

**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 7:01 p.m., Monday, November 26, 2012.

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

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

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

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

The following was presented:

Oath of Office for Police Patrol Officers: Scott Lake and Bradley Massey.

Randy McKinley, Police Chief, introduced Scott Lake and Bradley Massey, Police Patrol Officers. He stated that each individual was accompanied by their families. Each came to the City via the Experienced Officer Hiring Program. Chief McKinley introduced Bradley Massey. Mr. Massey had been employed with the San Diego, CA Police Department and St. Louis County, MO Sheriff's Department. He had returned to Central Illinois. He has attended Richland Community College and Illinois State University. Chief McKinley introduced Scott Lake. Mr. Lake had been employed with Illinois State University's Police Department. He had experience on the drug task force. He held an Associate's Degree from Parkland Community College, a Bachelor's Degree from the University of Illinois and a Master's Degree from University of Illinois – Springfield.

Tracey Covert, City Clerk, administered the Oath of Office. Mayor Stockton presented each with their certificate. He expressed his appreciation to them for their service the City.

Mr. Massey thanked the City for the presenting him with the opportunity to return home. Mr. Lake informed the Council that he had been recruited by the City's police officers. He had no regret about his decision to leave Illinois State University and join the City's Police Department. It was a great place to serve.

The following was presented:

SUBJECT: Council Proceedings of November 13, 2012, Special Session Minutes of August 27 and November 13, 2012, Executive Session Minutes of August 27 and November 13, 2012, and Work Session Minutes of September 24, 2012

RECOMMENDATION/MOTION: That the reading of the minutes of the previous Council Proceedings of November 13, 2012, the Special Session Minutes of August 27 and November 13, 2012, the Executive Session Minutes of August 27 and November 13, 2012, and the Work Session Minutes of September 24, 2012 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of November 13, 2012, the Special Session Minutes of August 27 and November 13, 2012, the Executive Session Minutes of August 27 and November 13, 2012, and the Work Session Minutes of September 24, 2012 have been reviewed and certified as correct and complete by the City Clerk.

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

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

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman McDade, seconded by Alderman Schmidt that the reading of the minutes of the previous Council Proceedings of November 13, 2012, the Special Session Minutes of August 27 and November 13, 2012, the Executive Session Minutes of August 27 and November 13, 2012, and the Work Session Minutes of September 24, 2012 be dispensed with and the minutes approved as printed.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

RECOMMENDATION/MOTION: 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, November 22, 2012 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:

Patti-Lynn Silva
Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman McDade, seconded by Alderman Schmidt that the Bills and Payroll be allowed and the orders drawn on the Treasurer for the various amounts as funds are available.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Locker Room Restoration for the US Cellular Coliseum

RECOMMENDATION/MOTION: That the bid for locker room restoration be awarded to Anderson Building Services, Inc., in the amount of \$32,300, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Over the last couple of years, Central Illinois Arena Management, (CIAM), discovered the need for additional locker room space. With the addition of Professional Basketball and Junior Hockey to an already established Professional Hockey and Indoor Football, another locker room is needed to give more space to our sports teams. The Pepsi Ice Center utilizes the available ice time in the US Cellular Coliseum, totally approximately sixty to ninety, (60 – 90), plus hours a month, in which locker room facilities are required to utilize for their teams and participants. An average weekend day consists of sports teams overlapping in locker rooms without a minute to spare in between for a twelve, (12), hour period or more. In some circumstances, there are currently twenty-five, (25), hockey players crammed into one, (1), locker room space that would usually hold fifteen, (15), people comfortably to dress. Each week, it is imperative to have an hourly locker room schedule for each locker room space making sure to accommodate everyone's needs, and there is no room for error. This proves to very difficult when games run long due to overtime, injuries that arise, etc.

In addition to sporting events, all locker rooms, (besides the main home team locker room), become backstage dressing rooms, green rooms, and production office space for touring shows. The high caliber tours that we have been fortunate to play in our facility are accustomed to having more space backstage then we can currently provide. The additional locker room space would be utilized by touring shows to make their experiences more enjoyable in our facility and allure them to return for future shows.

What this project involves is removing full length mirrors, installing wire shelving and painting the room. We will also be installing a door frame to enter the shower and rest room area of the existing home team locker room, by doing this some plumbing will need to be removed to create the opening. A double door will be installed at the end of the dressing room hallway to secure that area for teams as well as our shows. Garage type flooring will be installed in the hallway and shower area to help maintain the cleanliness of the area.

The City released bids on September 21, 2012 with a deadline of October 12, 2012. Due to questions regarding the project an Addendum with questions and answers and the bid deadline was extended to October 23, 2012. If the project is approved, CIAM anticipates project completion by January 2013.

Bids were received in the City Clerk's Office. Two (2) bids were received and were opened on October 23, 2012 at 2:00 PM Central Standard Time (CST).

Company	Amount of Bid	Location
Tarter	\$38,800	Bloomington, IL
*Anderson Building Services	\$32,300	Normal, IL

**After reviewing the Bids, staff determined that Anderson Building Services was the lowest and met all of the criteria of the bid specifications. There is a one (1) year manufactures warranty.*

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Advertise in the Pantagraph and City of Bloomington website.

FINANCIAL IMPACT: The FY13 Budget appropriated \$35,000 for the locker room restoration line item 57107110-72520. The low bid submitted \$32,300 was \$2,700 or 7.7% below the appropriation amount.

Respectfully submitted for Council consideration.

Prepared by:

John Butler
President of CIAM

Financial review by:

Patti-Lynn Silva
Finance Director

Reviewed by:

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

Motion by Alderman McDade, seconded by Alderman Schmidt that the bid for locker room restoration be awarded to Anderson Building Services, Inc., in the amount of \$32,300, and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

SUBJECT: Purchase of Desktop and Notebook Computers

RECOMMENDATION/MOTION: That the purchase of one hundred thirty (130) Hewlett Packard Pro 6300 Small Form Factor personal computers and fifteen (15) Hewlett Packard Probook 6570b Notebook personal computers, utilizing the formal Western States Contracting Alliance contract, be approved, in the amount of \$88,335, and the Purchasing Agent be authorized to issue a Purchase Order.

BACKGROUND: Staff is requesting Council approval to replace aging desktop and laptop computers. The computers to be replaced are a combination of six (6) and seven (7) years old. They are under-performing, experiencing increasing hardware repair issues and are affecting

staff efficiency. Industry standard replacement cycle for these types of computers is typically four (4) to five (5) years. The replacement quantities being requested represent roughly twenty-five percent, (25%), of the City's active desktop personal computers and twenty-five percent, (25%), of the standard business notebook computers. A nonstandard laptop would be the Panasonic Toughbook notebook computers used in Police and Fire vehicles, and a few Public Works vehicles. These computers are replaced separately from the business notebooks.

Staff is requesting Council approval to purchase these computers off of the Hewlett Packard Western States Contract Alliance contract, IL – MHEC (WSCA/NASPO) Contract (MHEC-090109.02), which is a previously competitively bid contract.

Further detail about the specifications and pricing of these computers can be found in the table below and the attached quote.

Qty	Description	Unit Price	Extended Price
130	HP Pro 6300 Small Form Factor PC	\$570	\$74,100
15	HP Probook 6570b Notebook PC	\$949	\$14,235
		Total	\$88,335

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Funds for the purchase of these personal computers were appropriated in the FY 2013 Budget line item 10011610-71010.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Scott Sprouls
Director of Information Services

Barbara J. Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Recommended by:

David A. Hales
City Manager

Motion by Alderman McDade, seconded by Alderman Schmidt that the purchase of one hundred thirty (130) Hewlett Packard Pro 6300 Small Form Factor personal computers and fifteen (15) Hewlett Packard Probook 6570b Notebook personal computers, using the formal Western States Contracting Alliance contract be approved, in the amount of \$88,335, and the Purchasing Agent be authorized to issue a Purchase Order.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids for Retrofitting Sewer Televising Vehicle S-40

RECOMMENDATION/MOTION: That the bid for the retrofitting of Sewer Televising Vehicle S-40 be awarded to Coe Equipment, Inc., in the amount of \$83,359, and the Purchasing Agent be authorized to issue a Purchase Order.

