

City of Bloomington Common Council

Legislative Packet

18 April 2012

*Please consult the [04 April Legislative Packet](#) for all material related to
Ordinance 12-08.*

Find all other material for this week's meeting contained herein.

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402
812.349.3409

council@bloomington.in.gov
<http://www.bloomington.in.gov/council>



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Second Reading:

- **Ord 12-08** To Vacate a Public Parcel – To Vacate a Public Parcel - Re: Alley Right-of-Way Running North/South between North College Avenue and North Morton Street, North of West Ninth Street (KPM Hotel group, Petitioner)
Contact: Lynne Darland at 349-3529 or darlandl@bloomington.in.gov

Please see the [Council Legislative Packet](#) prepared for the 4 April 2012 Regular Session to find the legislation, summary and related materials for this item.

Legislation and Background Material for First Reading:

Preliminary Material – Re: Ord 12-09 and Ord 12-10 and Res 12-04 (forthcoming)

- **Memo to Council from Councilmember Volan**
- **BMC 2.04 (Common Council) – Article III (Committees) –**
Annotating Changes Proposed by Ord 12-09 and Ord 12-10
- **Ord 12-09** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration And Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Ease the Opportunity for Standing Committees to Consider Legislation Pending Before the Council

- **Ord 12-10** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration And Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Establish and Clarify Scheduling Policies for Council Committees

*Contact: Councilmember Volan at 391-8255 or
volans@bloomington.in.gov*

Minutes from Regular Session:

None

Memo

Reminder: Internal Work Session on Monday at Noon in the Council Library

One Ordinance Ready for Second Readings and One Ordinance Ready for Introduction at the Regular Session on Wednesday, April 18th

There is one ordinance ready for second reading and one ordinance ready for introduction at the Regular Session next Wednesday. The ordinance ready for second reading can be found online via the link above and the ordinance ready for introduction can be found in this packet and is summarized herein.

First Readings:

Items 1 and 2 – Ord 12-09 (Easing the Use of Standing Committees) and Ord 12-10 (Scheduling Standing Committees and Committees of the Whole When Reviewing Pending Legislation and Also Prioritizing Motions to Refer to Standing Committee Over Those to Committees of the Whole)

Ord 12-09 and **Ord 12-10** are the first two of a three-part package of legislation proposed by Councilmember Volan to make way for the use of Standing Committees as an alternative to Committees of the Whole and as a means of providing more legislative oversight of City activities, and to provide for the scheduling of those committees. **Res 12-04** is the third part of the package. It establishes 7, 4-member Standing Committees and will be distributed in the April 20th Council Legislative Packet.

Changes in Proposal Since Last December

Councilmember Volan first proposed a structure of Standing Committees in December of 2011. The two ordinances introduced this year differ from the two (Ord 11-21 and Ord 11-22) considered last December in two respects. First, consideration of pending legislation by Standing Committees (instead of Committee of the Whole) is made an *option* rather than a requirement. Second, in deference to the role of Standing Committees, motions to refer legislation to Standing Committees would be entertained *before* any motions to refer to Committees of the Whole. The resolution (to be) introduced on April 25th also differs from the one (Res 11-16) in December in two major respects: the size of the committees has increased from three to four members and the number of committees has been reduced from 10 to 7.

Observations of the Council Administrator - Recap from Last December

In December, I indicated that Councilmember Volan's proposed changes were remarkably simple given the large effect they may have on Council operations. The same holds true with the proposal you see today. My perspective as Council Administrator (and not Council Attorney¹) also remains largely the same. I refer you to parts of my December summary² for that perspective. In particular, you may want to review the chart that compares Committees of the Whole with Standing Committees and also read the latter part of the summary entitled "Observations of Council Administrator." Those observations addressed the:

- Length of meetings and asserted haste in schedule - and touched on:
 - Creating a default schedule based upon the exception;
 - Current and alternate approaches to lengthening the schedule when needed.
- Failure to address the potential costs of a longer schedule on City staff and petitioners
- Loss of nine voices early in the process of deliberation – In particular:
 - The importance of the size and composition of Standing Committees in mediating conflicting points of view on the Council;
 - The prospect that contentious legislation coming out of a Standing Committee will take longer to resolve at Regular Sessions than when the same legislation comes out of Committees of the Whole

¹ As stated in December, aside from the need to comply with the Open Door Law, this proposal does not raise any issues of legality.

² [3 December 2011 Council Legislative Packet.](#)

- Appropriate number of committees (which has now been reduced from 10 to 7)
- Formalizing of the “Oversight” function of the Council – and touched on:
 - Existing practice;
 - Exploring better means of communication;
 - Potential additional burden on Councilmember time; and
 - Need to establish protocols to mediate current and emerging priorities and to rein-in a Standing Committee if necessary
- Convergence of functions on the second and fourth Wednesdays and the need for procedures to make the work on those evenings transparent and effective;
- Formalities of Standing Committee and their unintended consequences – In particular:
 - More work – notices and reports – will need to be done in less time;
 - Less time means preparation of cursory reports and minutes;
 - Failure to perform any requirement – including attaining a quorum - means the item doesn’t move forward early or moves forward later without an adequate record.

