

Resolution 22-20 Clerk's Notes:

The following is a chronology regarding Resolution 22-20:

December 14, 2022 – In a Common Council Regular Session the council introduced and took final action on Resolution 22-20 with a vote of 8-1-0 (Rosenbarger).

December 15, 2022 – Clerk Nicole Bolden presented the adopted legislation to Mayor John Hamilton for signature.

December 23, 2022 – Mayor Hamilton officially vetoed Resolution 22-20 by returning the legislation without a signature. The Mayor's veto statement (dated December 23, 2022) was filed with the resolution.

January 11, 2023 – In a Common Council Regular Session, the council overrode the Mayor's veto with a vote of 8-1-0 (Rosenbarger).

Please note: In the ninth WHEREAS clause, Resolution 22-20 refers to Exhibit A. In Section 1 of Resolution 22-20, there is another reference to Exhibit A. These references are for two separate documents, and both are attached to the legislation.

CERTIFY:

ATTEST:



Sue Sgambelluri, PRESIDENT
Bloomington Common Council



Nicole Bolden, CLERK
City of Bloomington

RESOLUTION 22-20

**A RESOLUTION RESPONDING TO
MONROE COUNTY BOARD OF COMMISSIONERS ORDINANCE 2022-46**

WHEREAS, the Monroe County Convention Center (“Convention Center”) was built in 1923 for the Graham Motor Sales company and converted to a Convention Center in 1991; and

WHEREAS, Monroe County government established, maintained, and has operated the Convention Center for more than thirty years, using Innkeeper’s Tax Funds provided for by Indiana Code §6-9-4 et seq. and appropriated by the Monroe County Council (“County Council”); and,

WHEREAS, the Indiana General Assembly enabled the County Council to enact a County Food and Beverage Tax in 2009, with the passage of P.L. 176-2009, SEC. 21; and

WHEREAS, in October 2017 through the adoption of Resolution 17-38, the City of Bloomington supported the passage of a Food and Beverage Tax by the County Council and pledged the City’s cooperation, as needed, in the administration and use of the tax proceeds to fund the expansion of the Convention Center; and

WHEREAS, in 2017, the County Council adopted its Ordinance 2017-51, which authorized the Monroe County Food and Beverage Tax (“Tax”) and affirmed the state-law provisions providing for a Food and Beverage Tax Advisory Commission (“Commission”) to “coordinate and assist efforts of the County and City of Bloomington fiscal bodies” and requiring legislative action to seek and receive the Commission’s recommendations of all expenditures prior to the legislative approval of any expenditures of Tax proceeds; and

WHEREAS, the Monroe County Commissioners (“County Commissioners”), County Council, Bloomington Common Council (“Common Council”), and Mayor (collectively, “Elected Officials”) met on at least three occasions in 2019 in order to resolve issues regarding construction and future operation and management of the Convention Center before discussions were delayed by the COVID-19 pandemic; and

WHEREAS, in 2022, the City of Bloomington administration expressed a wish to move forward with the Convention Center project and expressed urgency due to the possibility of state legislation that would rescind the local Food and Beverage Tax; and

WHEREAS, a Capital Improvement Board (“CIB”), discussed in 2019 by the Elected Officials and authorized pursuant to Indiana Code §36-10-8 et seq., is the entity preferred by the County Commissioners and County Council to direct Convention Center site selection, design, construction, and operations, as it is a governmental entity created for this very purpose, protected by the Tort Claims Act, transparent, and publicly accountable; and

WHEREAS, on November 9, 2022, the County Commissioners established the framework for a CIB with the passage of their Ordinance 2022-46, referenced and attached hereto as Exhibit A; and

WHEREAS, on November 29, 2022, the County Council supported the creation of a CIB as outlined by the County Commissioners in their Ordinance 2022-46 and accepted “its responsibilities as they pertain to the CIB and continued maintenance of the Convention Center”; and

WHEREAS, the Mayor and relevant city officials provided the County Commissioners, the County Council, and the Common Council with two memoranda, dated October 28, 2022 and November 23, 2022, which discussed the reasons the city administration believed that a properly constructed 501(c)(3) nonprofit corporation held the greatest potential for achieving a successful convention center expansion; and

WHEREAS, the city administration's November 23, 2022 memorandum included a list of several components that the administration saw as essential to any prospective CIB, some of which components might require an interlocal agreement to implement;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. The Common Council supports the efforts taken by County officials to form a CIB and requests that the city administration continue to work with County officials to advance the Convention Center project through the use of a CIB, including negotiating any necessary interlocal agreements to resolve matters not addressed in County Commissioners Ordinance 2022-46. The Common Council supports a CIB that includes the components detailed in Exhibit A, attached hereto and incorporated herein.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 14 day of December, 2022.