BACKGROUND: This vehicle is used by the Public Works Department's Streets and Sewers Division to televise storm, sanitary and combined sewer lines as a means of detecting issues with sewers. Sewer Televising Vehicle S-40 contains electronic equipment which was originally installed when the vehicle was purchased new in 2005. This vehicle is mechanically sound and in good working order. However, the sewer televising components have been experiencing severe operational problems which have prevented this vehicle from being used for the past eighteen, (18), months.

Bids for the equipment were received on October 5, 2012, at 10:00 A.M. The overall scope included:

1. Replacement of all interior sewer televising equipment; and
2. Training for personnel responsible for operating this equipment.

The bid results returned are:

Vendor	Location	Net Price
Coe Equipment	Rochester, IL	\$83,359
E J Equipment	Manteno, IL	\$84,500

Staff, including management and classified personnel, analyzed the proposal and found it to be in order. Staff's original estimate for this equipment was \$99,000. Staff respectfully requests that the Council accept the proposal in the amount of \$83,359 from Coe Equipment for the retrofitting of sewer televising vehicle S-40, including the replacement of all interior sewer televising related equipment and training for personnel responsible for operating this equipment.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the Invitation to Bid was placed in the Pantagraph on October 5, 2012 and also placed on the City's web site. Three (3) bid specifications were emailed to vendors. A pre-bid meeting was held on October 16, 2012. City staff and one (1) vendor were in attendance. Two (2) vendors submitted a bid.

FINANCIAL IMPACT: The FY 2013 Budget appropriated \$100,000 in line item 51101100-72190. Staff recommended awarding the bid to Coe Equipment, Inc., in the amount of \$83,359, which is below budget by \$16,641 or 16.6%. Although the fund had a negative unrestricted net asset balance, over the past few fiscal years, staff projections indicate this deficit has trended in a positive direction. The total cost of the annual software renewal fees and customer service agreements associated with this system for the next five (5) years were included with the retrofit of S39 in FY 2012.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Jim Karch
Director of Public Works

Barbara J. Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Recommended by:

David A. Hales
City Manager

Motion by Alderman McDade, seconded by Alderman Schmidt that the bid for the retrofit of Sewer Television Vehicle S-40 be awarded to Coe Equipment, Inc., in the amount of \$83,359, and the Purchasing Agent be authorized to issue a Purchase Order.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Memorandum of Understanding with Miller Park Zoological Society

RECOMMENDATION/MOTION: That the Memorandum of Understanding (MOU) with the Miller Park Zoological Society (MPZS) be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The MPZS is an independent nonprofit 501(c) (3) organization that has a long history of supporting the operations, education and conservation efforts for the Miller Park

Zoo. The Zoo and MPZS have operated together for more than twenty-five, (25), years without an official, signed contract or MOU. Best practices suggest that an MOU be in place to assist in the facilitation of this partnership. The lack of an approved MOU between the Zoo and MPZS was identified as a major concern during the latest accreditation process by the Association of Zoos and Aquariums, (AZA). It was one of the factors that led to a one (1) year accreditation approval instead of the normal five (5) year approval. Approval of an MOU will greatly enhance the Zoo's probability of earning the five (5) year accreditation during next year's review.

As part of the recently approved Miller Park Zoo Master Plan process, which was funded almost entirely by the MPZS, a business and strategic plan was developed by the consultants at Schultz & Williams. The consultants provided substantial guidance and assistance with the drafting of this final recommended MOU for the Zoo and MPZS.

The current arrangement between the two (2) entities has been the MPZS collected revenue from membership sales, merchandise sales through the MPZS owned Zootique gift shop located on Zoo's premise, fundraising efforts through special events, (such as the annual ZooDo and 5K walk/race, etc.), and donation solicitations. In return, the Zoo provided free admission to MPZS membership holders, assistance with membership database maintenance, a full time Zoo employee to manage the Zootique, access to the Zoo grounds for special events and animal handling for MPZS events.

In support, the MPZS has paid an operational support payment annually from funds raised through their efforts each year. Over the course of time, this amount has increased to the amount of \$115,000 which has been paid annually for each of the last four (4) years. This amount has become an extremely high percentage of the annual funds MPZS raised through the Zootique's net profits, membership sales and special event net proceeds. In fact, in some years the MPZS has drawn down reserve funds to make their annual support payment.

The recommended MOU attempts to provide a formula for use in determining the annual support payment to assist in budgeting and allow for increases in successful years while providing a minimum amount of support to the Zoo.

The MOU also recommends the City purchase the Zootique inventory, at a value to be determined and approved by both parties. This will allow the volunteer based MPZS to focus on larger fundraising goals and allow the Zoo more oversight in the purchasing and profitability of the Zootique. In essence, the Zootique has been managed by a Zoo employee utilizing MPZS's funds with minimal oversight from the MPZS as their volunteer based board was not in a position to provide consistent management and Zoo's management staff was not able to make management decisions on funds outside of the Zoo's control. With existing retail knowledge and experience available within the department, staff believes there are opportunities to increase the net profits of the Zootique through best management practices.

This MOU is being recommended by the full MPZS Board along with the consultant from Schultz & Williams.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: MPZS, Schultz & Williams Consultants, City Finance and Legal Departments.

FINANCIAL IMPACT: The MOU stipulates MPZS would submit to the Zoo a guaranteed \$50,000 annual support payment, (divided into two \$25,000 payments), plus \$7.00 per membership sold, (excluding memberships above \$100.00). The Zootique has earned net profits, confirmed through audited reports, averaging nearly \$65,000 annually over the past several years. Staff believes these stipulations in the MOU will provide a minimum level of support that has been provided in the past, (\$115,000), while also providing opportunity to the Zoo to grow revenues through Zootique management and allow the MPZS to focus on larger fundraising projects. Had this formula been in place during FY2012, and assuming all else remained the same, the Zoo would have received approximately \$121,000 in revenue instead of the \$115,000.

The cost to purchase the Zootique inventory will be determined and agreed upon with MPZS and, if needed, will be budgeted in the Zoo's FY2014 Operating Budget.

Respectfully submitted for Council consideration.

Prepared by:

John R. Kennedy
Director of Parks, Recreation & Cultural Arts

Reviewed as to legal sufficiency:

Rosalee Dodson
Asst. Corporation Counsel

Reviewed by:

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the "MOU") made this _____ day of _____, 2012 (the "Effective Date"), by and between the CITY OF BLOOMINGTON, a municipal corporation (the "CITY"), and the MILLER PARK ZOOLOGICAL SOCIETY, an Illinois 501(c)(3) nonprofit organization (the "SOCIETY").

WHEREAS, the CITY owns and operates Miller Park Zoo (the "ZOO"), a division of the Parks, Recreation, and Cultural Arts Department, for conservation, education, recreation, and scientific study. The CITY provides for the operating, capital improvement and revenue authority and budgets of the ZOO through the CITY General Operating Budget, Capital Improvement Budget and other special budgets. As such, the CITY shall maintain all operating authority of the ZOO;

WHEREAS, the SOCIETY is an independent nonprofit 501(c)(3) organization governed by a Board of directors (the "BOARD") whose purpose is to promote and support the ZOO and its

programs in conservation, education and recreation, and to provide private sector support, both financial and otherwise, for the ZOO's development, operation and capital improvements. The SOCIETY is responsible for services to its membership and maintains independent authority for the acquisition and disposition of its funds. The SOCIETY is not responsible for the day to day operation or budget of the ZOO, and works solely in a support capacity as determined by its BOARD. BOARD members shall be considered volunteers of the ZOO, subject to all rights and responsibilities associated with volunteer status, excepting the application process and fees generally associated with becoming a ZOO volunteer; and

WHEREAS, the CITY and the SOCIETY desire to enter into this MOU to establish, define, and coordinate a mutually beneficial relationship to insure the above purposes.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

I. AUTHORITY OF THE ZOO SUPERINTENDENT

The Zoo Superintendent (the "SUPERINTENDENT") and/or Director of Parks, Recreation, and Cultural Arts (the "DIRECTOR") shall liaise between the ZOO and the SOCIETY. The SUPERINTENDENT, by SOCIETY by-laws, serves as an ex-officio member of the BOARD. Ex-officio members are members of the BOARD but do not have voting privileges, and are not required to hold SOCIETY membership. The SUPERINTENDENT, as an ex-officio member of the Society, will assist in the oversight of all ZOO employees utilized for SOCIETY business as outlined in this MOU. The SUPERINTENDENT may have the authority, as granted by the SOCIETY, to sign SOCIETY checks. A SOCIETY officer must make up the second signature to provide additional checks and balances.

