to be for the benefit of any third parties and no third parties shall have any right or cause of action against the Parties to this Agreement.

D. IMMUNITIES. All immunities provided by law to the Parties shall be fully applicable to the Parties providing or receiving aid and assistance pursuant to this Agreement, including, but not limited to, the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, et seq.

E. MEMBERSHIP. To be a member in good standing, a Party shall be responsible for dues and other obligations as specified in the IPWMAN By-Laws and Operational Plan.

SECTION IV: ANNUAL REVIEW

At a minimum, the Board of Directors shall meet annually at a meeting place designated by the Board of Directors to review and discuss this Agreement and, if applicable, to recommend amendments to this Agreement. The Board of Directors shall have the power and signing authority to carry out the purposes of this Agreement, including but not limited to the power to: adopt by-laws; execute agreements and documents approved by the Board of Directors; develop specific operating plans, procedures and protocol for requesting assistance; organize meetings; operate a website; disseminate information; create informational brochures; create subcommittees; maintain lists of the Parties; maintain equipment and supply inventory lists; and deal with Party issues.

SECTION V: PROCEDURES FOR REQUESTING ASSISTANCE

The Board of Directors will promulgate and regularly update procedures for requesting assistance through the Illinois Public Works Mutual Aid Network (IPWMAN) Operational Plan.

SECTION VI: RESPONDING AGENCY'S ASSESSMENT OF AVAILABILITY OF RESOURCES

The Board of Directors will promulgate and regularly update procedures for responding agency's assessment of availability of resources through IPWMAN Operational Plan.

SECTION VII: SUPERVISION AND CONTROL

A. DESIGNATION OF RESPONDING AGENCY'S SUPERVISORY PERSONNEL. Responding Agency shall designate a representative who shall serve as the person in charge of coordinating the initial work assigned to the Responding Agency's employees by the Requesting Agency. The Requesting Agency shall direct and coordinate the work being assigned to the Responding Agency(s) and the Requesting Agency's employees. All actions shall be consistent with and in accordance with the National Incident Management System (NIMS) and the IPWMAN Operational Plan.

B. RESPONSIBILITIES OF RESPONDING AGENCY'S SUPERVISORY PERSONNEL. The Board of Directors will promulgate and regularly update procedures for Responding Agency's supervisory personnel through the IPWMAN Operational Plan.

SECTION VIII: LENGTH OF TIME FOR AID AND ASSISTANCE; RENEWABILITY; RECALL

The Board of Directors will promulgate and regularly update procedures for length of time for aid and assistance; renewability; recall through the Illinois Public Works Mutual Aid Network (IPWMAN) Operational Plan.

It is presumed that a Responding Agency's aid and assistance shall be given for an initial minimum period of twelve (12) hours. Thereafter, assistance shall be extended as the Responding Agency and Requesting Agency shall agree. The twelve (12) hour period shall start when the aid and assistance departs from Responding Agency's location with the intent of going to Requesting Agency's location. The aid and assistance shall end when it returns to Responding Agency's location with the understanding between the Responding Agency and Requesting Agency that provision of aid and assistance is complete.

Responding Agency may recall its aid and assistance at any time at its sole discretion. Responding Agency shall make a good faith effort to give the Requesting Agency as much advance notice of the recall as is practical under the circumstances.

SECTION IX: DOCUMENTATION OF COST & REIMBURSEMENT OF COST

A. PERSONNEL – Responding Agency shall continue to pay its employees according to its then prevailing ordinances, rules, regulations, and collective bargaining agreements. At the conclusion of the period of aid and assistance, the Responding Agency shall document all direct and indirect payroll costs plus any taxes and employee benefits which are measured as a function of payroll (i.e.; FICA, unemployment, retirements, etc.).

B. RESPONDING AGENCY’S TRAVELING EMPLOYEE NEEDS – Responding Agency shall document the basic needs of Responding Agency’s traveling employees, such as reasonable lodging and meal expenses of Responding Agency’s personnel, including without limitation transportation expenses for travel to and from the stricken area during the period of aid and assistance.

C. EQUIPMENT – Responding Agency shall document the use of its equipment during the period of aid and assistance including without limitation all repairs to its equipment as determined necessary by its on-site supervisor(s) to maintain such equipment in safe and operational condition, fuels, miscellaneous supplies, and damages directly caused by provision of the aid and assistance.

D. MATERIALS AND SUPPLIES – Responding Agency shall document all materials and supplies furnished by it and used or damaged during the period of aid and assistance.

E. REIMBURSEMENT OF COSTS – Equipment, personnel, materials, supplies and/or services provided pursuant to this Agreement shall be at no charge to the Requesting Agency, unless the aid and assistance is requested for more than five (5) calendar days. If aid and assistance is requested from the State of Illinois to be activated as a State asset, the Responding Agency will be reimbursed for personnel, materials, supplies and equipment from the first day of the response to the event by the State of Illinois. Materials and supplies will be reimbursed at the cost of replacement of the commodity. Personnel will be reimbursed at Responding Agency rates and equipment will be reimbursed at an appropriate equipment rate based upon either pre-existing locally established rates, the Federal Emergency Management Agency Equipment Rate Schedule or that published by the Illinois Department of Transportation. In the event that there is no such appropriate equipment rate as described above, reimbursement shall be at the actual cost incurred by the Responding Agency.

SECTION X: RIGHTS AND PRIVILEGES OF RESPONDING AGENCY’S EMPLOYEES

Whenever Responding Agency’s employees are rendering aid and assistance pursuant to this Agreement, such employees shall retain the same powers, duties, immunities, and privileges they would ordinarily possess if performing their duties within the geographical limits of Responding Agency.

SECTION XI: WORKERS’ COMPENSATION

The Parties agree that Requesting Agency shall be responsible for payment of workers’ compensation benefits owed to Requesting Agency’s employees and that Responding Agency

shall be responsible for payment of workers' compensation benefits owed to Responding Agency's employees.

SECTION XII: INSURANCE

Each Party shall bear the risk of liability for its agency and its agency's employees' acts and omissions and shall determine for itself what amount of insurance it should carry, if any. Each Party understands and agrees that any insurance coverage obtained shall in no way limit that Party's responsibility under Section XIII of this Agreement to indemnify and hold the other Parties to this Agreement harmless from such liability.

SECTION XIII: INDEMNIFICATION

Each Party hereto agrees to waive all claims against all other Parties hereto for any loss, damage, personal injury or death occurring in consequence of the performance of this Mutual Aid Agreement; provided, however, that such claim is not a result of gross negligence or willful misconduct by a Party hereto or its personnel.

Each Party requesting or providing aid pursuant to this Agreement hereby expressly agrees to hold harmless, indemnify and defend the Party rendering aid and its personnel from any and all claims, demands, liability, losses, suits in law or in equity which are made by a third party. This indemnity shall include attorney fees and costs that may arise from providing aid pursuant to this Agreement. Provided, however, that all employee benefits, wage and disability payments, pensions, worker's compensation claims, damage to or destruction of equipment and clothing, and medical expenses of the Party rendering aid shall be the sole and exclusive responsibility of the respective Party for its employees, provided, however, that such claims made by a third party are not the result of gross negligence or willful misconduct on the part of the Party rendering aid.

SECTION XIV: NON-LIABILITY FOR FAILURE TO RENDER AID

The rendering of assistance under the terms of this Agreement shall not be mandatory if local conditions of the Responding Agency prohibit response. It is the responsibility of the Responding Agency to immediately notify the Requesting Agency of the Responding Agency's inability to respond; however, failure to immediately notify the Requesting Agency of such inability to respond shall not constitute evidence of noncompliance with the terms of this section and no liability may be assigned.

No liability of any kind or nature shall be attributed to or be assumed, whether expressly or implied, by a party hereto, its duly authorized agents and personnel, for failure or refusal to render aid. Nor shall there be any liability of a party for withdrawal of aid once provided pursuant to the terms of this Agreement.

SECTION XV: NOTICE OF CLAIM OR SUIT

Each Party who becomes aware of a claim or suit that in any way, directly or indirectly, contingently or otherwise, affects or might affect other Parties of this Agreement shall provide

prompt and timely notice to the Parties who may be affected by the suit or claim. Each Party reserves the right to participate in the defense of such claims or suits as necessary to protect its own interests.

SECTION XVI: AMENDMENTS

Proposed amendments to this Agreement shall be submitted to the Board of Directors. Amendments shall be approved by majority vote of the Board of Directors.

SECTION XVII: ADDITIONAL PARTIES

Additional agencies may become Parties to this Agreement, provided that such agencies:

- (1) Approve and execute this Agreement.
- (2) Provide a fully executed copy of this Agreement to the Board of Directors.
- (3) Provide the name and title of an authorized representative to the Board of Directors.
- (4) Annually provide a list of mutual aid resources to its local accredited/certified Emergency Management Agency. If requested, the agency may need to assist its local accredited/certified Emergency Management Coordinator with data entry of its mutual aid resources into a web-based format (NIMS Source).

Upon submission of the items enumerated above to the Board of Directors and receipt of acknowledgement from the Board of Directors, the submitting agency shall be regarded as a Party to the Agreement.

SECTION XVIII: NOTICES

Notices and requests as provided herein shall be deemed given as of the date the notices are deposited, by First Class Mail, addressed to the Board of Directors who will notify each of the Parties' representatives.

SECTION XIX: INITIAL TERM OF AGREEMENT; RENEWAL; TERMINATION

The initial term of this Agreement shall be one (1) year from its effective date. Thereafter, this Agreement shall automatically renew for additional one-year terms commencing on the anniversary of the effective date of this Agreement. Any Party may withdraw from this Agreement at any time by giving written notification to the Board of Directors. The notice shall not be effective until ninety (90) days after the notice has been served upon the Board of Directors by First Class mail. A Party's withdrawal from this Agreement shall not affect that Party's liability or obligation incurred under this Agreement prior to the date of withdrawal. This Agreement shall continue in force and effect as to all other Parties until such time as a Party

withdraws. Failure to adopt any amended agreement within ninety (90) days of said amended agreement will signify a Party's withdrawal from the Agreement.

SECTION XX: HEADINGS

The headings of various sections and subsections of this Agreement have been inserted for convenient reference only and shall not be construed as modifying, amending, or affecting in any way the express terms and provisions of this Agreement or their interpretation.