SUSAN SANDBERG, President
Bloomington Common Council

ATTEST:



NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 15 day of December, 2022.



NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2022.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

Resolution 22-20 expresses the Bloomington Common Council's support for the formation of a Capital Improvement Board in furtherance of the Convention Center expansion project.

Note: At the December 14, 2022 Special Session, the Council adopted Amendment 01 to Resolution 22-20, which added the last sentence of Section 1 and attached Exhibit A to the resolution.

Distributed to: Clerk, Controller, Council Attorney, Legal, Mayor, Monroe County Legal, Monroe County Commissioners, and Monroe County Council.

Exhibit A

I. Collaboration between County and City on the Convention and Visitors Commission

1. Equal representation on the Convention and Visitors Commission (CVC) within the confines of state code
2. Approval by both County and City fiscal bodies of the annual CVC budget.

II. Collaboration between County and City on the Capital Improvement Board

1. Composition of the CIB - per Section 2 of the County Commissioners Ordinance 2022-46
2. Approval by both County and City fiscal bodies of the annual CIB budget and CIB-issued bonds.
3. Authorization by both City and County will be required for the CIB to do the following:
 - a. select and contract with an entity/entities to operate/manage the expanded Convention Center (CC)
 - b. decide and oversee the process for selecting any hotelier(s) with which to partner
 - c. decide the location(s) of expanded CC components, including Site Plan for exhibit/meeting space, any hotel(s), garage(s), and connections among components
 - d. hire/retain incidental staff support as needed to accomplish its goals
 - e. control the naming of the new, expanded CC

III. County commitment to continued appropriation of Innkeeper's tax proceeds to the CIB to fund CC marketing, operations, maintenance, and related expenses

IV. Commitment by the City and County to negotiate swiftly and in good faith, prior to CIB establishment, the necessary interlocal agreement(s) to achieve the foregoing components and any additional components such as staffing needs of the CVC and CIB

V. Inclusion in such interlocal agreement(s) of terms that prevent alteration, during the term of any bond(s) issued to support CC expansion, of agreed-to terms governing CIB establishment and operations and City-County mutual rights and obligations. If state law or other mandates substantively affect these mutual rights and obligations, the parties must agree to maintain the negotiated balance of participation by the City and County.

ORDINANCE 2022-46

AN ORDINANCE OF THE MONROE COUNTY BOARD OF COMMISSIONERS
CREATING A CAPITAL IMPROVEMENT BOARD TO DIRECT
CONVENTION CENTER SITE SELECTION, DESIGN, CONSTRUCTION, AND OPERATIONS

WHEREAS, Monroe County Government established, maintained, and has operated the Monroe Convention Center ("Convention Center") for more than thirty years, using Innkeeper's Tax Funds provided for by Indiana Code 6-9-4 et seq. and appropriated by the Monroe County Council ("County Council"); and,

WHEREAS, the Monroe County Board of Commissioners ("Commissioners") have purchased real property, funded through bonds and appropriations approved by the County Council, for the expansion of the Convention Center; and,

WHEREAS, the Indiana General Assembly enabled the County Council to enact a County Food and Beverage Tax in 2009, with the passage of P.L. 176-2009, SEC. 21; and,

WHEREAS, the County Council, relying upon assurances of collaboration and partnership issued by the City of Bloomington Common Council and Mayor of Bloomington, the County Council adopted Ordinance 2017-51, which authorized the Monroe County Food and Beverage Tax ("Tax"); and,

WHEREAS, local enabling Ordinance 2017-51 confirmed and affirmed the state-law provisions providing for a Food and Beverage Advisory Commission ("Commission") to *coordinate and assist efforts of the County and City of Bloomington fiscal bodies* and requiring legislative action to seek and receive the Commission's recommendations of all expenditures prior to the legislative approval of any expenditures of Tax proceeds; and,

WHEREAS, the Commissioners wish to follow state law procedures and those procedures which are required by Ordinance 2017-51, including reliance upon Commission to coordinate and assist the City and the County Council regarding the utilization of Tax receipts and requiring legislative oversight and action, which may not be contradicted or delegated under the guise of Indiana's Home Rule authority; and,

WHEREAS, the Commissioners, County Council, City, and Mayor ("Elected Officials") met on at least three occasions in 2019 in order to resolve issues regarding construction and future operation and management of the Convention Center; and,