It is understood and mutually agreed that, except as may be provided in this MOU, on all matters affecting the ZOO, the CITY Council shall determine the ultimate course of any action. The SUPERINTENDENT is responsible for running and managing the ZOO, and shall be the arbiter of disputes which may arise between CITY staff at the ZOO and the SOCIETY, provided, however, that the authority to address contractual disputes between the CITY and SOCIETY shall belong to the CITY Council and the SOCIETY.

II. GATE ADMISSION AND MEMBERSHIP

The CITY grants free gate admission to the ZOO to members of the SOCIETY and reserves the right to require all members of the SOCIETY to present photo identification with their membership card before gaining admission to the ZOO facilities. The CITY agrees to continue to grant SOCIETY members a discount on all educational programs offered through the ZOO. The SOCIETY, in cooperation with the ZOO, will develop and manage an appropriate ZOO membership program. The Membership Program shall balance the need to broaden the support membership base with optimizing revenue for the SOCIETY. The Membership Program, including membership categories, admission criteria, and benefits as established by the SOCIETY, shall be set forth in a separate document reviewed and approved by the DIRECTOR,

SUPERINTENDENT and the BOARD, and shall be subject to review upon request of the DIRECTOR, SUPERINTENDENT or the BOARD, but not more frequently than once annually.

The SOCIETY shall maintain all records related to memberships, financial, demographic and other, and will provide the SUPERINTENDENT with an updated list of members on a monthly basis. The CITY agrees to allow CITY staff to promote, sell and process SOCIETY memberships, in a manner consistent with SOCIETY and ZOO's missions, branding, policies and procedures. The SUPERINTENDENT will assist in the oversight of ZOO staff promoting and selling SOCIETY memberships.

The SOCIETY shall remit to the CITY a minimum payment of \$50,000.00 split into two payments (April and October). The SOCIETY shall also remit the amount of \$7.00 per membership sold (excluding memberships above \$100.00) as of October 1st. This amount shall be added to the October payment. 100% of all upper level membership revenue (memberships above \$100) go to the SOCIETY.

III. SOCIETY USE OF ZOO GROUNDS AND FACILITIES

The CITY has the exclusive right and obligation to operate and maintain all aspects of the ZOO in accordance with the policies and directives established by the Bloomington City Council and Bloomington City Manager. The CITY shall at all times comply with accreditation standards as published by the Association of Zoos and Aquariums (AZA) and incorporate those guidelines into the daily operations of the ZOO.

During the term of this MOU, the CITY will grant use of ZOO grounds and facilities to the SOCIETY, as outlined below:

A) INVITATIONAL EVENTS

During the term of this MOU, the SOCIETY may be permitted reasonable use of the ZOO grounds and facilities after normal public hours, for the benefit or support of SOCIETY activities (hereinafter referred to as an "INVITATIONAL EVENT"). During such INVITATIONAL EVENTS, the ZOO will be closed to the general public, normal entry fees will be suspended, and a special entry fee for attendees will be in place. The SUPERINTENDENT will work with the SOCIETY to provide adequate staffing of the event, including Zookeepers, volunteers, educational personnel, and gift shop personnel, as necessary. Net profit from any INVITATIONAL EVENT shall be retained by the SOCIETY with records maintained as outlined in Article VI. These funds may be utilized as outlined in Article V, but shall not be subject to the provisions of Article II.

Approval of the SOCIETY's use of the ZOO grounds, activities, date and times must be obtained from the SUPERINTENDENT and/or DIRECTOR at least 30 days in advance of any event. The SOCIETY shall be responsible for all costs of any such events, except ZOO employee wage, salary costs and typical operational costs.

B) COMMUNITY OUTREACH EVENTS

During the term of this MOU, the SOCIETY may also be permitted reasonable use of the ZOO grounds and facilities during or after normal public hours, for the purpose of community outreach events designed to educate the general public on the ZOO and SOCIETY and their respective missions, provide incentive for the general public to attend the ZOO, and increase public awareness of the ZOO and SOCIETY. The SUPERINTENDENT will work with the SOCIETY to provide adequate staffing of the event, including zookeepers, volunteers, educational personnel, and gift shop personnel, as necessary. For any SOCIETY sponsored events conducted during normal public hours, the ZOO will remain open to the public and admission proceeds shall be collected by ZOO staff in the same manner as during normal operation of the ZOO.

Approval of the SOCIETY's use of the ZOO grounds, activities, date and times must be obtained from the SUPERINTENDENT and/or DIRECTOR at least 30 days in advance of any event. The SOCIETY shall be responsible for all costs of any such events, except ZOO employee wage, salary costs and typical operational costs.

C) GIFT SHOP

The CITY and the SOCIETY agree that the operation of the gift shop ("the "ZOOTIQUE") and its entire inventory will be sold and transferred to the CITY on a mutually agreed upon date and price, to be determined. The CITY agrees to continue to give SOCIETY members the benefit of at least a 10% discount for purchases SOCIETY members make at the ZOOTIQUE. The CITY agrees that if the SOCIETY wants to sell items out of the ZOOTIQUE, the SUPERINTENDENT agrees to work with the SOCIETY to sell and market merchandise supplied by the SOCIETY. The SUPERINTENDENT has the discretion as to whether to purchase items from the SOCIETY and if items are purchased, the CITY will buy the items from the SOCIETY at a mutually agreed upon price and any items that are unable to be sold, the SOCIETY will buy back from the CITY at the same price the CITY paid for them.

D) SOCIETY EMPLOYEE(S)

During the term of this MOU, the SOCIETY may house its employee(s) at the ZOO. The CITY will provide the SOCIETY with a desk and/or office as space permits, Internet and phone access, access to printer, fax, copy and other office machines as long as the needs of ZOO Staff are met first, and, subject to the continuing approval of the DIRECTOR and/or SUPERINTENDENT, keys to ZOO facilities. The CITY shall provide support as deemed necessary by the SUPERINTENDENT and SOCIETY, as long as the accommodations are agreed upon and appropriate. In the event the CITY determines that space no longer permits, the SOCIETY will be given 90 days notice of that determination by the CITY and the SOCIETY reserves the right to adjust funding to the CITY in order to accommodate those additional costs of housing the SOCIETY employee accordingly.

E) SOCIETY MEETINGS

During the term of this MOU, the SOCIETY may hold its monthly meetings at the ZOO. The SUPERINTENDENT will act as an Ex Officio Member of the BOARD and will be present at the meetings, as available.

F) SPONSORSHIPS

The ZOO hereby grants the SOCIETY, for the terms of this agreement, the ability to offer exhibit sponsorships. The sponsorship must be approved by the SUPERINTENDENT and/or DIRECTOR and the SOCIETY. The money raised from the SOCIETY's efforts will be kept by the SOCIETY, except as otherwise stated in this MOU.

As the fundraising arm of the zoo, the SOCIETY's primary role is fundraising for operating and capital support; all funds generated through fundraising, sale of memberships and other activities are to be used to support the ZOO and further its mission. The SUPERINTENDENT serves in a key role of the fundraising team of the SOCIETY's board. The SOCIETY and the SUPERINTENDENT are to work jointly in fundraising efforts for the ZOO.

G) CARE AND USE OF CITY PROPERTY BY THE SOCIETY

The SOCIETY agrees that it will be responsible for the proper custody and care of any CITY owned property furnished to the SOCIETY for any use outlined within the provisions of this MOU, and will reimburse the CITY for any loss or damage incurred while it's under the direction of the SOCIETY.