Summary of Rationale

Councilmember Volan explains that the proposal introduces flexibility in dealing with the Council workload by reintroducing the option of using Standing Committees. In his Memo to the Council and the whereas clauses and synopses of the legislation, he gives reasons for the proposal which, in paraphrase, are to:

- Lengthen the default Legislative Cycle from two to four weeks (three Wednesdays to five Wednesdays) in order to:
 - Give members sufficient time to deliberate, clarify and gather more information and prepare motions and amendments and otherwise act without undue pressure to expedite deliberations;
 - Shorten the length of meetings by spreading the workload over two meetings rather than one;
 - Follow best practices from around the State; and
 - Set the expectations of all participants about the longer schedule and the priority it places on the quality over the speed of the deliberations.

- Ensure that any committees considering pending legislation (standing or of the whole) are scheduled on second and fourth Wednesday nights, in order to:
 - Remain consistent with current practice; and
 - Provide more certainty about when issues will be discussed and for how long.

- Preclude the meeting of more than one Standing Committee at a time, in order to:
 - Allow all members to attend all Standing Committee hearings if they care to; and
 - Provide more certainty about when issues will be discussed and for how long.

- Establish seven, four-member Standing Committees, in order to:
 - Allow Council members to focus on what interests them and their Districts;
 - Establish more apparent oversight over the operation of the City by providing a clearer line of reporting for City staff;
 - Subsume the nominations process which now entails more than 20 interviewing committees;
 - Help set more clearly the priorities of Council;
 - Provide a better record of deliberation than currently provided for the committee of the whole; and
 - Make it easier for the Council to respond quickly to matters that are not yet subject to legislation, but perhaps should be.

Proposed by Legislation – Changes From December, In Code & In Practice

The following summarizes the proposal and highlights how it changed from December, alters the local Code, and changes existing practice. It also offers some alternatives:

- **Ord 12-09 Makes way for the use of Standing Committees to review pending legislation by requiring the Council to decide at the beginning of every Legislative Cycle whether to refer legislation to the Committee of the Whole or Standing Committee:**
 - **Change from December:**
 - The proposal in December made referral of legislation to a Standing Committee a *requirement* rather than an *option*;

- **Change in Text of BMC:**
 - Currently the Code says the Council *shall* resolve itself into a Committee of the Whole on the second and fourth Wednesdays of the month – with certain exceptions – unless, the Council cancels or reschedules the meeting by a majority vote (per BMC 2.04.250);
 - The proposal, in part, changes “*shall*” to “*may*.”
- **Some Obvious Changes in Current Practice**
 - The Council will need to vote at the beginning of the Legislative Cycle to refer ordinances and resolutions to either a Standing Committee or Committee of the Whole rather than have the matter automatically go to the Committee of the Whole;
 - The Council will likely convene Standing Committees and Committees of the Whole *on the same night*;
 - The Council Office will need to post notice of the Committee meetings the week before (rather than have the Annual Schedule serve as notice for the Committee of the Whole);
 - Please see the Summary in the [3 December 2011 Council Legislative Packet](#) for other issues and concerns.
- **An Alternative:**
 - If a majority of the Council wants to provide for referral to Standing Committees as an *alternative* to Committees of the Whole (rather than having Standing Committees serve as the primary vehicle for referral), then the Council could request an amendment be drafted that adds the following sentence to BMC 2.04.250(a):
 - “In the alternative, the council may decide by majority vote to refer ordinances and resolutions to the appropriate standing committee and set the date and time for that meeting.”
- **Res12-04 Creates 7, 4-member Standing Committees to review legislation and help oversee the operations of the City (set forth in Res 12-04 which will be distributed in next week’s packet);**
 - **Change from December –**
 - The resolution in December created 10, 3-member Standing Committees rather than 7, 4-member Standing Committees
 - **Change in Text of BMC (*none*)**
 - BMC 2.04.210 already provides for the creation of Standing Committees to consist of at least 3 members. Councilmember Volan’s resolution sets the size at four members. Please see

the chart in the December memo for a comparison of Standing Committees and Committees of the Whole in the Code.

- **Change in Current Practice**
 - The Council currently operates the Jack Hopkins Social Services Funding Program Committee as a Standing Committee, the Sidewalk Committee as an unspecified committee, and over twenty Interviewing Committees;
 - This resolution would let the Jack Hopkins Social Services Funding Program Committee and Sidewalk Committee operate in the same manner as they have, but as special committees and eliminate the Interviewing Committees whose work would be done by the seven new Standing Committees;
 - This resolution would create 7 new Standing Committees to review pending legislation and to oversee the operations of the City, which would include:
 - Community and Family Resources
 - Economic and Sustainable Development
 - Housing and Planning
 - Parks and Recreation
 - Public Safety and Administration
 - Transportation
 - Utilities and Sanitation
 - Please see [December Memo](#) for issues and concerns.
- **Ord 12-10 Schedules the Committees of the Whole and Standing Committees (When Considering Pending Legislation) in the Following Manner:**
 - **These committees must meet on the second and fourth Wednesdays of the month except for holidays or during recesses;**
 - **Committees of the Whole will meet at 7:30 p.m. on those evenings (if matters are referred to it);**
 - **Standing Committees must start between 5:30 p.m. and 9:45 p.m. and not meet at the same time as another Standing Committee (when either is considering pending legislation) or the Committee of the Whole; and**
 - **Motions to refer legislation to a Standing Committee shall be entertained before a motion to refer to a Committee of the Whole and shall include the approximate time the Standing Committee will convene.**