WHEREAS, the discussions were delayed due to the COVID-19 pandemic; and,

WHEREAS, in 2022, the City of Bloomington expressed a wish to move forward with the project and expressed urgency due to the possibility of state legislation which would rescind the local Food and Beverage Tax; and,

WHEREAS, the City's offer did not reflect the status of the negotiations from 2019 with the Commissioners; and,

WHEREAS, the Commissioners wish to move forward with the 2019 structure, which included a CIB, however, there is a concern that the City does not; and,

WHEREAS, a Capital Improvement Board ("CIB"), discussed by the Elected Officials and authorized pursuant to Indiana Code 36-10-8 et seq., is a natural option to direct Convention Center site selection, design, construction, and operations, as it is a governmental entity created for this very purpose, protected by the Tort Claims Act, and completely transparent and publicly accountable; and,

WHEREAS, the Commissioners do not support the creation of an independent 501c3 corporation, due to the lack of legally-required transparency, the lack of Tort Claim liability protection, and the inherent risks that are associated with the "flexibility" provided to a 501c3; and,

WHEREAS, the Commissioners wish to see the Convention Center expansion and its ongoing operations advance and be directed by a bipartisan, neutral CIB, which is composed of appointments made by the City and County, who are empowered under state law and Ordinance 2017-51; and,

WHEREAS, the Commissioners look forward to working with their City colleagues to expeditiously move forward making appointments to a CIB so that the Convention Center expansion may proceed and the process no longer stalled.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF MONROE COUNTY, INDIANA.

Section 1. A Capital Improvement Board ("CIB") is hereby created, pursuant to Indiana Code 36-10-8 et seq. to manage and direct the affairs of the Monroe County Convention Center ("Convention Center") and its expansion.

Section 2. The CIB shall be composed of seven (7) members, consistent with IC 36-10-8-4. The units of government which shall make appointments to the CIB are Monroe County and the City of Bloomington. Specifically, Monroe County ("County") shall appoint three (3) members and the City of Bloomington ("City") shall appoint three (3) members. Those six (6) members appointed shall recommend the seventh appointment. The city shall appoint three members to the CIB, no more than 2 of which may be from the same political party. The county shall appoint three members to the CIB, no more than 2 of which may be from the same political party. To create staggered appointments, the first round of appointments made by the City AND the County will include one member who has a 1 year appointment. Subsequent appointments will be two-year appointments to the CIB.

Section 3. The CIB shall have all authority permitted by law, however, the CIB shall not be allowed to employ or have appointed to the Board of Directors any Monroe County or City of Bloomington elected officials, employees, or board members who oversee any potential local governmental funding stream, such as Redevelopment funds, Innkeepers tax, or Food and Beverage Tax. It is the intent of the Commissioners, with this limiting provision, to avoid conflicts of interest and to ensure independent and fair decision-making by the CIB.

Section 4. The CIB shall select the site for the expansion of the Convention Center, choosing between the north and the east options outlined by the formerly-created Steering Committee created by a Memorandum of Understanding signed by the Mayor of Bloomington and the Commissioners, and the need for additional amenities including a parking garage.

Section 5. In accordance with Section 6 and 7, this ordinance is subject to both the City of Bloomington and the Commissioners both agree to provide the requisite land and facilities for this project. The Commissioners vow to work with their colleagues at the City to transfer the necessary real property for the actual expansion, execute all agreements, and take any/all steps necessary in order to allow the CIB to fulfill the statutory duties contained in Indiana Code 36-10-8 et seq., including the financing, construction, equipping, operating, and maintaining of the capital improvements that are and will be a part of the Monroe County Convention Center. The building and parking lot currently utilized for County Election Operations will not be made available until the conclusion of the November General Election in 2024.

Section 6. Since the project requires City of Bloomington and Monroe County participation, the formation of the CIB and the need for speedy action, this ordinance is contingent upon the City of Bloomington's agreement with the terms of this Ordinance by January 1, 2023.

Section 7. This Ordinance takes effect upon passage by the Commissioners and the Commissioners' receipt of the City of Bloomington Mayor and Common Council's agreement with the terms of this Ordinance. Any subsequent legal or administrative action which may be necessary for the furtherance of this Ordinance and to

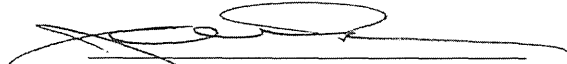
equip and organize a CIB is hereby authorized. If the terms in this section are not met by January 1, 2023, this Ordinance is void.

Approved this 9 day of NOVEMBER 2022, by the Board of Commissioners of Monroe County, Indiana.