SECTION XXI: SEVERABILITY

Should any clause, sentence, provision, paragraph, or other part of this Agreement be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement. Each of the Parties declares that it would have entered into this Agreement irrespective of the fact that any one or more of this Agreement's clauses, sentences, provisions, paragraphs, or other parts have been declared invalid. Accordingly, it is the intention of the Parties that the remaining portions of this Agreement shall remain in full force and effect without regard to the clause(s), sentence(s), provision(s), paragraph(s), or other part(s) invalidated.

SECTION XXII: EFFECTIVE DATE

This Agreement shall be effective on the date of the acknowledgement letter sent by the Board of Directors.

SECTION XXIII: WAIVER

Failure to enforce strictly the terms of this Agreement on one or more occasions shall not be deemed a waiver of the right to enforce strictly the terms of this Agreement on any other occasion.

SECTION XXIV: EXECUTION OF COUNTERPARTS

This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION XXV: PRIOR IPWMAN AGREEMENTS

To the extent that provisions of prior IPWMAN Agreements between signatories to this Agreement are inconsistent with this Agreement, all prior agreements for mutual aid and assistance between the Parties hereto are suspended.

SECTION XXVI: PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES

This Agreement is for the sole benefit of the Parties and no person or entity shall have any rights under this Agreement as a third-Party beneficiary. Assignments of benefits and delegations of duties created by this Agreement are prohibited and must be without effect.

NOW, THEREFORE, each of the Parties have caused this IPWMAN Mutual Aid Agreement to be executed by its duly authorized representative who has signed this Agreement as of the date set forth below.

Approved and executed this 26th day of October, 2010.

For the Agency
City of Bloomington

By: Stephen F. Stockton
Mayor

Attest:

Tracey Covert
City Clerk

APPROVED (as to form):

By: Todd Greenburg
Corporate Counsel

On behalf of the Illinois Public Works Mutual Aid Network

Approved and executed this _____ day of _____, 20__.

By: _____
President of IPWMAN Board of Directors

Attest: _____
IPWMAN Secretary/Treasurer

Approved by the IPWMAN Interim Board of Directors on September 17, 2008.

Motion by Alderman Hanson, seconded by Alderman McDade that the Mutual Aid Agreement with the Illinois Public Works Mutual Aid Network be approved, 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, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

**SUBJECT: A Text Amendment to the City Code - Chapter 40 – Taxicabs – Article X
Relating to Vehicles for Hire**

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

BACKGROUND: The proposed Ordinance would regulate Vehicle for Hire companies by requiring new companies which propose to operate Vehicles for Hire to show that a City license to operate would not negatively impact existing vehicle for hire companies. In addition, some miscellaneous regulations which currently apply to Taxi companies will now be enforced against all Vehicle for Hire companies.

The City regulates three (3) classes of companies which transport persons for hire: traditional Taxi Services, “Vehicles for Hire”, which essentially are mini-vans and buses which transport persons to and from liquor license establishments on Thursdays through Sundays (and other specific dates), and Limousines. For many years, taxis were the only private companies in the business of transporting people for hire which were regulated by the City; however, taxis were defined as vehicles with a capacity of ten (10) persons or less.

Beginning in 2007, the City began to permit the legal operation of “Vehicles for Hire” companies, which generally operate fleets consisting of mini-vans and buses. These companies serve a public purpose by permitting persons leaving liquor license establishments to exit the downtown area relatively quickly and inexpensively, making it less likely that those persons will operate motor vehicles while under the influence of alcohol. The owners of taxi companies acknowledged that the operation of Vehicles for Hire did not have an overall negative impact on their businesses. The volume of many persons seeking to enter and leave the downtown area on Thursday and Friday would overwhelm the taxi companies if they were required to transport all of those persons.

Taxi companies are regulated monopolies; the idea is that if too many taxi companies or taxi vehicles are licensed, the market would become saturated causing companies to go out of business, with the resultant danger that persons who need taxi service would be unable to obtain transportation when needed. Conversely, “Vehicles for Hire” have operated up to the present time on a “free market” philosophy: the drivers are licensed by the City to ensure that persons with criminal backgrounds are not permitted to drive and the vehicles are inspected by the City

to ensure that the vehicles are safe, but the number of companies and the number of vehicles are unregulated. The Vehicles for Hire companies have approached staff and have expressed the opinion that the market is approaching the saturation point. They are essentially requesting more regulation to better ensure their economic survival.

This Ordinance essentially “grandfathers” existing Vehicle for Hire companies and the number of vehicles which were licensed by the City on the effective date of the Ordinance, November 4, 2010, (ten days after the date of Council approval).

New companies must supply information and are subject to a public hearing process in which the main issue is whether the market will support a new company. The process is essentially the same process which has been used for taxi companies for many years. Companies which seek to add additional vehicles to their fleet (whether the company itself is grandfathered or new) must follow a similar procedure.

An annual fee of \$100 for the first Vehicle for Hire will be imposed, with a fee of \$25 for each additional vehicle for hire (this provision will apply to all companies, whether grandfathered or not).

Several provisions which currently apply to Taxi companies are being included in this Ordinance.

Finally, a separate new provision regarding Limousines is included in this Ordinance. All parties recognize that Limousine operations could become “the exception which swallows the rule”. Limousine companies are not required to apply for certificates of public convenience, nor are the number of vehicles which are operated by Limousine companies regulated by the City. However, the City requires that all limousines must be operated pursuant to a written contract which grants the lessee the exclusive use of the vehicle for a period of three (3) hours or more, and the contract must be in the possession of the driver of the limousine for that entire time. In addition, current Ordinances require that limousines have “livery” or “PT” Illinois vehicle plates, as well as a sign on the vehicle stating “Not for Hire” when the vehicle is parked during the lease period. The proposed Ordinance adds a provision that if a “limousine” is found operating in violation of these regulations, it may be immediately impounded and will not be released prior to paying an impound fee of \$250, a release fee of \$10, and all tow company fees.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Taxi, Vehicle for Hire, and limousine owners and drivers; representatives of Bloomington Police Department. In addition to quarterly meetings, staff has met three (3) different times with the Vehicle for Hire and Taxi owners. They support this Ordinance.

FINANCIAL IMPACT: Minimal to City. Cost of processing applications, performing background checks, and enforcement proceedings against offenders.

Respectfully submitted for Council consideration.

Prepared by:

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Barbara Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

ORDINANCE NO. 2010 - 48

**AN ORDINANCE AMENDING CHAPTER 40 OF
THE CITY CODE RELATING TO VEHICLES FOR HIRE**

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

SECTION ONE: That Chapter 40 of the Bloomington City Code, as amended, be further amended by adding the following Sections:

Section 1002 A: Certificate of Public Convenience Required.

No person shall operate or permit a vehicle for hire owned or controlled by him to be operated as a vehicle for hire upon the streets of the City of Bloomington or such other areas to which this Chapter applies pursuant to an intergovernmental cooperation agreement without having first obtained a certificate of public convenience from the City Manager. Notwithstanding anything to the contrary in this Article, any person or entity who has obtained a permit to operate a vehicles for hire company from the City of Bloomington prior to November 4, 2010 shall have a certificate of public convenience issued in the name of the person of entity who obtained permits for said vehicles for the vehicles for hire which were so licensed prior to November 4, 2010; however, person or entities holding certificates of public convenience shall be subject to all provisions of this article regarding suspension, revocation, renewal or transfer of such certificate of public convenience. However, all owners of vehicles for hire previously licensed by the City shall complete the information required in the application for certificate set forth in Section 1002 B; if such application is not completed and filed within 30 days from the date this ordinance is passed by the City Council. In addition, all owners who had licenses from the City prior to November 4, 2010 shall submit and be subject to the requirements of the background check.

Section 1002 B: Application for Certificate.

An application for a certificate shall be filed with the City Clerk upon forms provided by the City of Bloomington; said application shall be verified under oath and shall furnish the following information:

- (a) The name and business and residence addresses of the applicant;
- (b) The financial status of the applicant, including the amount of all unpaid judgments against the applicant and the nature of the transactions or acts giving rise to said judgments;
- (c) The experience of the applicant in the transportation of passengers;
- (d) Any facts which the applicant believes tend to prove that public convenience would be benefited by the granting of a certificate;
- (e) The number of vehicles to be operated or controlled by the applicant;

- (f) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;
- (g) If the applicant is a corporation, the names and addresses of the president, secretary, and any other officers of the corporation;
- (h) If the applicants are members of a partnership, the names and addresses of each of the partners and each partner shall sign the application;
- (i) Such further information as the City Manager of the City of Bloomington may require.

Section 1002 C: Investigation.

The Chief of Police shall cause an investigation to be made of the character, fitness and qualifications of the applicant, and shall transmit the findings to the City Manager. No applicant who has been convicted within the last five (5) years of any felony or any criminal offense under Article 11 of the Illinois Criminal Code shall be eligible to receive a certificate of public convenience and necessity. Any person who has received a certificate of public convenience and necessity who desires to drive a vehicle for hire must also have a permit from the City of Bloomington pursuant to Article X of this Chapter. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional background check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.

Section 1002 D: Public Hearing.

- (a) Notice. Upon the filing of an application for a new certificate, the City Manager shall fix a time and place for a public hearing thereon. Notice of such hearing shall be given to the applicant and to all persons to whom certificates of public convenience have been theretofore issued. Notice shall also be given the general public by publishing a notice of such hearing in the Pantagraph. All notices shall state:
 - (1) That application for a certificate of public convenience has been made;
 - (2) Name of the applicant;
 - (3) That a public hearing on the application will be held;
 - (4) Place of the hearing;
 - (5) Date and time of the hearing.

All notices shall be given or published not less than five (5) nor more than fifteen (15) days prior to the hearing.

(b) Evidence. Any interested person may file with the City Manager a memorandum in support of or in opposition to the issuance of a certificate and may testify at the hearing.

(c) Continuance. The City Manager at his discretion may continue or postpone the hearing upon his own motion or the motion of any interested person.

Section 1002 E: Issuance of Certificate.

If the City Manager finds that further vehicle for hire service in the City of Bloomington is desirable and in the public interest, and that the applicant is fit, willing and able personally and financially to perform such public transportation and to conform to the provisions of this Ordinance and the rules promulgated by the City Manager, then the City Manager shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under said certificate and the date of issuance; otherwise, if all of the above findings cannot be made, the application shall be denied. The City Manager shall send copies of his findings to all interested parties.

No person shall hold a certificate by means of transfer or renewal who would not qualify for issuance of a new certificate under this Article X.

Section 1002 F: License Fees.