Change from December

- This proposal anticipates that, at the beginning of the Legislative Cycle, the Council will consider motions to refer legislation to either Standing Committees or the Committee of the Whole, and requires motions to refer to Standing Committees be considered before motions to refer to Committee of the Whole.

Change in Text of BMC

- Creates a new BMC 2.04.255 – Council Scheduling (for both Committees of the Whole and Standing Committees – when considering pending legislation);
- Moves scheduling language from BMC 2.04.250;
- Adds language regarding the start time for Standing Committees on these evenings; and
- Adds language that prioritizes referrals to Standing Committees over referrals to Committee of the Whole

Change in Practice

- Along with the changes noted under Ord 12-09, this proposal would prioritize referrals to Standing Committee over referrals to Committees of the Whole

Alternatives

- See Alternative under Ord 12-09 (above) for the Committee of the Whole to serve as the default referral and for referral to a Standing Committee to require a majority vote of the Council;
- If a majority of the Council wants the Committee of the Whole to be able to continue discussion of an item at it's next meeting without reporting to the intervening Regular Session, the following amendment might suffice:

BMC 2.04.250 (c)(1) The committee of the whole may consider only matters and questions referred to it, and the only motions in order shall be to amend or adopt, ~~or~~ that the committee rise and report **or that the committee refer a matter being considered by the committee for the first time to the next regularly-scheduled committee of the whole;**

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, APRIL 18, 2012
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: *None*

IV. REPORTS (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public ***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Ordinance 12-08 To Vacate a Public Parcel – Re: Alley Right-of-Way Running North/South between North College Avenue and North Morton Street, North of West Ninth Street (KPM Hotel Group, Petitioner)

Committee Recommendation: Do Pass 8 - 0 - 0

VII. LEGISLATION FOR FIRST READING

1. Ordinance 12-09 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration And Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Ease the Opportunity for Standing Committees to Consider Legislation Pending Before the Council
2. Ordinance 12-10 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration And Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Establish and Clarify Scheduling Policies for Council Committees

VIII. ADDITIONAL PUBLIC COMMENT * (A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

* Members of the public may speak on matters of community concern not listed on the Agenda at one of the two *Reports from the Public* opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.



City of Bloomington
Office of the Common Council

To Council Members
From Council Office
Re Calendar - 15 - 21 April 2012

Happy Belated Birthday Councilmember Susan Sandberg - 10 April!

Sunday 15 April

12:00 pm  **Homeward Bound Walk**, Waldron, Hill, and Buskirk Park
(formerly 3rd St. Park)

Monday 16 April

12:00 pm Bloomington Entertainment and Art District - Advisory Committee, McCloskey
5:00 pm Farmers' Market Advisory Council, Parks Conference Room 250
5:30 pm Bicycle and Pedestrian Safety Commission, Hooker Room

Tuesday 17 April

11:30 am Plan Commission - Work Session, Kelly
4:00 pm Board of Public Safety, McCloskey
5:15 pm Commission on the Status of Children and Youth, Room 245
5:30 pm Animal Control Commission, McCloskey

Wednesday 18 April

9:00 am Emergency Management Advisory Council, Council Chambers
9:30 am Tree Commission, Rose Hill, 930 W. 4th St.
2:00 pm Hearing Officer, Kelly
4:00 pm Board of Housing Quality Appeals, McCloskey
7:30 pm Common Council Regular Session, Council Chambers


Thursday 19 April

8:00 am Bloomington Housing Authority, BHA, 1007 N. Summit
3:30 pm Bloomington Municipal Facilities Corporation, Dunlap

Friday 20 April

11:30 am Indiana Arts Commission Region 8 Grant Review Panel, Council Chambers
12:00 pm Domestic Violence Task Force, McCloskey

Saturday 21 April

8:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton
2:00 pm  **Community Workshop**, Bell Trace Commons, 800 N. Bell Trace Circle

Posted and Distributed: Friday, 13 April 2012

**Preliminary Material – Re: Ord 12-09 and Ord 12-10
and Res 12-04 (forthcoming)**

- **Memo to Council from Councilmember Volan**
- **BMC 2.04 (Common Council) – Article III (Committees) – Annotating Changes Proposed by Ord 12-09 and Ord 12-10**
- **Ord 12-09 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration And Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Ease the Opportunity for Standing Committees to Consider Legislation Pending Before the Council**
- **Ord 12-10 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration And Personnel” – Re: Amending Chapter 2.04 Entitled “Common Council” to Establish and Clarify Scheduling Policies for Council Committees**