MONROE COUNTY BOARD OF COMMISSIONERS

"AYES"

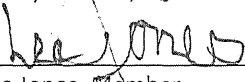
"NAYS"



Julie Thomas, President



Penny Githens, Vice President

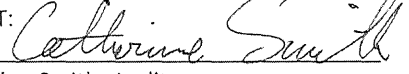


Lee Jones, Member

Julie Thomas, President

Penny Githens, Vice President

Lee Jones, Member

ATTEST: 

Catherine Smith, Auditor

To: Bloomington Common Council Members
Cc: Stephen Lucas, Council Administrator/Attorney
Beth Cate, Corporation Counsel
From: Mayor John Hamilton
Date: December 23, 2022
Re: Veto Message re: Resolution 22-20 - A Resolution Responding to Monroe County Board of Commissioners Ordinance 2022-46

Members of the Common Council:

I am returning Resolution 22-20 without my signature. Fundamentally, I do not believe that the Capital Improvement Board (CIB) created will deliver our community the outstanding, state-of-the-art convention center expansion that we need and deserve.

On November 9, 2022, with essentially no public notice or comment, the Monroe County Board of Commissioners adopted Ordinance 22-46 and established a CIB to manage and direct the affairs of the downtown convention center and its expansion. By its terms, the ordinance took effect immediately but was also made contingent upon the City Council and Mayor agreeing to its terms by January 1, 2023.

With passage of Resolution 22-20, the Bloomington Common Council supported “efforts taken by County officials to form a CIB,” but requested the City administration to negotiate “interlocal agreements to resolve matters not addressed” in the county ordinance and identified several such specific components.

With this message and veto of Resolution 22-20, I affirm I do not agree with the terms of County Ordinance 22-46.

My administration has worked energetically and diligently for seven years to advance an expansion of the downtown convention center, believing it offers important positive opportunities for downtown and our whole community. While we are frustrated by delays, we will continue to collaborate with all interested parties on the best path forward.

What is needed in the short term is an entity that can effectively oversee the design, financing, and construction of a major expansion of the downtown facility. I respect that some believe a CIB meets that need. I do not, and I note that neither my approval nor City Council’s is needed to create a CIB and pursue that path.

I do not believe a CIB is the best path forward because it is not likely to succeed in designing, financing, and building a signature, efficient, state-of-the-art downtown expansion that will bring the desired benefits to our community. I reach that belief in light of both the inherent structural and procedural qualities of a CIB and the past history of efforts to pursue this path.

A CIB is not likely to excel at the complex tasks of expansion. If designed fairly, a CIB is inherently cumbersome and unwieldy. Adding City voices to key financial decisions like bonds and budgeting—necessary for any semblance of fairness—makes a CIB more bureaucratic and potentially micromanaged, and state code still leaves veto power over those decisions in County hands during the critical short-term work of expansion.

I believe many also underestimate the extensive government staff coordination and engagement needed with such a board to navigate years of decisions and choices in financing and design, construction oversight, and more. I believe county staff will be exceedingly occupied with many demands in coming years, in particular with the long-overdue community justice reform efforts, which will likely include very major construction projects.

Moreover, public funding for an expansion will be almost exclusively from City revenues. And the project will affect and interact with numerous other downtown city activities and projects led by City government and our partners, including our arts community, our infrastructure and transit investments, our parking assets, our housing and neighborhood developments, overall downtown vitality, and more.

Thus, I continue to believe that a nonprofit created by and coordinated closely with City government is the appropriate entity to oversee the design, finance, and construction of an expansion project. It can be more nimble and efficient in the short term. It offers better opportunities to amass and deploy sufficient financial resources to design and build a signature downtown facility. Food & Beverage (F&B) tax revenues should provide the majority of funding, but additional public and private sources may well be needed to achieve the overall excellence and impact that our community expects and deserves.

As described in extensive detail in other documents provided to Council, the County, and the public, such an entity would coordinate fully with other County and City entities and with a full range of interested parties to assure broad public participation and careful fiscal oversight. Transparency and accountability would be assured. Compliance with process and consistency with public goals is assured because nothing could proceed without support from city and county fiscal bodies, the Convention and Visitors Commission, and the F&B tax advisory commission.

A CIB, if designed fairly and operated in good faith, could perhaps be a useful vehicle for the long-term operation and guidance of a convention center after an expansion is accomplished. Such a CIB, even if inherently cumbersome and unwieldy with multiple layers of overlapping approvals, perhaps could serve that eventual role if staffed and populated appropriately.

Different views may steer a different course for our community, and I respect such efforts. I remain focused on how to advance our downtown and our wider community with a project worthy of our energies and resources.

Respectfully,



John Hamilton
Mayor, City of Bloomington