(a) Payment. No certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee of One Hundred Dollars (\$100.00) for the first vehicle for hire and Twenty-five Dollars (\$25.00) each year for each additional vehicle operated under a certificate of public convenience. Said license fees shall be paid in advance and shall expire on December 31st of the year in which it is issued.

(b) Additions and Deletions. Whenever the number of a holder's vehicles for hire is increased or decreased during the license year, the license fee shall be increased or decreased accordingly.

(c) Installments. At the option of the holder, the annual license fee above stated may be paid in two (2) installments in advance, the second half of said year being payable on or before the first day of July of each year.

(d) Refund. No fees paid hereunder shall be repaid in whole or in part.

Section 1002 G: Number of Vehicles for Hire.

Each holder shall operate the number of vehicles for hire for which the holder's certificate was issued. Additions to or reductions in the number of vehicles for hire allowed for each holder shall be made only in accordance with the procedure outlined for the issuance of a certificate of public convenience. Holders may voluntarily take a vehicle for hire out of service and are not required to have insurance on such a vehicle as otherwise required by Section 1005A of this Chapter on the condition that the City Clerk is notified in writing that such vehicle for hire is

taken out of service at least thirty (30) days prior to such vehicle being taken out of service and that the City Clerk is notified in writing that the holder intends to place the vehicle back in service at least thirty (30) days prior to such vehicle being placed back in service. The insurance requirements of Section 1005A of this Chapter must be in effect on or before the date the vehicle is placed back into service.

Section 1002 H: Transfer of Certificate.

No certificate of public convenience may be sold, assigned, mortgaged or otherwise transferred without the consent of the City Manager. Notice of intent to transfer shall be filed with the City Clerk not less than thirty (30) days prior to the proposed transfer. Before any transfer can become effective, the party seeking the certificate shall file with the City Manager an application containing all the information required in Section 1002B.

Section 1002 I: Renewal of Certificate.

Certificates shall be subject to a yearly renewal and holders of certificates shall file applications therefore not less than thirty (30) days before the end of each calendar year. All applications for renewal of existing certificates shall contain the same information as the original application. An annual review shall be made to determine whether the holder is in compliance with all State and City requirements and to determine whether the holder is in compliance with or has violated or is responsible, directly or indirectly under these ordinances or other laws, for the violations of others of any Federal, State or Municipal laws, ordinances or regulations.

Section 1002 J: Suspension or Revocation of Certificate.

A certificate issued under the provisions of this Ordinance may be revoked or suspended by the City Manager if the holder thereof has:

- (a) Violated any of the provisions of this Ordinance; or
- (b) Violated any ordinances of the City of Bloomington or the ordinances of any other jurisdiction in which the holder operates, or the laws of the United States or the State of Illinois, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

Prior to suspension or revocation, the holder shall be given reasonable notice of the proposed action to be taken and shall have an opportunity to be heard.

No refund of fees shall be made to the holder on account of suspension or revocation of certificate under this Section.

In addition to the foregoing, the owner shall be responsible for all of the acts of his employees, agents or drivers relating to the violation of or non-compliance with any of the laws, rules or regulations relating to operation of vehicles for hire or the solicitation of business or to the conduct of his business to the extent that the holder's certificate may be suspended or revoked by

the City Manager for violations of such laws, rules or regulations by his employees, agents or drivers.

Section 1012: Location of Offices.

No vehicle for hire office, including any answering and dispatching service, shall be located within any premises holding a license for the sale of intoxicating beverages, other than at the Bloomington-Normal Airport.

Section 1013: Personal Articles Left in Vehicles for hire.

All articles found in vehicles for hire by the holder or driver thereof shall be turned over to the Police Department within twenty-four (24) hours of the finding thereof unless the lost property in the meantime is claimed by the owner. The Police Department shall give a receipt therefore and if not claimed within thirty (30) days, such property shall be returned to the holder or driver.

Section 1014: Manifests.

Every driver shall maintain a daily manifest upon which is recorded all trips made each day, showing time and place of origin, the number of passengers, and amount of fare, and all such completed manifests shall be returned to the holder by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the holder and shall provide for content and be of a type approved by the City Manager.

Every holder of a certificate of public convenience shall retain and preserve all drivers' manifests in a safe place for at least one (1) calendar year following the year to which they relate and said manifest shall be available at any time on request to the City Manager or Police Department.

Section 1015: Holder's Records and Reports.

All accidents arising from or in connection with the operation of vehicles for hire which result in death or injury to any person or in damage to any vehicle, or to any property in an amount exceeding the sum of Two Hundred Fifty Dollars (\$250.00) shall be described on an accident report form to be furnished by the Police Department within ten (10) days from the time of the occurrence.

Section 1016: Open Stands.

(a) The City Council of the City of Bloomington or the corporate authority of any other jurisdiction to which this Chapter applies pursuant to an intergovernmental cooperation agreement may establish open stands in such place or places upon the streets of that jurisdiction as it deems necessary for the use of vehicles for hire operated therein. The corporate authority shall not create an open stand without taking into consideration the need for such stand by the companies and the associated convenience to the general public. The corporate authority shall prescribe the number of such vehicles that shall occupy such open stands.

(b) Open stands shall be used by drivers on a first come first served basis. Drivers shall pull on to the open stand from the rear and shall advance forward as the vehicle for hires ahead pull off. Drivers shall stay within five (5) feet of their vehicle for hire, and they shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this Ordinance shall be construed as preventing a passenger from boarding the cab of his choice that is parked at an open stand.

Section 1017: Prohibitions of Other Vehicles.

Private or other vehicles for hire shall not at any time occupy the space upon the streets that has been established as an open stand.

Section 1018: Refusal to Pay Legal Fare.

It is illegal for any person to refuse to pay the fee for any of the vehicles mentioned in this Ordinance after having been conveyed in the same, and it is illegal for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired from, and it assumed that any person who does not pay the fee after having been conveyed in such a vehicle intended to defraud such person, and it shall be the burden of the conveyed person to prove (s)he did not intend to defraud said person.

Section 1020: 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 vehicle for hire 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.

Section 1021: 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 1002 H of this Chapter.

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.

Section 1022: Illegal Operation of Vehicle for hire.

It is illegal for and a person commits the offense of illegal operation of a vehicle for hire if:

- (a) Without a valid effective certificate of public convenience the person operates or drives a vehicle for hire or allows another person to operate or drive a vehicle for hire; or
- (b) The person operates or drives a vehicle for hire without a valid operator's license from the State of Illinois or without a valid vehicle for hire 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 vehicle for hire which lacks proper State of Illinois license plates or City of Bloomington vehicle for hire stickers; or
- (d) The person operates or drives or allows another to operate or drive a vehicle for hire which does not have the name of the business and a phone number on the side of the vehicle for hire.

Section 1023: Refusal to Carry Orderly Persons.

It is illegal for and a person commits the offense of refusal to carry orderly persons if he refuses or neglects, or if a holder allows a driver to refuse or neglect, for reasons other than the vehicle being filled to legal capacity, to convey any orderly person or persons upon request unless previously engaged or unless unable or forbidden to do so by the provisions of this Ordinance. For the purposes of this Section, a person who requests service by telephone shall be deemed to be an orderly person.

Section 1024: Failure to Keep Manifests.

It is illegal for and a person commits the offense of failure to keep manifests if:

- (a) He is a holder and he allows a driver to neglect or omit the making of a manifest as required by Section 1014; or
- (b) He is a driver and he neglects or omits the making of a manifest as required by Section 1014.

Section 1025: Failure to Keep Records and Reports.

It is illegal for and a person commits the offense of failure to keep records and reports if he fails to keep his records and reports as required by Section 1015.

Section 1026: Failure to Insure.

It is illegal for and a holder commits the offense of failure to insure if he fails to provide the insurance required by Section 1005A.

Section 1027: Improper Vehicle Use.

It is illegal for and a person commits the offense of improper vehicle use if he violates any provision of the Illinois Motor Vehicle Code (625 ILCS 5) or the Bloomington Motor Vehicle Code (Bloomington City Code Chapter 29) or any other applicable portion of the Codes or Ordinances of any other jurisdiction.

Section 1028: Overloading Vehicle.

It is illegal for and a person commits the offense of overloading a vehicle if he carries more passengers than the seating capacity of the vehicle under state or federal law.

Section 1029: Insufficient Parking.

It is illegal for and a holder commits the offense of supplying insufficient parking if he fails to provide off-street parking facilities sufficient to store his motor vehicles while such vehicles are not in service.

Section 1030: Improper Advertising.

It shall be unlawful for any holder of a certificate to place, or cause to be placed, any advertisement for services on public property. Advertisements for service placed on private property shall only be located in accordance with the City's Sign Code and with the written consent of the property owner.

Section 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 1032: Service of Notice.

(a) Service of Notice on Individuals. Except as otherwise expressly provided, service of any notice required in this Chapter upon an individual shall be made:

- (1) by leaving a copy thereof with person personally; or
- (2) by leaving a copy at his home or usual place of work, with some member of the person's family of the age of 10 years or upwards, and informing that person of the contents thereof, provided the officer or other person making service shall also send a copy of the notice in a sealed envelope with postage fully prepaid, addressed to the person at his usual place of abode.

The certificate of the officer or affidavit of the person that he has sent the copy in pursuance of this Section is sufficient evidence to prove that he has done so.

(b) Service on Partnership or Corporation. Any corporation or partnership required to be given any notice under this Chapter may be served by serving notice on any director, officer or partner thereof in the manner provided in subsection (a) above.

Section 1033: Appeal.

Any person aggrieved by a determination or action of the City Manager under the provisions of this Chapter may appeal to the City Council by giving written notice of intent to appeal to the Mayor of the City of Bloomington not later than noon on the Wednesday preceding the next regularly scheduled City Council Meeting. If in the opinion of the Mayor the matter being appealed is urgent, he may, in his sole discretion, call a special meeting of the City Council as outlined in Bloomington City Code Chapter 2, Section 16.

Section 1034: Enforcement.

In enforcing this ordinance the Police Department of the City of Bloomington upon discovering a violation of the provisions of this Ordinance, shall take appropriate action to enforce the law and shall report the same to the City Manager who may take appropriate action with respect thereto.

Section 1035: Supplemental Regulations.

The City Manager is hereby given the authority to promulgate such rules and regulations not inconsistent with this Ordinance as he shall find necessary to effectuate the purpose and intent of this Chapter.

Section 1036: Suspensions of Drivers' Licenses or Certificate of Convenience.