*Contact: Councilmember Volan at 391-8255 or
volans@bloomington.in.gov*

To: Council Members
From: Councilmember Volan, District 6
Re: Memo On Council Process Reform (Ord 12-09, Ord 12-10, Res 12-04)
Date: April 9, 2012

This package of legislation -- two ordinances and a resolution -- gives Council more flexibility in dealing with its legislative workload, by reintroducing the option of the ordinary committee process (as defined by Robert's Rules of Order) as a complement to the current process based on the committee of the whole. It also limits the times at which committee hearings can be scheduled, and specifies a slate of seven 4-member committees to oversee the gamut of city issues.

Ord 12-09

The first ordinance removes the automatic (changing "shall" to "may") commitment of legislation to a committee of the whole. This encourages Council to make use of standing committees, a concept long-established in city code but not used in recent years, as an alternative option. *Robert's Rules of Order* defines "ordinary committees" as standing and special (a.k.a. "select" or "ad hoc") committees. Council's reliance on committee of the whole has always been an extraordinary application of *Robert's*.

A key aspect of the standing-committee process is that it gives Council more calendar time to deal with an issue. Existing code holds that a standing committee must report its recommendation by the *second* Regular Session following referral, while a committee of the whole cannot extend itself by definition, causing any issues referred to it to be taken up at the next Regular Session by default. Referring to a standing committee thus lengthens the public expectation of a decision from two weeks to four.

Making the default legislative cycle four weeks has several advantages. Council members would have more time to discover and clarify facts. A committee expecting a contentious subject could break consideration of the issue up into multiple evenings, cutting down on marathon hearings where decisions get made in the wee small hours of the morning. Members, whether on the committee or not, would have more time after hearing the first public presentation on an issue, to develop written amendments in a way respectful of everyone's time. (Currently, a member has less than seven calendar days, an extraordinarily high and unnecessary barrier to making thoughtful proposals.)

Note that a standing committee is not obligated to wait until the second Regular Session to report back. On noncontroversial issues, a committee could easily make a recommendation at the end of its first hearing, sending it back to the full Council the next week as is the current practice based on referral to committee of the whole. In most cases, legislation will be disposed of as quickly as before. For those cases that deserve more deliberation, however, the expectation of a two-week decision process will not be unduly ingrained into the public mind.

The ability of all members to discover, clarify and deliberate must take precedence over the desire of any petitioner for an expedited decision. The city's primary legislative body must have primacy over its own schedule, or it is not primary. Each choice to expedite the disposition of a petition must be made deliberately by a majority of Council, and not established as its default practice. In adopting this ordinance, Bloomington would be following in the footsteps of Fort Wayne, South Bend, Evansville, and the rest of its 18 peers that are second-class Indiana cities, all of whose legislative cycles are at least four weeks long.

Ord 12-10

The second ordinance creates a new section of code, .255, clarifying scheduling of all kinds of committees.

In recent tradition, the times of month that have been devoted to hearing legislation in committee are second and fourth Wednesday nights. Under the proposed ordinance, a standing committee would also be obligated to meet on a second/fourth Wednesday night to hear legislation referred to it. (Without this ordinance, the committee members could decide to schedule committee hearings any time in the week, making such meetings less consistent and predictable.)

Ord 12-10 is careful to ensure that hearings of two standing committees cannot be held simultaneously, but still on a second/fourth Wednesday night as has been custom, so that any member may attend every hearing. It will mean that committee hearings may be obliged to set a start *and* end time if another committee needs to meet that night. The effect will be little different than a committee of the whole that were to take a short recess between issues.

Standing committees also have the option to hold hearings on issues that are not the subject of legislation. Such issues are less imminent; the hearings called by committees on such topics will be significantly less frequent and more exploratory in nature. Thus, Ord 12-10 specifies that only committee hearings taking up referred legislation must be held on Wednesday nights. This allows more flexibility, of both meeting duration and weeknight, to schedule hearings of a more exploratory nature.

Existing code specifies that new items may not be taken up by Council after 10:30 pm without a two-thirds vote. The spirit of the 10:30 rule is to make Council mindful that decisions are rarely well-taken at a late hour. It is clearly within Council's power to take as much calendar time as necessary to avoid this admonition. Yet several meetings in the past six months have underscored the need for Council to exercise this authority.

With that problem in mind, Ord 12-10 specifies that standing committees meeting to hear referred legislation may start no later than 9:45 pm on second and fourth Wednesdays. It also expressly allows committee hearings to start as early as 5:30 pm (but no earlier), so as to take advantage of more reasonable early-evening hours for considering legislation.