IV. CONSIDERATIONS

In consideration for free gate admission for members, and the right to use ZOO grounds and facilities, the SOCIETY agrees as follows:

- A) The SOCIETY shall use revenues acquired for the betterment of the ZOO and consistent with this MOU.
- B) The SOCIETY shall coordinate all SOCIETY activities that directly support, involve, or impact the ZOO staff and programs with the DIRECTOR and/or SUPERINTENDENT. The SUPERINTENDENT shall be authorized to use ZOO staff and resources in support of such activities consistent with ZOO operational needs.
- C) The SOCIETY shall assist the CITY in financing capital improvements.
- D) The SOCIETY shall reasonably assist the ZOO in its conservation efforts, education programs, and related promotions.
- E) The SOCIETY shall account for all funds solicited and collected for specific ZOO projects per approved nonprofit accounting procedures.

- F) The SOCIETY and its employee(s) shall coordinate and obtain approval of the DIRECTOR and/or SUPERINTENDENT prior to any promotions involving the ZOO and use of the ZOO and/or CITY logos.
- G) The SOCIETY shall carry liability insurance, which shall cover all of its employees, volunteers, and SOCIETY activities or events.
- H) The SOCIETY shall not utilize the ZOO or its events for religious or political purposes. This shall exclude events related to the conservation and preservation of biodiversity, in accordance with the ZOO purpose and mission.
- I) The SOCIETY shall perform any and all other duties and responsibilities as mutually agreed upon by the DIRECTOR, SUPERINTENDENT, CITY Manager, and/or CITY Council and the SOCIETY in writing during the term of this MOU.

V. FINANCIAL ASSISTANCE

The financial assistance provided to the ZOO by the SOCIETY under this MOU shall be derived from monies acquired for ZOO projects from the sale of SOCIETY memberships, goods and services, SOCIETY sponsored events, fundraising activities, bequests, donations, and grants from public and private entities.

In addition to the third paragraph of Section II. GATE ADMISSION AND MEMBERSHIP, the financial assistance acquired by the SOCIETY for a specific ZOO development activity, campaign or project shall be maintained, managed and designated by the SOCIETY for the specific activity, campaign or project. Restricted funds raised by the SOCIETY from grants made by public and private entities and not used for their designated purpose shall be handled in accordance with the terms of the respective grant agreements. Undesignated financial assistance acquired for the ZOO by the SOCIETY shall be maintained, managed and designated by the SOCIETY in a similar manner as stated above. Acceptance of donations designated for a specific purpose must be in accordance with the SOCIETY's Mission and the ZOO Mission and Master Plan and approved by the DIRECTOR and/or SUPERINTENDENT and SOCIETY. This MOU shall not restrict the SOCIETY from raising funds to support SOCIETY activities. All solicitation of funds shall identify the purpose. The SOCIETY and CITY will explore alternative options for capital funding.

VI. FINANCIAL RECORDS

The SOCIETY will be solely responsible for the payment of any and all federal, state, and local taxes or charges imposed by law and/or regulation upon the SOCIETY as an employer or as a not-for-profit corporation. The CITY will not be liable or responsible in any manner for any such taxes or charges.

The SOCIETY shall maintain its books and records in accordance with generally accepted accounting principles. The SOCIETY shall have its books and records audited by an independent certified public accountant, with a frequency determined by SOCIETY policy and federal and

state law. Upon the completion of an audit, a copy of the audited financial statement shall be delivered to the CITY no later than one hundred and twenty (120) days after the end of the SOCIETY'S fiscal year.

The CITY is hereby authorized to access the books and records of the SOCIETY during normal business hours, upon reasonable notice to the SOCIETY, when such data as may be needed to determine the SOCIETY'S compliance with the terms of this MOU. The CITY shall not exercise this right more than one time in a given fiscal year. At all times, the identity of the donors to the SOCIETY who desire to remain anonymous shall be protected.

VII. HOLD HARMLESS

The CITY will hold the SOCIETY and its officers, agents and employees harmless from all suits, claims or liabilities of any nature, including attorneys' fees, costs and expenses, for or on account of injuries or damages sustained by any person or property resulting from the activities or omissions of the CITY, its agents or its employees, or on account of any unpaid wages or other remuneration due for services; and, if suit in respect to the above be filed, the CITY will appear and defend the SOCIETY at its own costs and expense; and if judgment be rendered or settlement made requiring payment of damages by the SOCIETY, which damages were caused by the activities or omissions of the CITY, its agent or its employees, the CITY will indemnify the SOCIETY.

The CITY will not be held liable or responsible for any claim, demand, loss or liability arising out of the negligence of the SOCIETY, except as outlined above, or when the SOCIETY is acting at the direction of, as agent of, or on behalf of the CITY.

In return, SOCIETY will hold the CITY and its agents and employees harmless from all suits, claims or liabilities of any nature, including attorneys' fees, costs and expenses, for or on account of injuries or damages sustained by any person or property resulting from the activities or omissions of the SOCIETY, its agents or its employees, or on account of any unpaid wages or other remuneration due for services; and, if suit in respect to the above be filed, the SOCIETY will appear and defend the CITY at its own costs and expense; and if judgment be rendered or settlement made requiring payment of damages by the CITY, which damages were caused by the activities or omissions of SOCIETY, its agent or its employees, SOCIETY will indemnify the CITY.

The SOCIETY will not be held liable or responsible for any claim, demand, loss or liability arising out of the negligence of the CITY, except as outlined above, or when the CITY is acting at the direction of, as agent of, or on behalf of the SOCIETY.

VIII. ASSIGNABILITY

Neither party shall assign or transfer any interest in this MOU, whether by assignment or novation, without the prior written consent of the other party.

IX. TERM

The term of this MOU shall be for a period of one (1) year from the Effective Date, unless otherwise terminated by either party as provided herein. This MOU will remain in effect and automatically renew on an annual basis thereafter, with the parties allowed to make modifications, as desired. Further modification or amendment to this MOU must also be done through written instrument signed by both parties.

X. TERMINATION

This MOU shall automatically terminate, without further action, upon the dissolution of the ZOO or the SOCIETY, or when either ceases to exist for the above mentioned purposes. Additionally, this Agreement can be terminated by either party, with or without cause, upon a one hundred and twenty (120) day written notice to the other party.

XI. COMPLIANCE WITH LAWS

The SOCIETY will abide by all city, county, state and federal laws governing charitable organizations.

The CITY will abide by all city, county, state and federal laws governing municipalities, government agencies, parks, and zoos.

XII. NON-DISCRIMINATION

Neither party shall discriminate against any person or group of persons on account of sex, marital status, race, color, religion, sexual orientation, national origin, ancestry, or physical or mental disability in the renting, use, occupancy, or enjoyment of the ZOO. Nor shall either party, or any person claiming under or through the parties, establish or permit any such practice or practices of discrimination with reference to the selection, location, number, use or occupancy of the ZOO.

XIII. ILLEGALITY

If any provisions of this MOU are found by any court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of this MOU shall remain in full force and effect, and in lieu of each provision which is found to be illegal, invalid or unenforceable, there will be added as part of this MOU a similar provision that is legal, valid and enforceable.

XIV. ENTIRETY

This MOU is intended to capture the spirit of cooperation and collaboration between the CITY and SOCIETY. There may be existing agreements, written or oral, that are not expressly covered in this MOU. These may be added to the MOU through written instrument signed by both parties. Further modification or amendment to this MOU must also be done through written instrument signed by both parties.

XV. LAW GOVERNING MOU

This MOU is entered into in the City of Bloomington, County of McLean, State of Illinois and shall be governed by the laws of the State of Illinois and venue shall be proper in McLean County, Illinois.

In WITNESS WHEREOF, the parties hereto have caused this MOU to be executed as of the Effective Date first written above.

Adopted this _____ day of _____, 2012.

CITY OF BLOOMINGTON

Stephen F. Stockton
Mayor

MILLER PARK ZOOLOGICAL SOCIETY

Traci Zeller, President

Stacey Lynch, Vice President

Mayor Stockton introduced this item. David Hales, City Manager, addressed the Council. He noted that this would be the first written agreement with the Miller Park Zoological Society, (MPZS). He cited the long standing relationship with the MPZS. This was a time of transition. It would be a one (1) year agreement.