Drivers who operate vehicles for hire outside of the permitted hours commit a violation of this Chapter and shall be fined \$250. In addition, the company employing such driver shall be fined \$500. Two violations in a rolling 12 month period shall result in a suspension of his or her license to drive a vehicle for hire, taxicab or limousine for one year from the date of the suspension. Two violations against a company in a rolling 12 month period shall result in a 12 month suspension of that company's permit to operate vehicles for hire.

A vehicle operating outside permissible hours shall be impounded by the police and shall not be released prior to the payment of a release fee of \$10.00, an impound fee of \$250.00 and shall pay all tow company fees.

Section 1101: Towing

In the event any person operates a vehicle purporting to be a limousine which is not in compliance with the requirements of this article shall be impounded by the police and shall not be released prior to the payment of a release fee of \$10.00, an impound fee of \$250.00 and shall pay all tow company fees.

SECTION TWO: Except as provided for herein, the Bloomington City Code, 1960, as amended, shall remain in full force and effect.

SECTION THREE: The City Clerk is authorized to publish this ordinance in pamphlet form as provided by law.

SECTION FOUR: This ordinance shall be effective ten days after the date of its publication.

SECTION FIVE: This ordinance is passed and approved pursuant to the home rule authority granted pursuant to Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this 25th day of October, 2010.

APPROVED this 26th day of October, 2010.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Schmidt questioned how the Town of Normal regulated vehicles for hire and their acceptance of this ordinance. Barb Adkins, Deputy City Manager, addressed the Council. The ordinance was an intergovernmental agreement regulated by the City.

Alderman Schmidt was focused on the idea of regulating the number of businesses and allowing businesses to decide who would be allowed into the competitive pool. She believed this was a similar issue to Friar Tuck's liquor license. She planned to vote no.

Alderman Anderson also planned to vote no on this item.

Aaron Halliday, 1415 W Locust St., addressed the Council. He was the owner of Checker Cab & Shuttle. It took three (3) meetings to draft this ordinance. Taxi, vehicle for hire, and staff were trying to protect the City from unsafe operators. The companies were trying to clean up their bad image. Vehicle for hire operators needed to be monitored.

Alderman Schmidt stated for her the issue concerned government involvement in business. Mr. Halliday had owned his business for five (5) years. He believed regulation was needed.

Bob Romtramel, 406 E. Jackson St., addressed the Council. He owned Bob's Blue Night Limo. He also believed regulation was needed.

Motion by Alderman Hanson, seconded by Alderman McDade that the Text Amendment be approved and the Ordinance be passed.

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

Ayes: Aldermen Stearns, McDade, Hanson, Sage, Fruin and Purcell.

Nays: Aldermen Schmidt and Anderson.

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 1, Block 10 of Camp Potawatomie from Mary Weaver's decedents (John P. Weaver, Mary E. Harwood, Joan M. Petersen, Barbara Lesak, Antoinette Petersen and Daniel Weaver) to John and Elizabeth Binning

RECOMMENDATION: That the Lake Lease be approved contingent upon the deficiencies to the sewage disposal system being corrected by November 30, 2010, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: This residence has been in the Weaver Family for many years. Unfortunately when Mary Weaver passed away, a new lake lease should have been entered into at that time and was not. Therefore, the City was not collecting the lake lease fee based upon the current rate of \$0.40 per \$100 of Equalized Assessed Value (EAV). The Weaver survivors were billed for the difference in the old lake lease rate to the current rate. This amounted to over \$2,200 and has been paid in full.

The sewage disposal system inspection report was reviewed by staff and there were several deficiencies noted. Staff recommends approval of this petition contingent upon the following improvements being made by November 30, 2010:

1. Both septic tanks shall have a riser installed on at least the clean out opening so that the maximum depth to the inspection and maintenance opening is no greater than twelve inches (12").
2. A vent shall be installed on the sand filter.
3. A chlorinator shall be installed on the discharge from the sand filter and chlorine shall be added at regular intervals to ensure that the wastewater effluent is always chlorinated.
4. A sample port shall be installed on the retention tank.
5. The discharge trench shall extend to and through the sea wall.

Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 1, Block 10 of Camp Potawatomie from Mary Weaver's decedents (John P. Weaver, Mary E. Harwood, Joan M. Petersen, Barbara Lesak, Antoinette Petersen and Daniel Weaver) to John and Elizabeth Binning. This petition is in order and staff recommends that this transfer be approved contingent upon the deficiencies to the sewage disposal system be corrected as noted.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This lease uses the current formula of \$0.40 per \$100 of EAV for determining the Lake Lease Fee. The current lease rate is approximately \$407. The closing is tentatively scheduled for the end of October, 2010. This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590.

Respectfully submitted for Council consideration.

Prepared by:

Craig M. Cummings
Director of Water

Reviewed by:

J. Todd Greenburg
Corporation Counsel

Financial review by:

Tim Ervin
Director of Finance

Recommended by:

David A. Hales
City Manager

Motion by Alderman Hanson, seconded by Alderman McDade that the Lake Lease be approved contingent upon the deficiencies to the sewage disposal system being corrected by November 30, 2010, 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, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 18, Block 5 of Camp Kickapoo from Jane Romack, G. Scott Sober and Sarah L. Jacobs to Joan Brown, as trustee Joan Brown 2002 Declaration of Trust, dated January 21, 2002

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

BACKGROUND: Staff previously reviewed the septic system inspection report as well as the deficiency letter from the McLean County Health Department when previous transfers into this trust were made in September 2010. This system is an older system serving a small home at Lake Bloomington and is currently operating correctly. The septic tank is two hundred (200) gallons too small according to the current code's sizing requirements. This can be mitigated by pumping the system more frequently. The system is a subsurface discharging system which means the effluent from the system does not discharge directly into the reservoir and thus poses little threat to the water quality.

The undersized septic tank will be allowed to remain until such time as the system needs repair or replacement. When inspected, solids were noted on the inlet and outlet baffles of the septic tank. However, during the inspection, it was discovered that the line from the septic tank to the seepage field was broken. This was most likely the reason for the back up in the septic tank. This has been repaired.

This septic system is a subsurface discharging system which the City prefers as they do not discharge directly into the drinking water reservoir. This is the last of the transfers into this trust. Previous transfers into this trust were approved by Council on September 13, 2010. Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 18, Block 5 of Camp Kickapoo from Jane Romack, G. Scott Sober and Sarah L. Jacobs to Joan Brown, as trustee, Joan Brown 2002 Declaration of Trust, dated January 21, 2002. This petition is in order and staff recommends that this transfer be approved.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This petition will have a neutral financial impact in that the lease is currently at the existing formula of \$0.40 per \$100 of Equalized Assessed Value for determining the lake lease fee. The current lease fee amount is \$314.66. It is expected that this lake lease fee will stay about the same next year. This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590.

Respectfully submitted for Council consideration.

Prepared by:

Craig M. Cummings
Director of Water

Financial review by:

Tim Ervin
Director of Finance

Reviewed by:

Recommended by:

Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Motion by Alderman Hanson, seconded by Alderman McDade 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, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Agreement with Lyle Sumek Associates, Inc.

RECOMMENDATION: That Lyle Sumek Associates, Inc. be retained for Consulting and Facilitation Services, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: In FY 2008-2009, Council contracted with Lyle Sumek Associates, Inc., to conduct Elected Officials, Upper Management Staff interviews for a Council Retreat, Goal Setting and a Citizen Summit, the end result being the City's Strategy Plan that was adopted by Council on January 25, 2010.

Lyle Sumek is very familiar with the City's operations, Elected Officials and Executive Management Team. This has proved to be an important asset in the City's Action Agenda and Strategy Plan. Mr. Sumek has held management positions at the City of San Diego, California in the Fire and Public Works Departments. He has developed an extensive national clientele of cities, counties and organizations since 1979.

Lyle Sumek and Associates will assist Council and staff, during FY 2010-2011 year with the following:

- Mayor-Council-City Manager Interview and Analysis
- Preparation: Leader's Guide 2010-Working Document
- Leadership and Strategic Planning Workshop I
- Leadership and Strategic Planning Workshop II

- Executive Management Staff Interviews and Analysis
- Preparation: Leader’s Guide 2010-Working Document for Managers
- Leadership and Strategic Planning Workshop for Managers
- Leadership and Strategic Planning Working II for Managers

Mr. Sumek started his preparation for the Elected Officials/Executive Management Team Retreat in September, 2010. The Leadership and Strategic Planning Workshop were held on October 8 and 9, 2010. He has volunteered to facilitate a Citizen Summit this year, without charging the City his hourly fee.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACT: Not applicable.

FINANCIAL IMPACT: Services will be provided at an hourly rate of \$200 with a not to exceed annual cap of \$20,000.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency

Recommended by:

Barbara J. Adkins
Deputy City Manager

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

**AGREEMENT FOR SERVICES BETWEEN THE CITY OF BLOOMINGTON (THE CITY) AND LYLE SUMEK ASSOCIATES, INC.
2010 - 2011**

SCOPE

Lyle Sumek Associates, Inc. will provide the following services to the City:

- Elected Officials Interviews and Analysis
- Preparation and Facilitation for Strategic Planning Workshops I and II
- Elected Officials Governance and Protocol Communication Plan
- Executive Management Staff Interviews and Analysis
- Preparation and Facilitation of Elected Officials Action Agenda Items for 2011-2012

TERM

August 1, 2010 to July 1, 2012

Either party can cancel the agreement by giving 60 days written notice.

FEES AND EXPENSES:

The fee for all services in the above scope will not exceed \$20,000 for the 12 month period commencing August 1, 2010. The hourly rate is \$200.00.

Estimate of expenses include, but not limited to:

- air fare; travel/auto expenses; telephone/fax
- assessment instruments, accommodations/meals; typing/duplication, binding, and shipping; and products (strategic plan, executive summary, leader's guide summary report and performance report
- Monthly billings will be sent with an hour statement

This is an estimate. There are some key variables:

- Some travel expenses could be shared with other clients in area
- Car rental could be eliminated if the City provides transportation (e.g. pick up and delivery)
- Airfare varies week-to-week; day-by-day. We strive for the lowest airfare, which may be closer to actual travel time
- Number of emails and phone calls received from Elected Officials
- Meals may vary depending upon City paid meals or free meals included in hotel package

Lyle Sumek Associations, Inc.