Members are already accustomed to conducting interviews for boards and commissions in the 5:30 to 7:30 pm period. Members are also accustomed to the long-standing practice of annual Budget hearings beginning at 6:00 pm. The Plan Commission used to begin its meetings at 7:30 pm, but changed to 5:30 pm a number of years ago for the reasons described above. The prospect of dealing with issues during more flexible, and reasonable, hours should prove to be more accommodating of all attendees. Council should be making greater effort to avoid decision-making at a late hour, and Ord 12-09 and 12-10 together provide the best set of tools to make that effort.

A further advantage of referring legislation to standing committees is that City staff, petitioners and the public with interest only in a specific item will know exactly what time that item will be heard in committee. Under current practice, an issue last on the agenda in committee of the whole could take hours before it is heard, let alone when the public may speak to it. While every citizen ought to be interested in every issue like Council members are, that horse can't be made to drink. The vast majority of attendees attend when their issue is up, and leave when the issue no longer has the floor.

The legislation will give Council a choice at First Reading as to which type of committee (standing vs. of the whole) to refer proposed legislation to. Without guidance, the decision may devolve into a competition to see which member's proposal is recognized first. Toward that concern, Section .255 provides guidance: motions for referral to a standing committee take precedence over a motion for referral to committee of the whole. Such motions still require a majority of members to affirm they want to refer to a standing committee, rather than making referral to standing committee the default (as referral to committee of the whole is presently). In case it's not clear which standing committee a proposed item of legislation should be referred to, the Council will entertain multiple motions to refer to standing committees; a motion to refer to committee of the whole comes only after the previous have been exhausted.

Ord 12-10, in short, makes a commitment not just to greater predictability of the Council's agenda, but to openly attempting to prevent meetings from going late into the night through more judicious use of the calendar. (The ordinance also extracts schedule-specific language from the definition of Committee of the Whole to the new section of code, and is more specific about proscriptions on committee hearings at the end of a calendar year. These changes are intended to be clarifying and are not substantive.)

Res 12-04

Committees must be made up of at least 3 members, and committees must be created by resolution, according to existing city code. Res 12-04 specifies seven committees of four members each. (It was not felt that the size of committees needed to be changed in code. Since committees are to be created by resolution, and code only mandates a minimum population of members, it seems optimal to specify committees' sizes by resolution as well.)

Establishing these committees asserts the authority of Council to oversee the administration of City affairs, and provides a clearer line of reporting for City staff, without being heavy-handed. It is important to note that existing code gives committees no authority to kill legislation. Only two of the 20 largest cities in the state (Evansville and Hammond) give a subset of their Councils the authority to defeat legislation before being heard by the full Council. No such authority is being conferred by this legislative package.

The even number of members on a committee proposed by Res 12-04 emphasizes this lack of authority. A committee's only mandate is to make a recommendation to the Council; this definition is true for committees of the whole as well as ordinary committees. A recommendation equally split 2-2 would simply underscore that the ultimate decision belongs to the full Council.

The many arbitrarily-populated board-and-commission nominating committees could be subsumed by a smaller slate of general-purpose standing committees, and are thus eliminated by Res 12-04. The resolution also declares the Sidewalk and Jack Hopkins Social Service Fund Committees to be "special," but otherwise has them continue as they have been, and allows them to continue scheduling on non-Wednesday nights.

Seven committees of four members each equals 28 committee assignments, or approximately three per Council member. Removing the obligation for every member to hear every issue in committee gives members the opportunity to focus on the subjects that interest them and their districts. Not all committees proposed correspond to existing departments of the City administration, again reflecting the concerns of members and the districts they serve, which may differ from the missions of any given department.

A committee of the whole does not issue a written report, even though in Bloomington practice substantial finding of fact and debate has occurred in committee of the whole. Minutes of a standing committee hearing must be kept as a matter of course, better preserving the intent of members in reaching their decisions.

One last benefit, but perhaps of greatest importance, of standing committees is that they make it easier for Council to respond quickly to exigent issues. A standing committee may call a special hearing to take input on matters that are not yet subject to legislative proposals, but perhaps should be. Two such issues in the previous term, in which a Council committee hearing would have provided valuable input, were the pressing problem of urban deer, and the eventual collapse of the Bloomington Area Arts Council. Both issues were the topic of public discussion for months before any formal action came from City Hall, because Council members perhaps believed that such action was solely the domain of the Administration. A standing committee of Council members establishes oversight of issues of concern to the City, and enables them to initiate finding of fact, and to shape the public discourse on exigent issues.

Response to Council Administrator's Critique

Council administrator Dan Sherman has written extensively on his concerns for how the proposed legislation would change Council practice. Councilmember Volan firmly disagrees with Mr. Sherman on one particular notion -- that sub-quorum sets of members working in a committee structure are not adequately representative of the entire Council.

Few other cities have a quorum of members serving in committees; that defeats part of the very *raison d'être* of committees, which is to strategically divide and conquer a legislative body's workload. Many uncontroversial issues do not require the presence of all members at all meetings, as demonstrated by the relative lack of consistent attendance by our own members at daytime Internal Work Sessions. But in Mr. Sherman's view, there is no substitute for every member being required to attend every formal meeting. Perhaps it is due to pride in our custom, which produces the most temporally "efficient" decisions.