John Kennedy, Parks, Recreation & Cultural Arts Director, addressed the Council. There had been a long standing successful partnership with the MPZS. He recognized the MPZS board members who were present at the meeting. He noted the transition of City staff and individuals representing the MPZS. The agreement clarified roles, relationships and responsibilities. The MPZS would become a larger fundraising entity. The MPZS would focus its efforts on larger opportunities. The City wanted the MPZS to be successful. The Zoo gift shop would become City owned. The agreement also addressed membership collection and fund distribution. The MPZS had assisted with the Zoo Master Plan. This would be a one (1) year agreement. He noted that during the AZA's, (Association of Zoos and Aquariums), accreditation process, the absence of an agreement was listed as an area of concern.

Alderman Fazzini questioned if this item was the main cause for a one (1) year instead of a five (5) year accreditation. Mr. Kennedy noted that this item was one (1) of a few concerns listed.

Motion by Alderman Schmidt, seconded by Alderman McDade that approval of the Memorandum of Understanding with the Miller Park Zoological Society be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application of LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., for an RAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week

RECOMMENDATION/MOTION: The Liquor Commission recommends to the City Council that an RAS liquor license for LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., be created, contingent upon compliance with all applicable health and safety codes with the following conditions: 1.) all outstanding food and beverage taxes be paid to the City prior to the Council's November 26, 2012 meeting; 2.) no alcohol sales permitted after 12:00 a.m. i.e. midnight; and 3.) kitchen shall remain open until 11:00 p.m.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the application of LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., requesting an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Stephen Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, and Geoffrey Tompkins; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert; City Clerk, and Michael Gardner and Jonathan Pfenner, owners/operators and Applicant representatives.

Commissioner absent: Mark Gibson.

Commissioner Stockton opened the liquor hearing and requested that the Applicant address the Commission. He noted that this application involved a change of ownership and license classification. Laugh Comedy Club was currently held by LSRE, Inc. It operated under a TA, (Tavern, All types of alcohol), liquor license. He added that there had been discussion regarding

a moratorium on Downtown liquor licenses by the Council. This issue would need to be resolved. He did not believe that the Council's direction had been clear.

George Boyle, Asst. Corporation Counsel, addressed the Commission. Liquor licenses were nontransferable. This application would be for the creation of a new liquor license.

Commissioner Buchanan noted that three (3) Commissioners, (Commissioners Clapp, Tompkins and himself), had attended part of the Council's retreat on Friday, November 9, 2013. At first, he believed the discussion addressed tavern liquor licenses. He acknowledged that he was uncertain where the discussion ended.

Commissioner Stockton expressed his opinion that a majority of the Council wanted the moratorium extended beyond taverns. He questioned if grandfathering to address change of ownership and/or change of location would be allowed.

Commissioner Buchanan noted that Laugh had submitted their application on November 1, 2012. It appeared that there were a number of unknowns which might impact this application. Commissioner Stockton agreed that there were issues to be resolved by the Council.

Michael Gardner, owner/operator and Applicant representative, addressed the Commission. He noted that money had been spent to reach this point. He hoped that it would be possible to reach a decision regarding this application.

Commissioner Buchanan stated that the Commission would proceed with the hearing and send its recommendation on to the Council. Commissioner Stockton added that the application had been received prior to the Council's discussion regarding a moratorium. He believed that a Text Amendment to address same would appear on the Council's November 26, 2012 meeting.

Mr. Gardner noted his understanding that there would not be any additional taverns in the Downtown. Laugh Comedy Club provided entertainment. A comedy club can be viewed as a tourist attraction. It should help the community and not be a burden. Commissioner Stockton acknowledged that there had not been any issues at Laugh. Mr. Gardner had also inquired about the Club's reputation.

Commissioner Stockton noted that it appeared that Laugh was ready to continue operations under new ownership. The Commission would make a recommendation to the Council. The Council would take final action. The Commission's role was to raise issues and address same.

Commissioner Stockton noted Mr. Gardner and Mr. Pfendler's addresses. Mr. Gardner and Mr. Pfendler both currently resided in IN. Mr. Gardner informed the Commission of his involvement with comedy in Indianapolis, IN. He had performed at Laugh. Adam Weber, current owner/operator and license holder, had informed him of his plans to close the business due to outstanding debt. He noted Laugh's downtown location and building where it is located. He believed that a comedy club could be a staple to the City. Mr. Gardner had spent considerable time here acting as a consultant and management advisor to Mr. Weber.

The majority of comedy clubs allow individuals eighteen (18) years and older. No alcohol is served to minors. He noted that currently Laugh was not open on Sundays. His business model included a younger demographic on that day. He cited dinner and an afternoon show. He noted the local universities present and their theater departments. He cited his personal experience in Indianapolis. Sundays was the third busiest night. The goal was to provide entertainment. A comedy show is generally 110 minutes in length. The average guest consumes 2.4 drinks. A kitchen would be installed at a cost estimated at \$40,000. He did not have hard sales figures at this time. He had contacted other comedy clubs. He noted Morty's, Indianapolis, IN, which also offered a full kitchen with a limited menu. Alcohol sales represented forty-one percent (41%) of total sales.

Mr. Gardner noted that the City would not allow ticket sales to be included in the revenue projections. He estimated that nonalcoholic beverages and food sales would equal fifty-five percent (55%) of total sales. Alcohol sales would equal forty-five percent (45%). Dinner would be offered prior to a comedy show. He hoped to be full stop shop even with a simple menu. He acknowledged that food would not be a profit center. Food sales would widen the customer demographics. A comedy club provided entertainment, i.e. an alternative to alcohol consumption. Food sales were necessary to qualify for an R license classification.

Mr. Gardner stated that Sunday and Wednesday evenings would be open mic night. This would cultivate local talent. He believed that there was a market for same in the City. Sunday afternoon would offer a matinee. Comedy clubs also marketed themselves as a place for family entertainment. He hoped these changes would allow Laugh to bring in better talent. He planned to retain Mr. Weber as the Operations Manager. In the future, there might be an ownership option.

Commissioner Buchanan noted that currently Laugh was not open on Sundays. Tracey Covert, City Clerk, informed the Commission that Laugh did not apply for a Sunday license. Mr. Gardner stated his intention to keep a comedy club in the City. There were ways to address underage patrons. His plan was to identify those aged twenty-one (21) or over. He added that additional security personnel would be needed. He planned to have two (2) present. He acknowledged that it would be a challenge.

Commissioner Stockton requested additional information regarding family comedy and open mic nights. Mr. Gardner's plans included a daytime matinee which would offer live theater. He planned to work with the local colleges and universities. Open mic would be hosted during the evening. The early show would be at 6:00 p.m. The late shows would be at 8:00 and 10:00 p.m.

Commissioner Stockton noted that food sales would not be a profit center. Mr. Gardner stated that food would be provided. He was not a chef. Commissioner Stockton questioned if food sales were being included as a way to justify underage patrons. Mr. Gardner noted that currently patrons often arrived late. They have questioned if Laugh offered food for sale. He noted the working relationship with Mr. Weber. Laugh had been contacted by the McLean County Health Department. There had not been a transfer of ownership. He added that successful comedy clubs also offered food for sale.

Commissioner Stockton questioned the impact of food sales fall short of projection. Mr. Gardner expressed his willingness to take the risk. He planned to meet the challenge of fifty-one percent (51%) of total sales from nonalcoholic items. Commissioner Stockton stated sales of tangible items which excluded ticket sales. Mr. Gardner questioned Laugh apparel sales. Commissioner Stockton affirmed that apparel sales would be tangible items. Mr. Gardner stated that he would make it work. There would be one to two, (1 - 2), shows per week without alcohol sales. Laugh also offered NA and AA, (Narcotics Anonymous and Alcoholics Anonymous), shows. The Sunday matinee would also be alcohol free.

Commissioner Stockton questioned the kitchen. Mr. Gardner had researched other comedy clubs. He cited Morty's as an example. The kitchen would be twenty feet by twenty-five feet, (20' x 25'). It would offer a deep fryer, grill, convention oven, microwave, etc. Mr. Gardner held a college degree in heating, ventilating and air conditioning, (HVAC). His family owned a HVAC business. His father had offered his assistance with the kitchen set up.