City of Bloomington

Signature

Stephen F. Stockton
Mayor

Date: _____

Date: October 26, 2010

Alderman Stearns cited the costs of bringing in an outside consultant. She questioned if staff had looked for a local consultant or the possibility of a Request for Proposal (RFP). David Hales, City Manager, addressed the Council. He had looked for a local consultant last year. He did not find one locally with the experience and qualifications he believed were required. This was a narrow field and the City needed someone with experience in strategic plans and building Council community.

Alderman Stearns cited Julie Hile, a local consultant. Her perception was the position required skill with groups and soliciting ideas. She believed there was no need for municipal expertise. She cited the cost of program add-ons. She questioned if there was a better use of these funds.

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

Motion carried.

Ron Schultz, 1208 E. Oakland Ave., addressed the Council. He had attended the Council Retreat on December 1, 2009 and the retreat held on October 8 - 9, 2010. It was important to consider issuing a bid for this assignment. Council as well as department heads were in attendance at the retreat. He cited the cost for staff to attend. He believed the cost was in excess of \$15,000 plus expenses. He cited local universities as a source for consultants such as: Illinois State University, Illinois Wesleyan University, or the University of Illinois. The City was beyond Mr. Sumek's help. The City needed to start looking at a different topic. He believed the first day of the retreat revealed that the City was suffering from low morale. Supervisors with salaries in excess of \$100,000 should be responsible for morale. He was looking for a person with expertise in morale development. Mr. Sumek had concentrated more on building consensus. He expressed concern for what was being learned. Mayor Stockton clarified that Mr. Schultz computation was inaccurate. Department heads were salaried.

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

Motion carried.

Mr. Hales requested Council keep in mind the selection for this position. The City needed help with a strategic plan and annual goal setting. A strategic plan was a standard part of good governance. It was critical to work with the community when considering long term goals. The City needed to allocate limited resources. Retreats provided an opportunity for policy discussions. Mr. Sumek had experience with a number of communities across the state and the country. This was a good place to begin the dialogue. A strategic plan was a hallmark of good government. Goals should be annually built upon.

Mayor Stockton believed the City needed a strategic plan. He knew the advantage of goals, accountability and plans. He strongly encouraged Mr. Hales to work on that. All the candidates for City Manager were questioned about strategic planning. He did not believe Alderman Stearns was against a strategic plan. If the City hired a generalist there would be more start up time. Mr. Sumek had interviewed staff and Council prior to the retreat. He was experienced in this area. He questioned if Mr. Hales would like to continue working with Mr. Sumek. Mr. Hales responded affirmatively. This would be a one (1) year agreement with Mr. Sumek.

Alderman Anderson supported Mr. Hales and Mayor Stockton's comments. There had been value to the Council. Mr. Sumek had reeled the Council in to be realistic with their ideas. The value was reflected in the upcoming budget.

Alderman Fruin echoed Alderman Anderson's comments. This agreement allowed for continuity as Council members changed. He believed a strategic plan had been lacking over the years.

Alderman Stearns believed the value of time. Time was money. She supported the strategic plan. She believed the City should use local professionals and an RFP process. She planned to vote no on this issue.

Alderman Hanson had questioned the value of a Council retreat. He now believed it was a good exercise. It was time consuming. It allowed the Council members' thoughts and ideas for the City to be collected. He expressed amazement for the commonality among Council members. The strategic plan was a conduit between Council and staff. Mr. Sumek brought nationwide commonalities, ideas and brainstorming. He supported continuing the process with Mr. Sumek.

Alderman Sage stated Council had talked about best practices and lessons learned. Mr. Sumek had market tested information and brought added value. Alderman Sage reminded the public that the retreat was held at City Hall.

Alderman McDade echoed other Aldermen's comments. She wanted to see staff continue to work with Mr. Sumek as a means of continuing the successes already accomplished.

Alderman Purcell supported the strategic plan. He expressed concern regarding the cost (\$20,000). He believed updating the plan should be completed in ten (10) hours. There was no need to update other items. Mr. Hales clarified funding was not to exceed the cap of \$20,000. Expenses had been reduced. His intent was to control costs.

Alderman Hanson clarified that no formal vote was taken at the retreat. Items were ranked.

Alderman Stearns questioned the government model, chain of command, and what had been put in writing. Mr. Hales stated the Governance Guide was in draft form. The revisions along with Action Agenda items would be provided at a future Council meeting. The Council would then vote to approve and adopt the plan. He reiterated that the Action Agenda 2011 and the Governance Guide would be on a future Council agenda.

Motion by Alderman Schmidt, seconded by Alderman Hanson that Lyle Sumek Associates, Inc. be retained for Consulting and Facilitation Services, 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 Schmidt, McDade, Anderson, Hanson, Sage and Fruin.

Nays: Aldermen Stearns and Purcell.

Motion carried.

The following was presented:

SUBJECT: Enterprise Resource Planning Project

RECOMMENDATION: That an Enterprise Resource Planning (ERP) project with Tyler Technologies, Inc. (to implement their MUNIS enterprise application) and ClientFirst Consulting Group (for project management and implementation oversight) be approved in the amount of \$621,856 for fiscal year 2010, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: During the September 27, 2010 Council meeting, staff presented a request before Council for approval of an Enterprise Resource Planning (ERP) project. The original staff report also included a project timeline spreadsheet, a ClientFirst Consulting Group proposal for project implementation oversight assistance and a Tyler Technologies, Inc. proposal for sale and implementation services for their MUNIS enterprise software.

Council moved to lay this request over until the October 25, 2010 meeting, allowing time for staff to work with all interested Aldermen to provide further information regarding the project. Staff has been working with Aldermen Sage and Stearns since September 27, 2010 providing further cost benefit information and to answer further questions. As a result, the following documents are provided:

A more detailed list of return on investment (ROI) examples. This document provides example areas of estimated time and labor savings for a representative sampling of City staff.

A list of questions offered by Alderman Stearns. The document lists the questions and staff's response to each question.

It is possible that Tyler Technologies and City staff may need to negotiate a change in some of the project implementation dates set forth in the original agreement draft. Any proposed date changes will be reported by staff to the City Council. Staff anticipates no changes in the original Tyler Technologies proposal, other than the possible changes to implementation dates. After providing this further detail and justification, staff is respectfully requesting City Council approval to move forward with the ERP project.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The overall ERP project budget is \$2,190,002 over four (4) fiscal years (FY 2011 through FY 2014). Staff is requesting Council approval for the overall project, but to commit funds affecting only phases 1 and 2 of the project for the first fiscal year. The amount requested for FY 2011 is \$621,856 (\$615,856 for software and services and \$6,000 for maintenance). These funds have been budgeted within the Information Services Capital Outlay Office and Computer Equipment account (G11610-72120).

Respectfully submitted for Council consideration.

Prepared by:

Concurred with:

Scott A. Sprouls
Director of Information Services

Tim Ervin
Finance Director

Reviewed by:

Reviewed as to legal sufficiency:

Recommended by:

Barbara J. Adkins
Deputy City Manager

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Mayor Stockton introduced this item. The Banner system was over thirteen (13) years old. The software was no longer being enhanced by the vendor. There was an increasing risk of catastrophic failure. A needs assessment and the Request for Proposal (RFP) process have been completed. There have been dialogues with other cities. Estimated cost savings were developed. This item had been laid over from the Council's September 27, 2010 Meeting. He expressed concern that the Strategic Plan stated Enterprise Resource Planning (ERP) was a priority due to potential problems with the current system. He hoped a decision would be reached tonight. Further delays would result in increase costs.

Alderman Stearns believed it was a huge expenditure. The implementation phase, training, transition, and support had been agreed upon. A lot of resources were needed beyond a software upgrade. She expressed appreciation for Mayor Stockton, David Hales, City Manager, and Scott Sprouls', Information Services Director, efforts. She had contacted a local expert and wished for him to address the Council.

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

Motion carried.

Alton Franklin, 5 Andy Ct., Unit 1, addressed the Council. He had thirty (30) years of Information Services (IS) experience and extensive ERP experience. He was also certified in security. He had provided an assessment and had met with Mayor Stockton, Mr. Hales, and Mr. Sprouls. He appreciated the communication and cooperation of the Council. He expressed concern regarding the IS Department's limited resources. An ERP implementation was resource intensive. It required a lot of attention to detail. There were processes, shadow systems and databases with the potential for human error. He believed the implementation could be done differently. He had a difference of opinion. Mr. Sprouls had confidence in his staff. He expressed appreciation that his input was solicited. He wanted Mr. Sprouls to take a hard look at this before moving forward. He endorsed this implementation wholeheartedly. Mayor Stockton recognized Mr. Franklin's time. He was glad to hear of Mr. Franklin's support.

Mr. Franklin believed it was outstanding that Alderman Stearns reached out. He reiterated his appreciation that his input was considered. He encouraged the Council to bring in expertise in the future. Mayor Stockton added that part of the Council Retreat had focused on the establishment of ad hoc committees.

Jay Balmer, 16 Fountain Lake Ct., addressed the Council. He was an IS consultant. He had not reviewed the entire proposal. It looked like it would allow consolidation and would work well short term. It was scalable over time. The \$2.2 million spread over four (4) years while the program was implemented to address any issues was a solid program. He encouraged anyone with concerns to contact other cities using the system. Mayor Stockton added Mr. Sprouls had been working with his counterpart in Schaumburg, IL. The City of Schaumburg had been using this system for three (3) years. They had had some issues. He believed there would be issues with any system.

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

Motion carried.

Alderman Sage expressed appreciation for the additional Return on Investment (ROI) information staff had developed. He had been concerned with the completeness of the staff's work. However, their efforts had provided clarity regarding redeployment of man hours.

Alderman Purcell had completed research on this system. He expressed concern for the training time and the system's costs. He believed the cost would exceed \$4 million. He listed a number of concerns including data conversion. ERP was never done. ROI was difficult to calculate. The system would be difficult to implement and would be labor intensive. He believed it would not be a smooth transition. He also believed another system could be used. This system was not the answer. He would like to have a lower cost system. Mayor Stockton questioned if Alderman Purcell had another system in mind. Alderman Purcell responded negatively. Mayor Stockton added that staff had looked at six (6) systems. Staff believed this system was the best fit for the City.

Motion by Alderman Hanson, seconded by Alderman Anderson that an Enterprise Resource Planning (ERP) project with Tyler Technologies, Inc. (to implement their MUNIS enterprise application) and ClientFirst Consulting Group (for project management and implementation oversight) be approved in the amount of \$621,825 for fiscal year 2010, 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, Schmidt, McDade, Anderson, Hanson, Sage and Fruin.