This proposal asserts that a legislative body cannot, must not, place efficiency of decision-making above the quality of decisions. It would be tantamount to treating all patients arriving at Bloomington Hospital as though they require triage or urgent care; the hospital may attend to its patients rapidly, but Bloomington is not a war zone, nor is the facility a M*A*S*H unit. Such a desire by the Administration to hasten Council deliberation of the Unified Development Ordinance in late 2006 led to a zoning change that has proven inimical to many property owners in Councilmember Volan's district -- an example of his reason for wishing to formally prioritize deliberativeness over expediency.

Mr. Sherman's view of the benefit of reliance on the extraordinary "committee of the whole" is contradicted by common practice in the vast majority of other legislative bodies in the world, even ones like West Lafayette which are smaller than our nine but still divide into committees. This legislative package, reflective of an increasingly burdened body of part-time legislators, stands in contrast to that opinion.

Mr. Sherman also is concerned about the portion of existing city code saying that appointments to committees "observe the preferences of Council members." The implication is that some members will not be able to serve on every committee that they prefer; because they can all attend all hearings now, the present situation must be better.

But the code says to "observe the preferences of Council members as closely as possible." Some members would prefer that a vote always go their way, or always be unanimous; obviously it's not possible to accommodate every such preference. The naming of a slate of standing committees says, affirmatively and explicitly, that Council is prioritizing division of its collective workload over the ability of each member to make a recommending vote on every issue.

This legislation does not remove the binding vote from a member; it changes only the way that a *non-binding recommendation* is made. There are members who would just as soon prefer not to be obligated to attend every committee hearing as there are members who want to be at every one. Yet under this legislation, no members would be prevented from attending every committee hearing, and there would be no substantial increase in the net time of each member spent on Council business, but some members would be relieved of obligation to attend committee hearings.

**Annotated Changes to Article 3 (Committees) of Chapter 2.04 (Common Council)
of the Bloomington Municipal Code
Proposed by Ord 12-09 and Ord 12-10
(See Blue Font for Ordinance Section and Bold and Strikeout Text for Changes)**

Chapter 2.04

COMMON COUNCIL

Sections:

Article I. Officers and Employees ...

Article II. Meetings and Rules of Procedure ...

Article III. Committees

- 2.04.210 Standing committees--Establishment.**
- 2.04.220 Standing committees--Meetings.**
- 2.04.230 Standing committees--Reports.**
- 2.04.240 Special committees.**
- 2.04.250 Committee of the whole.**

Article IV. Ordinances and Resolutions ...

Article V. Proceedings and Motions...

Article VI. Council Districts...

Article III.

Committees

2.04.210 Standing committees--Establishment.

To facilitate the transaction of business, the council may by resolution establish standing committees and define the duties and responsibilities of each committee. If such committees are established, the presiding officer shall appoint at least three council members to each committee, observing the preference of each member as closely as possible, and shall appoint a chairperson for each committee. Legislation and questions before the council may be referred for investigation and report to the standing committees and the committees may investigate other areas within their jurisdiction. All council members may attend the meetings of any standing committee, but only those members who have been appointed to the committee shall be permitted to vote on questions before the committee. The council may create or abolish standing committees by adoption of subsequent resolutions. (Ord. 79-97 § 2 (part), 1979).

2.04.220 Standing committees--Meetings.

A committee shall meet on call of its chairperson or any two of its members. Notice shall be communicated by the city clerk, who shall keep a record of such notices. A majority of the membership of a committee shall constitute a quorum, which shall be necessary to conduct the business of the committee. The chairperson may act as secretary of the committee or the committee may appoint a secretary, who shall keep a memorandum of the proceedings and the recommendations made at the committee meeting. In committee meetings the rules of debate shall be relaxed in order to encourage discussion but general procedural decorum shall prevail.
(Ord. 79-97 § 2 (part), 1979).

2.04.230 Standing committees--Reports.

(a) The reports of standing committees shall be in writing and signed by a majority of the committee. Documents referred to the committee shall be returned with the report.

(b) Matters or questions referred to standing committees shall normally be reported back to the council not later than the second regular session after being referred to the committee, but the council may extend the time for reporting. When a committee to which a matter or question has been referred with instructions to report at a specific time is not ready to report at that time, the matter referred shall, unless further time is granted, be considered as though reported back without recommendation.

(c) The council may agree by majority vote to discharge any committee from further consideration of any matter referred to it. The matter referred shall be brought back before the council and take its proper place in the order of business.

(d) When an ordinance or resolution is reported back from a committee with recommendations, the recommendation of the committee shall have no force unless adopted by the council at a properly convened session.

(e) Any member of a committee may file a minority report and may move that the minority report be substituted for the recommendations of the majority.
(Ord. 79-97 § 2 (part), 1979).

2.04.240 Special committees.

Any three council members or the presiding officer may form a special committee for any specific purpose proper for council consideration. The committee shall cease to function when it has completed its duties and made a report or recommendation to the council.
(Ord. 79-97 § 2 (part), 1979).