Commissioner Buchanan questioned refrigeration. Mr. Gardner added that he also held a certification for same.

Commissioner Clapp questioned the floor plan. Mr. Gardner noted that the floor plan had been provided by Mr. Weber. He planned to add ten (10) more tables. The facility could comfortably hold 220 - 250 people. The current set up held 200. The additional capacity would allow Laugh to book bigger acts. Laugh currently had tables and chairs in storage. He restated that currently he served as Laugh's as acting manager and consultant. He may also need to become the Operating Manager until one could be hired. He hoped to locate someone in the Chicago metro area. He made his living as a stand up comic.

Mr. Gardner informed the Commission that Laugh had a new web site which offered online ticket sales. He restated that the entertainment was first followed by food and drink.

Commissioner Clapp questioned if there would be a minimum order, (items/drinks). Mr. Gardner responded affirmatively. There would be a two (2) item minimum. The required items did not have to be alcohol. The minimum order policy addressed profitability.

Commissioner Buchanan addressed the floor plan. Mr. Gardner reviewed the floor plan. The stage had been moved. There currently was empty space which was used for storage. This area would be converted into an office and green room.

Commissioner Petersen questioned the Applicant's planned investment. Mr. Gardner stated \$35,000 - \$45,000. Commissioner Petersen addressed the Applicant's financial statements. Mr. Pfendler appeared to have a stronger financial. He noted that there was a business line of credit. Jonathan Pfendler, owner/operator and Applicant representative, addressed the Commission. His family owed a commercial plumbing business.

Commissioner Petersen noted that nineteen (19) year olds would be allowed entry to any comedy show. Food would also be served until 10:00 p.m. Mr. Gardner restated that the kitchen would be open. Commissioner Petersen questioned if alcohol would be served during the 10:00 p.m.

show. Mr. Gardner responded affirmatively. Commissioner Petersen noted that there were two (2) entrances to the bar. Mr. Gardner noted that there would only be one (1) entrance to the bar area. Individuals under twenty-one (21) years of age would not be allowed in this area.

Commissioner Stockton compared Laugh to a bowling alley. No one under twenty-one, (21), years is allowed in the tavern portion of the business. Mr. Gardner noted that in IN a separation is required. He added that there was a wall. No one under twenty-one, (21), would be allowed in the bar area.

Commissioner Petersen restated that the kitchen would remain open. Laugh had requested an R liquor license. Commissioner Stockton added that the Commission could place restrictions/conditions upon the license.

Commissioner Petersen addressed the 10:00 p.m. show. Mr. Gardner believed that under the current City Code individuals under twenty-one, (21), could be present. He offered to follow any conditions imposed by the Commission.

Adam Weber, current owner/operator and license holder, addressed the Commission. He stated that the kitchen would be open from a show's start to finish which was when the business closed.

Commissioner Stockton cited the Commission's general policy that if an establishment became a tavern late at night, then an age restrictions would be applied. Mr. Gardner restated that Laugh's goal was to provide entertainment. When the show was over, comedy clubs encouraged patrons to leave.

Commissioner Stockton cited the proposed "Q", Qualified, liquor license which would have allowed underage patrons with an earlier closing hour.

Mr. Gardner noted that currently Thursday night was college night. These shows were well attended.

Commissioner Petersen noted the business hours: 7:00 p.m. until midnight, Wednesday through Sunday. Mr. Gardner questioned if Laugh would need permission to open earlier. Laugh was not ready to offer matinee shows at this time. A theater production can take weeks/months to produce due to rehearsals.

Commissioner Petersen noted access to Laugh via the alley. Mr. Gardner noted that this door was not open during business hours. It was used for deliveries. Commissioner Petersen noted that there would be one (1) entrance to the business and one (1) entrance to the bar. Mr. Gardner responded affirmatively.

Mr. Boyle cited Laugh's unpaid food and beverages taxes. Mr. Gardner noted that Mr. Weber had completed the City's forms. He expressed his willingness to pay same and planned to do so tomorrow. Commissioner Stockton cited another possible contingency: no liquor license until the taxes were paid. Mr. Weber stated his intention to close Laugh by November 30, 2012. Mr. Gardner expressed his hope for a smooth transition.

Commissioner Tompkins questioned if the Applicants were familiar with the City's Alcoholic Beverage code. He also questioned if Laugh had the support of the Downtown Business Association, (DBA), the Downtown and Alderman Schmidt. He questioned if Mr. Gardner resided in the City. Mr. Gardner had read the City Code. He believed that Laugh had Downtown support. He had not spoken with the DBA or Alderman Schmidt. He planned to reside in the City while acting as the Operating Manager.

Commissioner Petersen noted that the building had been a vaudevillian theater. Laugh had a good sound system. He noted the potential for another vacant building. Mr. Gardner informed the Commission that other locations had been considered. Laugh would partner with Bao Tchong, landlord. They hoped to enhance the building's facade. A first floor tenant was needed to allow for the second and third floors to be converted into apartments. The building's first floor was perfect for entertainment. He believed that if Laugh closed, the building would remain vacant. He restated the intention to team with the landlord by making consistent rent payments.

Clay Wheeler, Asst. Police Chief, addressed the Commission. The Applicants had presented a good plan which included food sales. The goal was to have alcohol sales below fifty percent, (50%). He understood what Mr. Gardner and Mr. Pfendler wanted to do. They will have to live up to same.

Mr. Weber addressed the Commission. He had bankrolled someone else's dream. Mr. Gardner and Mr. Pfendler planned to keep him on at Laugh. They believed that Laugh would be successful and be something that he would take pride in.

Commissioner Tompkins recommended that this application proceed on to the Council. Mr. Gardner did not view this application as a new license. He added his belief that if Laugh closed, the building would remain vacant.

Commissioner Stockton opened the hearing to public input. He noted that the Commission needed to hear public feedback.

Tricia Stiller, 106 W. Monroe, addressed the Commission. As the DBA's Executive Director, she had not met the Applicants. She was a fan of live comedy. She has patronized Laugh Comedy Club. It was in a good location. She also had supported Mr. Weber. She believed that Laugh would be successful. The Downtown was in transition and the future seemed uncertain. She hoped to open a dialogue with the City and work together.

Commissioner Stockton questioned if the DBA had any issues with Laugh. He noted that it was a specific venue. An individual came for the comedy show. When it was over, patrons leave. He could not recall a single incident.

Commissioner Petersen understood the call for a moratorium in the Downtown. In this instance, there was a tavern license at this location. It would be changed to an R license. Ms. Stiller noted that food offerings brought a more favorable response. The Downtown was opposed to alcohol only establishments. The installation of a kitchen would be viewed as a positive. Both Downtown residents and businesses had expressed a preference for restaurants over taverns.

Commissioner Petersen questioned if the Council would be willing to approve this application. Ms. Stiller expressed her opinion that the Council wanted a better handle on night life in the Downtown before the addition of more liquor licenses. She acknowledged that there was a liquor license at this location. There appeared to be little concern regarding this application.

Commissioner Stockton expressed his appreciation to Ms. Stiller for her comments.

Asst. Chief Wheeler questioned if Laugh would be available for private parties. Mr. Gardner expressed an interest in corporate events. Laugh was a comedy club and private rentals were not a part of the business plan.

Commissioner Stockton did not view corporate events as problematic. He cited sorority/fraternity parties and out of town promoters as problematic. Mr. Gardner responded negatively. Asst. Chief Wheeler noted that Laugh would produce the comedy shows.

Mr. Gardner noted his good faith. He pledged that the LLC would make timely payments. The second show should start no later than 10:15 p.m. This means the show should be over by 11:45 p.m. He estimated that ninety percent (90%) of the patrons would be gone by midnight.