Nays: Alderman Purcell.

Motion carried.

The following was presented:

SUBJECT: Reports

RECOMMENDATION: That the reports be received and placed on file.

BACKGROUND: The following reports should be received and placed on file with the City Clerk:

1. Comprehensive Annual Financial Report – Year Ended April 30, 2010.
2. Financial and Compliance Report – US Cellular Coliseum – April 30, 2010.
3. Financial Statements and Independent Auditor’s Report – Central Illinois Risk Pooling Authority – April 30, 2010.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tracey Covert
City Clerk

Timothy Ervin
Director of Finance

David A. Hales
City Manager

David Hales, City Manager, addressed the Council. Two (2) representatives were present from Sikich, the City’s auditing firm. He introduced Chad Lucas, Sikich LLP partner, to provide an overview of the reports for the City, the US Cellular Coliseum (USCC) and the Central Illinois Risk Pooling Authority (CIRPA) for Fiscal Year (FY) 2010. He would also answer the Council’s questions.

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

Motion carried.

Chad Lucas, Sikich LLP partner, addressed the Council. He expressed appreciation for the City’s Finance Department. There were twenty-four (24) audit adjustments made this year. The Comprehensive Annual Financial Report (CAFR) included unqualified opinion letters from Sikich. He cited the Management Discussion and Analysis (located on page 16 of the CAFR), which included comparative information. Governmental Activities included statements of net assets and liabilities which increased by

\$6.2 million for the year. Business activities increased \$2.6 million. The General Fund (GF) increased \$6.6 million as a result of an increase in the refuse fee and a decrease in salary/benefits due to the Early Retirement Incentive (ERI). The GF Unreserved Fund Balance (UFB) on April 30, 2010 was at \$9.7 million. Expenditures for the year were \$70 million. The numbers were close to the fund balance proposal. He provided an overview of the Enterprise Fund (EF). The Water Fund increased by \$2 million and the Sewer Fund increased by \$260,000 as a result of fee increases during FY 2009.

Alderman Stearns questioned the impact upon the bond rating. Mr. Lucas believed a positive impact was anticipated. Mr. Hales stated two (2) bond rating agencies had requested final copies of the audited financial statements. Staff hoped for a positive improvement to the bond rating.

Alderman Purcell had reviewed the document. He questioned what the City had done to accomplish these achievements. He also questioned if Mr. Lucas had found any surprises. Mr. Lucas stated a Management Letter was included with recommendations for improvements.

Mayor Stockton was pleased to see improvement. There was more work to be done. He was confident that the work would continue and funds would be stabilized. Mr. Lucas acknowledged Kelli Kaufman, Audit Supervisor. Mr. Hales cited the time spent by the Finance Department's staff who had addressed a number of concerns. It had been a strong team effort. The City had been well served by Sikich. Sikich had a number of offices throughout the state.

Mr. Hales would be recommending Council form an Audit Committee comprised of citizens. The committee could spend time with the auditors before and after the audit. They could then share their technical and professional expertise with the Council on how they view the City's financial statements. That recommendation would come for FY 2010 - 2011. He would provide an outline on how the committee would work with the Council. Mayor Stockton believed this idea related back to the strategic plan (i.e. ad hoc committees). It had been Council's number one priority to restore financial stability. He hoped for continued progress in this area.

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

Motion carried.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the reports be received and placed on file.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: A Resolution in Support of the Public Safety Pension Reforms Recommended by Pension Fairness for Illinois Communities Coalition

RECOMMENDATION: That the Resolution be adopted.

BACKGROUND: The growth in public safety pension costs are having a major budgetary impact on municipalities and taxpayers throughout the state. Expensive benefits and an inefficient financial model have placed Illinois' downstate and suburban police and firefighter pension systems in financial jeopardy. The fiscal instability and lack of affordability of the pension systems not only threatens the retirement of police officers and firefighters, but also threatens the financial health of communities and degrades the ability of local governments to provide for the health, safety and welfare of their citizens.

To address these concerns a group of municipal business organizations and municipalities from across the state formed the Pension Fairness for Illinois Communities Coalition. During this spring's legislative session, the Coalition began negotiations with the public safety unions. As a result of these negotiations, Senator Terry Link (D-Waukegan) filed an amendment to House Bill 5873 containing several key public safety pension reforms. While differing from the Coalition's initial proposals, most of the changes provided meaningful cost savings and appeared to be the best agreement between all parties.

However, throughout negotiations the public safety unions aggressively pursued an employer-funding mandate. The Coalition provided data showing the devastating financial consequence of mandating that communities contribute an employer contribution amount equal to that suggested by the Illinois Department of Insurance. Despite this, the amendment included a funding mandate providing that any municipal government with a pension fund that falls below a fifty percent (50%) funded ratio by 2015 must use the employer contribution amount determined by the Illinois Department of Insurance. Also impacting the funds, for enforcement purposes, is language allowing individual pension boards to direct the State Comptroller to withhold state funds and grants owed to the municipality and instead pay this money to the pension fund (this would include Local Government Distributive Fund (LGDF) and sales tax revenue among other sources). If these revenues are not sufficient to equal the contribution amount demanded by the pension board, then individual pension boards would be authorized to file lawsuits against municipal governments in circuit court. This funding mandate would require the extraction of an additional \$105 million across 173 communities for just one (1) year. As a result, Coalition partners were forced to oppose the amendment.

On Tuesday, September 21, 2010, the Illinois Municipal League (IML) joined other members of the Coalition in Chicago to present the case for pension reform before the House Subcommittee on Public Safety Pension Reform.

The IML prepared a fifty one (51) page report for submission to the Subcommittee that provides a roadmap for reform as the General Assembly contemplates the introduction of public safety pension reform legislation during the fall veto session (scheduled for November 16-18, 29-30 and December 1-2).

These recommendations consist of changes in the benefits for future employees (hired on or after January 1, 2011), changes to the current pension system, and recommended studies and reports. The proposed Resolution urges the General Assembly to support these commonsense recommendations that will go a long way toward bringing fiscal stability to public safety pension funds.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The City allocates a portion of the Property Tax Levy to offset the employer contributions to the Police and Fire Pension. This contribution has consistently increased over the past few years and is projected to continue to increase in the upcoming years to offset pension expense. As a result, the City has experienced the Police and Fire Pension expenses becoming a higher percentage of the City's annual Tax Levy.

Respectfully submitted for Council consideration.

Prepared by:

Financial review by:

Reviewed by:

Rosalee Dodson
Asst. Corporation Counsel

Timothy Ervin
Finance Director

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

Mayor Stockton introduced this item. Several members of the public had expressed interest in addressing the Council. David Hales, City Manager, addressed the Council. He had attended the Illinois Municipal League (IML) Annual Conference on September 21, 2010. He attended a session on Police and Fire Pension reform. The General Assembly and Governor had signed a major pension reform bill in one (1) day earlier this year that would be effective January 1, 2011. The bill did not address Police and Fire Pensions. It impacted new employees as of January 1, 2011. He read from the report (Downstate & Suburban Police Pensions, Downstate & Suburban Firefighter Pensions) that was provided to Council. The cost in pensions increased significantly in the past ten (10) years. There

was an impact upon the pension systems financial sustainability. It threatened the financial health of communities. The goal was to have affordable and sustainable costs. The report represented the position of the IML and the Pension Fairness for Illinois Communities Coalition (PFICC). The General Assembly could address the bill in the November veto session. There had not been an opportunity for the City to respond to the last bill. It was a good time to convey a Resolution to state elected officials such as the Governor, Senate President, Speaker of the House, etc. He cited the pension funds unfunded liability at the City and state level. Pension funding came from property taxes. The reform would impact newly hired employees. IML had put together reasonable reform. The veto session dates had been set.

Mayor Stockton added that the City needed to question realistic promises made. Everyone should be concerned with the funding levels. Changes to IMRF would impact cities too. Taxpayers would pay the bill. Mr. Hales noted that on November 8, 2010, Art Tepfer, Tepfer Consulting Group Ltd., would be presenting the Police and Fire Actuary Reports.

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

Motion carried.

John Meckley, 29 Kenfield Circle, addressed the Council. He was Local 49 President, (Firefighters). He introduced Chuck Sullivan, Association of Firefighters of Illinois (AFFI) State Representative.

Chuck Sullivan, AFFI Legislative Representative, addressed the Council. He addressed pension reform. AFFI supported public safety pension reform because a sustainable and solvent pension system was needed for their members. Police officers and firefighters do not receive Social Security benefits. Firefighters and police officers had been in negotiations over pension reform for the past two (2) years. In 1993, the IML introduced and passed legislation extending amortized pension funding to 2033. The situations cities find themselves in now were predicted in 1993. AFFI believed in real pension reform. The AFFI and IML introduced a public bill known as PA 95 – 950 to address benefit changes. It created three (3) things: 1.) more transparency between investors and trustees; 2.) required an impact fiscal study before additional benefit changes; and 3.) required the Commission on Government Forecasting Accountability (COGFA) to research Police and Fire Pensions. That study identified three (3) main drivers that caused unfunded liability in Police and Fire Pension Funds: 1.) irresponsible actuarial assumptions; 2.) poor investment returns; and 3.) lack of employer contribution enforcement.

AFFI and police officers asked for contribution enforcement language that was similar to IMRF code. Firefighters and police officers agreed to benefits changes. He cited actions of the Pension Fairness for Illinois Communities Coalition (PFICC) over the last six (6) months. He was a Lt. in the Champaign Fire Department. He cited the average

monthly gross pension of a firefighter, (\$3,700) before insurance and taxes. Seventy-seven cents (.77) of every unfunded dollar was not tied to benefit changes. Municipal unfunding must be addressed.

Mayor Stockton questioned mandatory funding mechanisms. He stated there were a number of factors impacting funding levels. The City had a number of competing priorities. Mr. Sullivan stated there was no funding verbage in the proposed Resolution. Mayor Stockton stated for the record that the Council had received a letter from Unit 49, the local union.

Alderman Stearns expressed appreciation for Mr. Sullivan's attendance. She questioned if this Resolution was the first resolution proposed to a City Council with this particular verbage. She also questioned where the verbage came from. Mr. Sullivan stated to his knowledge the proposed Resolution was different. Mr. Hales stated the proposed Resolution was drafted by the City's Legal Department based upon the report drafted by the IML. The proposed Resolution mirrored the IML's recommendations.