2.04.250 Committee of the whole.

(Note: The following three changes will be assembled in one paragraph)

Ord12-09 – § 1

- ▶ (a) With the exceptions noted in this section, the council ~~shall~~ **may** resolve itself into

Ord12-10 - §1

- ▶ a committee of the whole ~~on the second and fourth Wednesday of each month at seven thirty p.m. local time~~ to consider ordinances, resolutions, or other matters with the freedom of committee procedures. The council may decide by majority vote to cancel any such committee meeting or to meet at an alternative date and time. The council may by majority vote resolve itself into a committee of the whole at any other time and for any other legitimate purpose.

Ord12-10 - §2 *(Note: This sentence was modified and moved to the last sentence in BMC 2.04.255(b))*

- ▶ ~~The council shall not meet as a committee of the whole on legal holidays as enumerated in Indiana Code 1-1-9-1 during the month of August, on the Wednesday evening immediately before Thanksgiving Day, or on the fourth Wednesday in December.~~

(b) Whenever the council resolves itself into a committee of the whole the presiding officer shall leave the chair. Chair of the committee meetings scheduled for Wednesday evenings and city budget hearings shall rotate by alphabetical order among all councilmembers except the council president and such rotation will be tracked by the city clerk. Should a councilmember be unable to attend a committee meeting the next member on the rotation shall preside and the rotation shall proceed from that point. The council president will designate the chair for any unscheduled committee meetings.

(c) When the council resolves itself into the committee of the whole, the rules of the council shall govern except that:

(1) The committee of the whole may consider only matters and questions referred to it, and the only motions in order shall be to amend or adopt, or that the committee rise and report;

(2) No limit shall be placed on frequency of speaking, but no member may speak for longer than five minutes at a time;

(3) Interested citizens may be heard on the question under consideration if they address the chair and ask permission to speak;

(4) The previous question may not be moved;

(5) The ayes and noes shall not be recorded; and

(6) The clerk shall keep a memorandum of proceedings and recommendations, but shall enter into the minutes of the meeting only the recommendations agreed to by the committee of the whole.

(d) When the committee of the whole rises, the presiding officer of the council shall resume the chair, and the chairperson of the committee shall report its recommendations to the council. The question shall then be on agreeing the recommendations of the committee and adopting the action or measures recommended. (Ord. 79-97 § 2 (part), 1979).

Ord12-10 § 3

► New

2.04.255 Committees--Scheduling

(a) Meetings of standing committees or the committee of the whole convened to consider legislation referred by the Council shall meet on the second or fourth Wednesdays of the month. Motions for referral to a standing committee shall be entertained before a motion for referral to the committee of the whole and shall include the approximate time at which the committee will convene.

(1) If more than one standing committee has had legislation referred to it during the same period of time, the committees shall not be scheduled at the same time, so that any Council members may attend any meeting.

(2) Such standing committee meetings shall not begin before five thirty p.m. or after nine forty-five p.m.

(3) Such meetings of the committee of the whole shall convene at seven thirty p.m. local time.

Ord12-10 - §3 *(Note: This sentence was modified and moved from the last sentence in BMC 2.04.250(a) to here and changed as follows)*

(b) The A council committee shall not meet as a committee of the whole on legal holidays as enumerated in Indiana Code 1-1-9-1 during the month of August, on the Wednesday evening immediately before Thanksgiving Day, or on or between the fourth Wednesday in December and New Year's Eve.

ORDINANCE 12-09

**TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “ADMINISTRATION AND PERSONNEL” –**

**Re: Amending Chapter 2.04 Entitled “Common Council” to Ease the Opportunity
for Standing Committees to Consider Legislation Pending Before the Council**

- WHEREAS, the Council's workload is increasing, its meetings are running long, and members are invoking "the 10:30 rule" (BMC 2.04.420(b)) with increasing frequency; and
- WHEREAS, a legislative cycle based on a single committee-of-the-whole meeting often means less than seven calendar days between Committee of the Whole and Second Reading, often giving members insufficient time to deliberate, gather more information, or prepare motions or amendments based on Committee of the Whole testimony; and
- WHEREAS, the committee of the whole is an alternative to the original solution provided in the BMC, to use standing committees to consider issues before the Council; and
- WHEREAS, according to BMC 2.04.230(b), standing committees may report back by the second Regular Session as a matter of course, giving them the option to continue deliberating without undue pressure to expedite legislation, and making the default expectation of all comers that Council will typically rule within four weeks instead of two; and
- WHEREAS, issues taken up by a committee of the whole are heard at unpredictable times, and can be many hours after the scheduled start of the meeting, making it difficult for administration staff, petitioners and the public to attend; and
- WHEREAS, any given issue brought before Council will interest some members more than others, and not every issue needs the full attention of every member throughout the legislative process, and focusing fewer council members per issue before Second Reading makes for a more efficient use of total hours devoted by Council members to public meetings; and
- WHEREAS, according to BMC 2.04.210, no member is precluded from attending a standing committee hearing; and
- WHEREAS, according to BMC 2.04.230(d), the recommendations of a standing committee have no force and do not bind the Council any more than a decision by the committee of the whole does; and
- WHEREAS, these rules for the establishment of standing committees have been enumerated in BMC 2.04 Article III for at least three decades;

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

SECTION 1. Section 2.04.250(a) of the Bloomington Municipal Code shall be amended by deleting the word “shall” as it appears in the first sentence and replacing it with the word “may” so that the first sentence now reads as follows:

With the exceptions noted in this section, the council may resolve itself into a committee of the whole on the second and fourth Wednesday of each month at seven thirty p.m. local time to consider ordinances, resolutions, or other matters with the freedom of committee procedures.