Mr. Boyle recommended that the sale of alcohol be prohibited after midnight. Commissioner Stockton read Laugh's current conditions: 1.) that the closing hour on Monday through Thursday shall be midnight and on Saturday and Sunday shall be 1:00 a.m.; 2.) that last call shall be thirty (30) minutes prior to closing time or one (1) hour after show ends which ever is later; 3.) a cover charge (ticket) will always be applied for admission with a minimum charge of \$10; and 4.) that patrons who arrive after the comedy act starts shall be charged half the face value of the ticket price with a minimum charge of \$5. He stressed that the Applicant had affirmed that Laugh would be a comedy club.

Commissioner Buchanan cited his personal experience monitoring the Laugh Comedy Club. At closing, he had seen a limited number of patrons head north on Main St. He noted the concerns raised regarding taverns. He did not believe that Laugh contributed to Downtown issues.

Mr. Gardner restated that Laugh would be a comedy club. Patrons left the facility when the show was over. The average comedy act lasted ninety (90) minutes. The kitchen would close forty-five (45) minutes into the last show. There would be a last call for food sales. Food would be available during all shows. Commissioner Tompkins discouraged the Commission from micromanaging food sales.

Commissioner Stockton expressed the Council's interest in an inviting business atmosphere within the Downtown. Appropriate businesses would be needed to create this atmosphere. He noted the responsibility of the Downtown's residents and businesses. He recommended that the Commission place conditions upon Laugh even with an R liquor license. He noted that kitchens have been allowed an earlier closing time. Mr. Boyle recommended that a time be set. He cited 10:30 or 11:00 p.m. as examples. Commissioner Stockton recommended that the kitchen remain open until 11:00 p.m.

Motion by Commissioner Tompkins, seconded by Commissioner Clapp that the application of LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., requesting a RAS liquor license be approved with the following conditions: 1.) all outstanding food and beverage taxes be paid to the City prior to the Council's November 26, 2012 meeting; 2.) no alcohol sales permitted after 12:00 a.m. i.e. midnight; and 3.) kitchen shall remain open until 11:00 p.m.

Motion carried, (viva voce).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph on November 5, 2012 in accordance with City Code. In accordance with City Code, approximately seven (7) courtesy copies of the Public Notice were mailed on November 6, 2012. In addition, the Agenda for the November 14, 2012 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: This would be a new liquor license. Annual fee for an RAS liquor license is \$2,210. LSRE, Inc. currently holds a TA liquor license at this location with an annual fee of \$1,760.

Respectfully,

Stephen F. Stockton
Chairman of Liquor Commission

Mayor Stockton introduced this item.

Alderman Stearns stated that this would be a new license as a liquor license was tied to the business owner and not the location. She added that there was not a transfer for a liquor license, this would be a new license. Mayor Stockton noted that this item represented a new entity and a new license classification. Alderman Stearns stated that the City would be losing a tavern and gaining a restaurant. Mayor Stockton responded affirmatively.

Alderman Purcell informed the Council that he had read the information and spoken with individuals. An "R", Restaurant, liquor license required a kitchen. He noted the conditions placed upon the liquor license. He believed that there would be a smooth transition. This will be an entertainment venue which offered food.

Mayor Stockton believed that the Liquor Commission had provided safeguards. Laugh would not revert to a tavern late at night and become a burden on the Downtown. The new owner planned to operate a comedy club and not a tavern.

Alderman Schmidt echoed Alderman Purcell's comments. She was happy to see this item. She believed that Laugh would not be a burden.

Motion by Alderman Fazzini, seconded by Alderman Schmidt that an RAS liquor license for LCC Productions, LLC, d/b/a Laugh Comedy Club, located at 108 E. Market St., be created, contingent upon compliance with all applicable health and safety codes with the following conditions: 1.) all outstanding food and beverage taxes be paid to the City prior to the Council's November 26, 2012 meeting; 2.) no alcohol sales permitted after 12:00 a.m. i.e. midnight; and 3.) kitchen shall remain open until 11:00 p.m.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Ordinance Imposing a Moratorium until May 13, 2013 on the Creation of Licenses to sell Alcoholic Liquor for Consumption on the Premises within the Central Business District

RECOMMENDATION/MOTION: That the Ordinance be passed.

BACKGROUND: At the Council retreat held earlier this month, there was general agreement to impose a moratorium on the creation of new liquor licenses within the Downtown area for a period of six (6) months.

Three (3) versions of an ordinance are placed before you tonight:

Version One would prohibit the creation of any new licenses to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, (as defined by the City Zoning Code and as delineated on the official Zoning Map of the City), until May 13, 2013, the first City Council meeting for aldermen elected in the April 2013 municipal elections. The moratorium is effective upon passage and approval of this ordinance.

Version Two would prohibit the creation of any new tavern licenses, (“TA” licenses permit the selling of all types of liquor, “TB” licenses permit the selling of beer and wine only), within the B – 3, Central Business District, until May 13, 2013. It does not prohibit the creation of new restaurant liquor licenses.

Version Three would prohibit the creation of any new licenses to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, until May 13, 2013, but makes an exception for applications for liquor licenses which had been filed as of November 9,

2013, (the date the Council announced that it was considering a moratorium), or for existing licenses which are seeking approval of a change in ownership or a change in premises.

None of the versions prohibit the regular renewal process for liquor licenses which have previously been created by Council action and were in effect on November 26, 2012. The ordinances state that nothing in the ordinance shall be construed as prohibiting the continuance of the moratorium by future Council action.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: City Council.

FINANCIAL IMPACT: None.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

[Version One]

ORDINANCE NUMBER 2012-_____

**AN ORDINANCE IMPOSING A MORATORIUM UPON THE CREATION OF LIQUOR
LICENSES WITHIN THE CENTRAL BUSINESS DISTRICT**

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

Section One: Effective November 26, 2012, no licenses to sell alcoholic liquor for consumption on the premises shall be created by the City Council of the City of Bloomington in the B – 3, Central Business District, as such District is defined in Chapter 44 of the Bloomington City Code and as delineated on the official Zoning Map of the City of Bloomington, such moratorium on the creation of such new licenses to expire on May 13, 2013. Nothing in this ordinance is intended to change or shall be construed as changing the normal renewal process set forth in the Bloomington City Code for licenses to sell alcoholic liquor for consumption on the premises, provided that such licenses had already been created by previous City Council action and were in effect on November 26, 2012. Nothing in this Ordinance is intended or shall be construed as prohibiting an extension of this moratorium by future action of the City Council.

Section Two: Except as provided therein, the Bloomington City Code 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 is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this ____ day of November, 2012.

APPROVED this ____ day of November, 2012.

APPROVED:

Steven F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

[Version Two]

ORDINANCE NUMBER 2012-____

AN ORDINANCE IMPOSING A MORATORIUM UPON THE CREATION OF LIQUOR LICENSES WITHIN THE CENTRAL BUSINESS DISTRICT

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

Section One: Effective November 26, 2012, no “TA” or “TB” licenses to sell alcoholic liquor for consumption on the premises shall be created by the City Council of the City of Bloomington in the B – 3, Central Business District, as such District is defined in Chapter 44 of the Bloomington City Code and as delineated on the official Zoning Map of the City of Bloomington, such moratorium on the creation of such new licenses to expire on April 30, 2013. Nothing in this ordinance is intended to change or shall be construed as changing the normal renewal process set forth in the Bloomington City Code for licenses to sell alcoholic liquor for consumption on the premises, provided that such licenses had already been created by previous City Council action and were in effect on November 26, 2012. Nothing in this Ordinance is intended or shall be construed as prohibiting an extension of this moratorium by future action of the City Council.

Section Two: Except as provided therein, the Bloomington City Code 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 is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this ____ day of November, 2012.

APPROVED this ____ day of November, 2012.

APPROVED:

Steven F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

[Version Three]

ORDINANCE NUMBER 2012-____

**AN ORDINANCE IMPOSING A MORATORIUM UPON THE CREATION OF LIQUOR
LICENSES WITHIN THE CENTRAL BUSINESS DISTRICT**

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

Section One: Effective November 26, 2012, no licenses to sell alcoholic liquor for consumption on the premises shall be created by the City Council of the City of Bloomington in the B – 3, Central Business District, as such District is defined in Chapter 44 of the Bloomington City Code and as delineated on the official Zoning Map of the City of Bloomington, such moratorium on the creation of such new licenses to expire on May 13, 2013.

