



ADDENDUM I
BLOOMINGTON CITY COUNCIL AGENDA
NOVEMBER 14, 2011

CORRECTION TO CONSENT

Item 7H. Analysis of Bids for the Repair of the Police Parking Garage. See page 2 of Council Memorandum, fifth paragraph.

Staff completed reference checks of M3 Restoration (M3R) and found some references were for incomplete projects. M3R is in their first year of business. It is owned by individuals who have been employed with another company while working on projects which were also listed as references.

ADDITION TO CONSENT

Item 7B. Bills and Payroll. (Recommend that the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.) *City Council Memorandum with Attachment 2*

REMOVAL TO CONSENT

Item 7M. Application of Super Parkway Liquor, LLC, d/b/a Parkway Liquor, located at 2303 E. Washington, Unit #3, requesting a PAS liquor license, which would allow the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week.

ADDITION TO REGULAR

Item 9C. Petition submitted by Janessa and Justin Orwig requesting the approval of a Rezoning from R-2 Mixed Residence District with an S-4, Historic Preservation District overlay, to an R-2, Mixed Residence District for the property commonly located at 1001 Elder Street. (~~Recommend that the Rezoning be approved and the Ordinance passed.~~) (Recommend the petition be denied.)

See Council Memorandum from Todd Greenburg, Corporation Counsel regarding Suggested Procedures for Appeals from Boards and Commissions to City Council.

FOR COUNCIL: November 14, 2011

SUBJECT: Bills and Payroll

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

FINANCIAL IMPACT: Total disbursements to be approved \$4,180,561.34, (Payroll total \$1,877,451.17, and Accounts Payable total \$2,303,110.17).

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Douglas Ellsworth
Interim Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK’S OFFICE)

Attachment: Attachment 1. Bills and Payroll on file in the Clerk’s office. Also available at www.cityblm.org.
Attachment 2. Summary Sheet Bills and Payroll Report

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

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Stearns				Alderman McDade			
Alderman Mwilambwe				Alderman Anderson			
Alderman Fazzini				Alderman Schmidt			
Alderman Sage				Alderman Fruin			
Alderman Purcell							
				Mayor Stockton			

City of Bloomington Finance Report

Fiscal Year : 2012

<u>Payroll</u>				<u>Accounts Payable</u>	
<u>Date</u>	<u>Amount \$\$\$\$\$</u>	<u>Date</u>		<u>Amount \$\$\$\$\$</u>	
10/29/2011	\$227,325.44	From 10/25/2011	To 11/14/2011	Accounts Payable	\$526,654.85
11/05/2011	\$1,429,440.05	From 10/25/2011	To 11/14/2011	Wife Transfer	\$1,038,466.83
11/12/2011	\$220,685.68	From 10/25/2011	To 11/14/2011	P-Card Transfer	\$0.00
		From 10/25/2011	To 11/14/2011	MUNIS Accounts Payable	\$737,988.49
Total	<u>\$1,877,451.17</u>	Total		Total	<u>\$2,303,110.17</u>

Total Disbursements To Be Approved

\$4,180,561.34

Council Of November 14, 2011

Respectfully,



Douglas Ellsworth

Interim Finance Director

Memo to: Mayor and City Council

From: Todd Greenburg, Corporation Counsel

Re: Suggested Procedures for Appeals from Boards and Commissions to City Council

Date: November 7, 2011

I have been requested to suggest procedures to be used, at least for the time being, for cases in which the City Council is considering an administrative appeal of a decision involving the application of a City regulation to a person's property or business.

I suggest that the Council do not receive additional evidence. The City Council should restrict itself to consideration of the evidence which was received in front of the board or commission. If the City Council does not believe the record gives it enough facts to decide the appeal it should send the matter back to the Board or Commission for additional hearings.

The reason for this advice is twofold: it sends a clear message to all parties that the proper place to submit evidence is in front of the board or commission which has been designated by the City to receive the evidence and which has expertise in that particular area. In addition, the boards and commissions of the City are designed for the purpose of both fact-finding and applying the facts in accordance with City ordinances. It is a burden on the City Council to ask it to perform fact-finding in the context of a City Council meeting. Finally, receiving additional evidence requires suspension of the rules. It is possible that a person in the audience who could rebut the "new" evidence might not be permitted to speak, which would deprive the Council of the ability to have all of the relevant facts prior to making a decision.

On technical issues involving the application of an ordinance, the Council may ask for the assistance of the City staff, but it should avoid asking a staff member to testify about his or her specific knowledge of the facts of the appeal in front of the Council. The questions should be restricted to the language or application of the ordinance itself.

Generally, an administrative appeal may be reversed on one of two reasons:

(1) The City Council may find that the decision of the board or commission was "against the manifest weight of the evidence"- in other words, that the board or commission made a finding of fact that was an obvious mistake which the City Council should remedy.

(2) The City Council may find that the decision of the board or commission misapplied the policy set forth in the City ordinance to the specific facts which were submitted to the board or commission. This is usually the more common reason for reversing a decision of a board or commission; it often involves policy decisions in which the burden on a

petitioner if his or her request is denied is weighed against the burden on the neighborhood if the request is granted.

As mentioned above, if the City Council decides that it does not have sufficient facts to make a decision, it should send the matter back to the board or commission for the purpose of additional findings of fact. However, this should not be used for the purpose of avoiding the making of a decision- it should be restricted to situations in which it appears that there really is some fact which is missing in the record which should have been included and which is not simply the result of carelessness on the part of the petitioner or his or her opponents.