SECTION 2. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2012.

TIMOTHY MAYER, President
Bloomington Common Coun

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2012.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2012.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance changes a single word of Bloomington municipal code. It changes from a requirement to an option ("shall" to "may") that legislation before the City Council be referred to a committee of the whole, encouraging the Council to refer legislation to one or more of a slate of standing committees.

Making this change will help Council manage its growing workload more effectively, while in a manner more time-efficient for individual Council members, City employees, petitioners, and members of the public. The use of standing committees, as defined by long-extant code, will lengthen the default legislative cycle without compromising efficiency when desired, will shorten meetings, will not reduce Council member privilege, and will allow Council members to focus on their areas of expertise and interest to their constituents.

ORDINANCE 12-10

**TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED "ADMINISTRATION AND PERSONNEL" –
Re: Amending Chapter 2.04 Entitled "Common Council" to Establish and Clarify
Scheduling Policies for Council Committees**

WHEREAS, issues taken up by a committee of the whole are heard at unpredictable times, and can be many hours after the scheduled start of the meeting, making it difficult for administration staff, petitioners and the public to attend; and

WHEREAS, standing committees do not preclude any Council member from attending meetings of the committee (BMC 2.04.210); and

WHEREAS, the Council's workload is increasing, its meetings are running long, and members are invoking "the 10:30 rule" (BMC 2.04.420(b)) with increasing frequency;

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

SECTION 1. The first sentence in paragraph 2.04.250(a) of Bloomington Municipal Code shall be amended to strike reference to the scheduling of a meeting and shall read as follows:

(a) With the exceptions noted in this section, the council may resolve itself into a committee of the whole to consider ordinances, resolutions, or other matters with the freedom of committee procedures.

SECTION 2. The last sentence of paragraph 2.04.250(a) of the Bloomington Municipal Code shall be deleted and will become paragraph (b) of a new Section 2.04.255 as provided for in Section 3 below.

SECTION 3. A new Section 2.04.255 entitled "Committees--Scheduling" shall be added to the municipal code and included in the table of contents of Chapter 2.04 and shall read as follows:

2.04.255 Committees--Scheduling

(a) Meetings of standing committees or the committee of the whole convened to consider legislation referred by the Council shall meet on the second or fourth Wednesdays of the month. Motions for referral to a standing committee shall be entertained before a motion for referral to the committee of the whole and shall include the approximate time at which the committee will convene.

(1) If more than one standing committee has had legislation referred to it during the same period of time, the committees shall not be scheduled at the same time, so that any Council members may attend any meeting.

(2) Such standing committee meetings shall not begin before five thirty p.m. or after nine forty-five p.m.

(3) Such meetings of the committee of the whole shall convene at seven thirty p.m. local time.

(b) A council committee shall not meet on legal holidays as enumerated in Indiana Code 1-1-9-1 during the month of August, on the Wednesday evening immediately before Thanksgiving Day, or on or between the fourth Wednesday in December and New Year's Eve.

SECTION 4. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2012.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2012.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2012.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance changes city code to clarify and harmonize scheduling policies for council committees, whether they be standing, special or of the whole. It unifies committee scheduling policies, scattered throughout Article III of Chapter 2.04 of municipal code, under a single new section 2.04.255.

Two changes address meetings “convened to consider legislation referred” to standing committees and committees of the whole. (Special committees, even if legislation has been referred to them, are excepted.) It specifically contemplates the fourth sentence of BMC 2.04.210, which provides that “all council members may attend the meetings of any standing committee,” by requiring that meetings of standing committees not overlap. It also takes into account BMC 2.04.420, which discourages the introduction of legislation for Council action after 10:30 pm, by guaranteeing that standing committees can be scheduled to start no later than 9:45 pm. In deference to the role of standing committees, motions for referral to a standing committee shall be entertained before a motion for referral to the committee of the whole and shall include the approximate time at which the committee will convene.

Another change moves language prohibiting the scheduling of committee meetings on holidays to its own heading, and clarifies it to apply to all types of committees. Since committees could possibly meet on days other than Wednesday, it clarifies the definition of the end-of-the-year recess to disallow any official meeting between the fourth Wednesday of December and the end of the year.

The last change simply removes a line specifying when committees of the whole are to meet, since it is made redundant by the previous parts of this ordinance.