Nothing in this ordinance is intended to change or shall be construed as changing the normal renewal process set forth in the Bloomington City Code for licenses to sell alcoholic liquor for consumption on the premises, provided that such licenses had already been created by previous City Council action and were in effect on November 26, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, if an application to create such a license had been filed with the City Clerk on or before November 9, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor if an application to create a license is filed by reason of the fact that an applicant is seeking approval of a change of ownership of a license to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, and the license for which a change of ownership is sought had already been created by previous City Council action and was in effect on November 26, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor if an application to create a license is filed after that date by reason of the fact that an applicant is seeking approval of a change in premises of a license to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, and the license for which a change of premises is sought had already been created by previous City Council action and was in effect on November 26, 2012.

Nothing in this Ordinance is intended or shall be construed as prohibiting an extension of this moratorium by future action of the City Council.

Section Two: Except as provided therein, the Bloomington City Code 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 is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this ____ day of November, 2012.

APPROVED this ____ day of November, 2012.

APPROVED:

Steven F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

ORDINANCE NUMBER 2012 - 70**AN ORDINANCE IMPOSING A MORATORIUM UPON THE CREATION OF LIQUOR LICENSES WITHIN THE CENTRAL BUSINESS DISTRICT****BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF BLOOMINGTON, ILLINOIS**

Section One: Effective November 26, 2012, no licenses to sell alcoholic liquor for consumption on the premises shall be created by the City Council of the City of Bloomington in the B – 3, Central Business District, as such District is defined in Chapter 44 of the Bloomington City Code and as delineated on the official Zoning Map of the City of Bloomington, such moratorium on the creation of such new licenses to expire on May 13, 2013.

Nothing in this ordinance is intended to change or shall be construed as changing the normal renewal process set forth in the Bloomington City Code for licenses to sell alcoholic liquor for consumption on the premises, provided that such licenses had already been created by previous City Council action and were in effect on November 26, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, if an application to create such a license had been filed with the City Clerk on or before November 9, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor if an application to create a license is filed by reason of the fact that an applicant is seeking approval of a change of ownership of a license to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, and the license for which a change of ownership is sought had already been created by previous City Council action and was in effect on November 26, 2012.

Nothing in this ordinance prohibits the creation of a new license to sell alcoholic liquor if an application to create a license is filed after November 26, 2012 by reason of the fact that an applicant is seeking approval of a change in premises of a license to sell alcoholic liquor for consumption on the premises within the B – 3, Central Business District, and the license for which a change of premises is sought had already been created by previous City Council action and was in effect on November 26, 2012.

Nothing in this Ordinance is intended or shall be construed as prohibiting an extension of this moratorium by future action of the City Council.

Section Two: Except as provided therein, the Bloomington City Code 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 is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this 26th day of November, 2012.

APPROVED this 27th day of November, 2012.

APPROVED:

Steven F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

Mayor Stockton introduced item. He noted that in the past there had been informal moratoriums in the Downtown. At the Council's November 9 and 10, 2012 retreat, a decision was made to draft an ordinance for adoption that would place a moratorium on the creation of liquor licenses within the B – 3, Central Business District, (zoning). City staff had drafted three (3) options for the Council's consideration.

Alderman Fruin recused himself. His son was the owner/operator of Flinger's Pizza Co., located at 608 N. Main St., currently holding an RBS, (Restaurant, Beer & wine only, Sunday Sales), liquor license.

David Hales, City Manager, addressed the Council. He restated that there were three (3) options.

Todd Greenburg, Corporation Counsel, addressed the Council. He addressed each version. Version 1 would not allow the creation of any new liquor licenses within the B – 3 district until May 13, 2013. The time could be extended by the new Council which would take office on that date. This was an across the board moratorium which would impact a change of premise or change of ownership. A license created on November 26, 2012 would not be impacted by this version. Version 2 would not allow the creation of any new "T", Tavern, liquor licenses within the B – 3 district until May 13, 2013. Version 3 would not allow the creation of any new T and/or "R", Restaurant liquor licenses with the following exceptions: any application filed prior to November 9, 2012, (the date of the Council's press release), and current license holders whose application addressed a change of ownership or change of premise.

Mayor Stockton addressed Version 3. He specifically questioned the fifth paragraph, second line, the phrase "that date". He believed that these two (2) words should be changed to November 26, 2012. Mr. Greenburg responded affirmatively.

Alderman Anderson expressed his support for Version 3. It would not hinder existing businesses. If one (1) of the two (2) exceptions occurred, (change of premise or change of ownership), an application would be filed. Mr. Greenburg responded affirmatively. Only application for a change of premise or change of ownership could be accepted. An application could be filed with the City, a hearing before the Liquor Commission would be scheduled, and the Commission's recommendation would appear on a Council agenda. Only the Council had the authority to create a liquor license.

Alderman Stearns requested a response from the Downtown alderman. She also questioned if the Downtown Business Association had any thoughts on this issue. She added her concern regarding existing license holders being allowed to apply for a change of location. The Council wanted to see a different atmosphere, environment in the Downtown.

Alderman Schmidt expressed her appreciation to the Council for their work on this issue. The City needed to address the late night atmosphere in the Downtown. The City needed to nurture the good businesses. The ordinance included safeguards which included a hearing before the Liquor Commission and the Council would have to vote to create a liquor license. The City needed to be business friendly. She believed that this ordinance addressed the Council's concern.

Mayor Stockton informed the Council that Six Strings would be able to apply for a change of location. The Council has the authority to create a liquor license. The Council could rescind this ordinance at any time. On the other hand, the new Council could extend the ordinance. He believed that the Council's actions would send a signal to Downtown businesses.

Alderman Fazzini noted that the Council had already charged the City Manager with the task of changing the tone in the Downtown. The Downtown needed to be friendlier. City staff needed to enforce existing codes. The Council would see the City Manager's recommendations within thirty (30) days. He anticipated that there would be strict enforcement.

Mayor Stockton noted issues within the Downtown: noise, vandalism, etc. These issues can be problematic for Downtown residents.

Alderman Schmidt noted Mr. Hales' efforts. She was sure that additional work had been accomplished by City staff.

Mayor Stockton restated that there would be a two (2) pronged approach: increased enforcement and Downtown plan.

Alderman Purcell expressed his appreciation to the Liquor Commission, Downtown Entertainment Task Force, and Downtown Business Association for their efforts. He understood the various obligations of each group.

Alderman Fazzini believed that the Liquor Commission and Council would now be in sync with each other. The Council had provided direction.

Mayor Stockton noted that it was helpful to have Council direction. There would be clarity going forward.

Motion by Alderman Anderson, seconded by Alderman Fazzini that the amended Ordinance, (Version 3), be passed.

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

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

Nays: None.

Motion carried.

CITY MANAGER'S DISCUSSION: David Hales, City Manager, addressed the Council. He reminded them that the Council would meet on December 10 and 17, 2012.

He added that there might be a Work Session on Saturday, December 8, 2012.

MAYOR'S DISCUSSION: None.

ALDERMEN'S DISCUSSION: Alderman Stearns questioned this Work Session, (Saturday, December 8, 2012). She noted her employment, (nursing). She worked weekend shifts. She also requested that the CAFR, (Comprehensive Annual Financial Report), be presented prior to a strategic budget meeting.

Mr. Hales informed the Council that the goal for receipt of the CAFR was December 31, 2012. He noted the various circumstances that impacted the Finance Department.

Mayor Stockton clarified that the December 8th Work Session would address budget priorities and City vision. Mr. Hales noted that the decision to hold this meeting would be made by the Council. There were three (3) aldermen who were unable to attend. He was currently developing an outline for same. Mayor Stockton noted that a decision regarding this meeting would be reached by week's end. Mr. Hales expressed his belief that the Council requested this meeting.

Alderman Purcell noted that he would be working on Saturdays during the months of December 2012 and January 2013.

Motion by Alderman Anderson, seconded by Alderman McDade, that the meeting be adjourned. Time: 7:46 p.m.

Motion carried.

**Tracey Covert
City Clerk**