Alderman Stearns questioned if the City had contacted its State Representatives about this issue. She was surprised that this Resolution was unique to the City. She believed what happened in Springfield was critical. She expressed concern about what was really going on. She understood that some cities were 100% funded and was concerned about the City's funding level.

Alderman Anderson stated a large number of cities' pension funds were under funded. This was a top concern for Illinois. Out of 167 cities only one (1) was fully funded. The proposed Resolution created a dialogue and a list of concerns. He believed a low percentage of cities were fully funded. Mr. Sullivan expressed concern about where the numbers in the proposed Resolution had come from. Alderman Anderson reiterated that the proposed Resolution would generate dialogue.

Alderman Schmidt assumed the proposed Resolution was a suggestion. There seemed to be a number of specific items mentioned. Both sides of the equation were missing from same. She believed this was a significant challenge for the City.

Alderman McDade stated pensions were a concern. There would be dialogue in the future. She had not been aware the proposed Resolution was customized. Certain sections of the report inspired fear in the reader. It was a difficult issue. She believed that future reform would not answer the current unfunded liability. She was not comfortable supporting the proposed Resolution as written. She believed it had to be a collaboration and a dialogue. She reiterated that she would not support the proposed Resolution.

Alderman Purcell expressed concern regarding the language. He would not support the proposed Resolution. He wanted to see real dialogue.

Steve Zimmerman, 2012 Arrowhead, addressed the Council. He was a member of the City's Fire Pension Board. He clarified that the House Bill was HB 5873. He added

that Tim Ervin, Finance Director and Tracey Covert, City Clerk, were on the Fire Pension Board. Their names were contained on the proposed Resolution. He did not want hostile board members. He requested that their names be removed from the document. Reform was needed and the Pension Board wanted to be part of the process. He requested the proposed Resolution be withdrawn.

Alderman Stearns questioned his position on the Board. Mr. Zimmerman was Vice President and Ron Fowler served as President. Alderman Stearns clarified that Mr. Zimmerman did not received a copy of the proposed Resolution. Mr. Zimmerman responded affirmatively. Mr. Hales clarified that a copy was sent to Mr. Meckler (Union President) and the Police Unions Presidents. Mayor Stockton stated a copy would be provided to both pension boards as a standing invitation.

Alderman Fruin suggested the item be laid over until the Council's November 8, 2010 Meeting. Mr. Hales noted another alternative was to modify the proposed Resolution to be more generic without any specifics. The Council could also send a message to the General Assembly or take no action at all. Mayor Stockton believed some action should be taken. He also had not realized this was a customized Resolution. Mr. Hales was not aware of a standard resolution. Mayor Stockton suggested mentioning categories for improvement in the revised document. Mr. Hales stated the issue was defining what real pension reform meant.

Alderman Sage cited for purpose of clarification the dates contained in the proposed Resolution. The time line allowed for the item to be laid over until November 8, 2010.

Alderman Fruin suggested writing something for the next meeting as well. Mayor Stockton stated that as staff drafted the Resolution, he believed they would be open to input from the Pension Boards and Police and Fire Unions. Mr. Hales believed the revised Resolution would be generic.

Alderman Stearns stated it should be nonspecific. She believed staff should contact the City's State Representatives and include the City's police and fire personnel.

Alderman Purcell requested the draft be distributed via email to the Council.

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

Motion carried.

Alderman Hanson reiterated the revised Resolution should be generic and that dialogue between City staff and the City's State Representatives should continue. Mayor Stockton thanked staff for their efforts. It was a good starting place. The issue needed to be addressed with all parties involved.

Motion by Alderman Hanson, seconded by Alderman McDade that the item be laid over until the Council's November 8, 2010 meeting.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Proposed 2010 Tax Levy and Process

RECOMMENDATION: That the proposed tax levy be adopted as the estimate of \$23,586,906 for the 2010 Tax Levy.

BACKGROUND: It is past practice that the City begin preparation of the annual tax levy in early fall of the calendar year. This is the initial step to establish the 2010 Tax Levy and thus the adopted Tax Levy may be different from this estimate. This estimated tax levy will be adopted based upon appropriations for the City's Fiscal Year 2010 - 2011. Keep in mind; that property taxes will be collected by McLean County during June and September in 2011.

In order to adopt a levy, the City has to formally establish an estimate, which is represented by the figures contained in this document. The Truth in Taxation Law (35 ILCS 200/18-85) has two (2) requirements to comply with the adoption process for the levy. These requirements include:

1. "Not less than (20) days prior to the adoption of its aggregate levy the corporate authority of each taxing district shall determine the amounts of money estimated to be necessary to be raised by taxation for that year upon the taxable property in its district."
2. "If the estimate of the corporate authority made is more than 105% of the amount extended or estimated to be extended the corporate authority shall give public notice of and hold a public hearing on its intent to adopt an aggregate levy in an amount which is more than 105% of the amount extended or estimated to be extended. The notice shall appear not more than 14 days nor less than 7 days prior to the date of the public hearing."

In addition, the tax levy ordinance must be passed by a vote of the City Council and a certified copy thereof filed with the County Clerk on or before the last Tuesday in December. This year's deadline is December 28th. In order to meet the various timing requirements to legally adopt a levy in December, the City must set an "estimated" tax levy in October. Adoption of the 2010 Tax Levy Ordinance will be placed on the Council's November 22nd meeting agenda.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Mike Ireland – City of Bloomington Township Assessor, and discussed on October 11, 2010 during a Council Work Session.

FINANCIAL IMPACT: The 2010 estimated property tax levy is \$23,586,906 which is essentially a zero percent (0%) increase over the 2009 property tax levy extension of \$23,586,675. This recommendation can directly be tied to the following five (5) components of the overall city levy:

These levies are applicable to the Truth in Taxation statute:

- A sixteen percent (16.29%) decrease (\$367,000) in the levy for the General Corporation Fund. This levy funds operations within the General Fund of the City of Bloomington. The decrease in this levy will partially offset the higher tax levies incurred within the debt service and police and fire pension levies.
- A 2.77% increase (\$86,372) in the Firemen's Pension Fund. This levy funds the retirement pensions for 187 active and retired participants. The May 1, 2009 actuarial valuation showed the funded ratio of this pension fund at 49.77% in comparison to the prior year average of 60.42%. The levy amount proposed in the estimated tax levy is the minimum statutory tax levy set and required by state statute.
- A 3.85% increase (\$148,122) in the Policemen's Pension Fund. This levy funds the retirement pensions for 210 active and retired participants. The May 1, 2009 actuarial valuation showed the funded ratio of this pension fund at 50.65% in comparison to the prior year average of 58.92%. The levy amount proposed in the estimated tax levy is the minimum statutory tax levy set and required by state statute.
- The elimination of the liability insurance (\$100,000) and audit levy (\$80,000). The elimination of these two levies will partially offset the higher tax levies incurred within the debt service and police and fire pension levies.
- A 14.35% increase (\$312,737) in the debt service levy since the City will no longer abate a portion of the annual payment for the 2001 Series Lease agreement. An intergovernmental agreement exists where the City pays an annual lease payment to McLean County for the Government Center. The levy includes additional proceeds to fund the principal and interest bond payments for the 2003 Capital Improvement Bond issue and 2007 General Obligation Bond issue.

The proposed levy is based on a projected 2009 Equalized Assessed Valuation of \$1,798,911,721 which is 1.5% above the 2008 EAV of \$1,772,326,819. The City determined the EAV estimate from discussions with Mike Ireland, City of Bloomington Township Assessor.

The tax rate per \$100 of EAV for the 2009 levy was \$1.33083 (\$1.07616 for the City and \$0.25466 for the Library). The projection for the 2010 levy generates an estimated tax rate of \$1.31118 per \$100 of EAV (\$1.06027 for the City and \$0.25090 for the Library). The increase in the levy amount subject to Truth in Taxation is (-1.46%), which is below the 5% threshold that requires a newspaper publication and a public hearing before adopting the final levy. Therefore, the proposed levy will not require the City to have a newspaper publication and a public hearing before the adoption of the final levy.

To recap, as indicated earlier, the estimated levy for 2010 reflects the statutory contribution for the Police and Fire Pension set by the State statute. To offset the mild increase in these pension funds and debt service, the City will lower the Tax Levy for the General Fund and eliminate the liability insurance and audit tax levy. Bloomington residents living in a \$100,000 home would

see the City portion of the property taxes decrease by \$6.55; \$150,000 home would see a decrease of \$9.83; and a \$200,000 home would see a decrease of \$13.10.

The following is a comparison of last year's levy as extended by the County Clerk to this year's estimated levy:

Property Tax Levy Comparison

	<u>Estimate 2010</u>	<u>Extension 2009</u>	<u>% Increase</u>
General Corporate	\$1,885,266	\$2,252,266	-16.29%
Police Protection	\$1,354,332	\$1,354,332	0.00%
Fire Protection	\$1,183,182	\$1,183,182	0.00%
Public Parks	\$1,001,487	\$1,001,487	0.00%
IMRF Fund	\$2,502,956	\$2,502,956	0.00%
Social Security Fund	\$1,459,097	\$1,459,097	0.00%
Fire Pension Fund	\$3,202,697	\$3,116,325	2.77%
Police Pension Fund	\$3,991,632	\$3,843,510	8.85%
Liability Insurance Fund	\$0	\$100,000	-100.00%
Public Library Fund	\$4,513,519	\$4,513,519	0.00%
Audit Fund	\$0	\$80,000	-100.00%
Truth in Taxation Subtotal	\$21,094,168	\$21,406,674	-1.46%
	<u>Estimate 2010</u>	<u>Extension 2009</u>	<u>% Increase</u>
1996 Police Facility Bonds	\$0	\$1,576,443	-100.00%
2001 Refinancing Issue	\$0	\$75,820	-100.00%
2001 Series A Lease Agreement	\$850,000	\$0	100.00%
2003 Capital Impr Issue	\$1,366,188	\$366,188	273.08%
2007 G.O. Bond Issue	\$276,550	\$161,550	71.19%
Debt Service Subtotal	\$2,492,738	\$2,180,001	14.35%
Total Tax Levy	\$24,586,906	\$23,586,675	0.00%

The recommended time line to finalize the tax levy is as follows:

1. Set the estimated levy tonight to start the twenty (20) day clock.
2. Adopt the Tax Levy on November 22, 2010.
3. Formally adopt the bond abatements at the December 13, 2010 meeting.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tim Ervin
Director of Finance

Barbara J Adkins
Deputy City Manager

David A. Hales
City Manager

Mayor Stockton introduced this item. The estimated tax levy was on a twenty (20) day calendar. David Hales, City Manager, addressed the Council. There were two (2) property tax levies, one (1) for the City and one (1) for the Library. The estimated levy for General Fund was flat. The majority of property tax dollars went to pension funds, (Police, Fire, and IMRF). Tim Ervin, Finance Director, addressed the Council. The estimated tax levy was a zero percent (0%) increase from last year. There were three (3) options provided in the handout. He cited the tax levy figures.

Mayor Stockton clarified that last year the City raised the tax levy. The Equalized Assessed Value (EAV) was estimated to have a slight increase. Keeping the levy steady would result in a slight increase in the tax rate. The City's tax rate was fifteen percent (15%) of total property tax dollars. He questioned pensions' increasing cost. Mr. Ervin would have to do the calculations. Mr. Hales stated as staff drafted the FY 2011 - 2012 budget, police and fire pensions and IMRF would continue to increase. Staff was proposing to absorb the costs elsewhere. The City must pay IMRF and Early Retirement Incentive (ERI) debt service.

Alderman Sage questioned the requirement for a Public Hearing. Mr. Ervin stated a Public Hearing had always been held as past practice. Todd Greenburg, Corporate Counsel, addressed the Council. The estimated levy was actually two (2) separate levies.

Alderman Purcell questioned absorbing increased pension fund payments by the General Fund. Mr. Ervin responded affirmatively. He would present a balanced budget in April 2011.

Alderman Sage clarified that there would be two (2) separate votes at the time of the final levy, one (1) for the City and one (1) for the Library. He expressed concern about the Library. Mr. Ervin stated staff was providing an estimated levy to the Council tonight. Mr. Greenburg stated the advisory to the Board of Trustees would be to adopt the levy.

Alderman Sage requested as part of the Public Hearing process that a one (1) page overview be provided with the number of tax bodies and the process of working with the Township Assessor.

Motion by Alderman Hanson, seconded by Alderman Purcell that the proposed Tax Levy for the City and Library be adopted as the estimate of \$23,586,906 for the 2010 Tax Levy.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Presentation of Draft Reserve Policy

RECOMMENDATION: Presentation of Draft Reserve Policy which will be placed on the November 8, 2010 Council Agenda for formal approval.

BACKGROUND: In order for the City to be in an optimal position to establish a long term financial plan, clear, concise financial policies have begun to be established. In March 2010, Council approved a revised, updated Investment Policy. A key trait of a financially stable organization is the establishment and maintenance of an appropriate fund balance among all funds. Council's adoption of a strong fund balance policy sends a clear message of fiscal sustainability to all City stakeholders. While the City has unofficially addressed the fund balance issue, it does not have a clear delineated policy to govern decision making and fiscal actions by its officials. This is essential, especially as the City strives to strengthen its financial position and restore trust among all City stakeholders.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Other governing boards within the City that oversee special revenue funds will be impacted by the policy, as the fund balance for each special revenue fund is brought into compliance with the parameters set forth within the policy.

FINANCIAL IMPACT: A reserve policy, in conjunction with the calculation of the "cash flow commitment" will continue to impact the financial condition of the City as the General Fund balance is rebuilt. Other City funds will be impacted as the fund balance or net assets are adjusted to meet the requirements set forth within the policy.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Timothy Ervin
Director of Finance

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Mayor Stockton introduced this item. David Hales, City Manager, addressed the Council. He suggested due to the lateness of the hour that this item be laid over until the Council's November 8, 2010 meeting.

Motion by Alderman Hanson, seconded by Alderman Anderson that the item be laid over until the Council's November 8, 2010 meeting.

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

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

Nays: None.

Motion carried (viva voce).

The following was presented:

SUBJECT: Change Order No. 3 to the Professional Services Agreement with Foth Infrastructure & Environment, LLC (Foth) for Lafayette and Maple Street Reconstruction Project Engineering Design Services and Supplemental MFT Resolution (Ward 4)

RECOMMENDATION: That the Change Order in the amount of \$31,900 be approved and Resolutions adopted.

BACKGROUND: On September 25, 2006, Council approved a contract for Professional Services with Foth in the amount of \$120,000 for the design of pavement reconstruction of Lafayette Street from Maple to Morrissey and Maple Street from Lafayette to Beechwood, including a two (2) lane curb and gutter facility with a middle bi-directional turn lane on Lafayette, and a two (2) lane curb and gutter facility (no turn lane) on Maple.

On August 27, 2007, Council approved Change Order No. 1, in the amount of \$13,264 to provide a detailed drainage study and analysis of the capacity of the fifty four inch (54") storm sewer on Beechwood, which was found to be adequate to handle storm flow in the area, resulting in an estimated construction cost savings of \$275,000. On October 13, 2008, Council approved Change Order No. 2, in the amount of \$30,000 to design the additional sewer mains recommended in the detailed drainage study. Foth then delivered preliminary plans to the City for final review. At that time, the project was put on hold.

It is now time to finalize the plans and move forward with construction of the project. Along with updating the plans with current GIS and topographic data, a revision is also being made to the channel carrying storm water flow from Maple Street to the Baker-Ash detention basin, at an added design cost of \$9,200. Additionally, replacement of old water main within the project limits has now been added to the project, at a design cost of \$22,700. Therefore, change order No. 3 is necessary, in the amount of \$31,900. Staff has reviewed the charges for additional design services and found them to be reasonable and appropriate for projects of this kind. The changes are summarized as follows:

<i>Fund</i>	<i>Account</i>	Original Contract <i>09/25/2006</i>	Change Order 1 <i>08/27/2007</i>	Change Order 2 <i>10/13/2008</i>	Change Order 3 <i>current</i>	<i>Total</i>
MFT	X20300-72530	\$ 90,000		\$ 30,000	\$ 9,200	\$129,200
CIF	X40100-72530	\$ 30,000				\$ 30,000
SWDF	X55200-72530		\$ 13,264			\$ 13,264
WDF	X50200-70050				\$ 22,700	\$ 22,700
Total		\$120,000	\$ 13,264	\$ 30,000	\$ 31,900	\$195,164

The construction cost estimate for this project is as follows:

Lafayette and Maple St. Reconstruction: \$1,800,000 MFT Funds
Lafayette and Maple St. Water Main Replacement: \$ 200,000 WDF Funds

It is proposed that funding for pavement reconstruction and water main replacement be included in FY 2011-2012.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: It is anticipated that prior to final plan approval, a public meeting will be held to discuss pre-final plans with interested citizens.

FINANCIAL IMPACT: The Professional Services Agreement with Foth Infrastructure & Environment, LLC for the design of the Lafayette and Maple Street Reconstruction Project, needs to be increased \$31,900 to a total cost not to exceed of \$195,164. The \$31,900 was not included within the FY 2010 - 2011 budget. A Supplemental MFT Resolution appropriating \$9,200 in MFT funds must also be adopted. Payment for this increase in design fee will be made from City funds as follows:

MFT X20300-72530 \$ 9,200 Motor Fuel Tax
WDF X50200-70050 \$ 22,700 Water Department

Total Increased Design Cost \$ 31,900

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

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

Craig Cummings
Director of Water

Financial review by:

Recommended by:

Tim Ervin
Director of Finance

David A. Hales
City Manager

RESOLUTION NO. 2010 – 38

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE
AMOUNT OF \$31,900 IN THE CONTRACT BETWEEN THE CITY
OF BLOOMINGTON AND FOTH INFRASTRUCTURE & ENVIRONMENT, LLC FOR
LAFAYETTE AND MAPLE STREET RECONSTRUCTION PROJECT ENGINEERING
DESIGN SERVICES**

WHEREAS, the City of Bloomington has previously entered into a contract with Foth Infrastructure & Environment, LLC for Lafayette and Maple Street Reconstruction Project Engineering Design Services; and

WHEREAS, for the reasons set forth in a staff report dated October 25, 2010 it was necessary to channel carrying storm water flow from Maple Street to the Baker-Ash detention basin and replace old water main within the project limits; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the October 25, 2010 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 \$31,900 in the contract between the City of Bloomington and Foth Infrastructure & Environment, LLC for Lafayette and Maple Street Reconstruction Project Engineering Design Services be approved.

ADOPTED this 25th day of October, 2010.

APPROVED this 26th day of October, 2010.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Mayor Stockton introduced this item. David Hales, City Manager, addressed the Council. Staff recommended the Change Order be approved. There had been significant design work done but it was not completed. A right of way acquisition was required. This was a high priority project for FY 2011 - 2012.

Motion by Alderman Stearns, seconded by Alderman Schmidt that the Change Order in the amount of \$31,900 be approved and the Resolutions adopted.

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

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

Nays: None.

Motion carried.

MAYOR'S DISCUSSION: None.

CITY MANAGER'S DISCUSSION: David Hales, City Manager, addressed the Council. He provided an update on future Council agendas. He cited the Market St. railroad bridge cost estimates. Hanson's estimated cost was \$14.5 million and the Union Pacific Railroad estimated \$2.7 million. He noted the following events: Citizen Summit and Council Retreat – November/December 2010, meeting with State legislators – December 2010/January 2011, Community Leaders Breakfast – January 2011, Citizen Voice Meeting – February 2011, Budget Open House – March 2011, and Saturday Budget Work Sessions – March 2011. Lyle Sumek, Lyle Sumek Associates, offered to host a second Citizen Summit at no cost to the City. He would be providing an agenda with possible dates soon.

He added that he would be sending out more information regarding a November 9, 2010 luncheon with Buxton, a national firm that dealt with retail and strategic planning. There was no cost to the City for the first discussion.

ALDERMEN'S DISCUSSION: Alderman Anderson was happy that dialogue had begun concerning pension reform.

Alderman Stearns commented on the Neighborhood Preservation Ordinance meeting held on Thursday September 28, 2010. She and Mayor Stockton had been working with an Intern from Illinois Wesleyan University who had contacted seventy-five (75) cities around the state to inquire about their success with vacant houses. She was excited to see progress and to look further at incentivizing and dealing with distressed properties. She hoped the City would use the data gathered.

Alderman Purcell was glad there had been discussion tonight on several important issues.

Motion by Alderman Anderson, seconded by Alderman Schmidt, that the meeting be adjourned. Time: 10:25 p.m.

Motion carried.

**Tracey Covert
City Clerk**